



Meeting: Village Board
Meeting Date: 5/9/11
Agenda Item: 8e-8i

Mission Statement

Delivering quality services in a courteous, cost-effective and efficient manner.

VILLAGE BOARD MEETING STAFF REPORT

REPORT TO: Burt R. McIntyre, President
Village Board of Trustees

REPORT FROM: Chris Haltom, Exec. Dir. of Admin Services
Ed Janke, Exec. Dir. of Public Safety

AGENDA ITEM: Review and take action on renewal of various Liquor License Applications listed on Consent Agenda, with any applicable conditions

NOTE: Because the applications are automatically renewed and are included as a consent agenda item, copies of the applications are not being included in the report in order to save staff time, as well as paper and ink. ***Each liquor license application is public record and is available for viewing at Village Hall.***

POLICY ISSUE

Does the Village Board desire to renew all currently held liquor licenses?

PRIOR ACTION/REVIEW

Annually, the Village Board approves renewal of all existing liquor license applications and acts upon any new applications received during the year. The license period begins July 1 of each year and expires the following June 30.

At the April 25, 2011 board meeting, Trustee Suennen asked for information related to renewal of liquor licenses. By contact with DEO Dagneau, there are no businesses with liquor licenses that have outstanding issues. Staff is providing a detailed report with attachments that explain the liquor license laws and renewal application requirements.

BACKGROUND INFORMATION

Staff mailed liquor license renewal applications to all existing liquor license holders earlier this year. Staff gave deadlines for the applications. Staff published the renewal notices for all applications received by the deadline in *The Press*. The board must act upon all renewal applications prior to the current licenses expiring on June 30, 2011. The applicants must also pay all personal property taxes and utility billings prior to obtaining a renewal license pursuant to Section 6-94(2) of the Howard municipal code.

The Board directed staff to provide information regarding the renewal of liquor licenses in the Village of Howard. To further explain the matter, staff felt it necessary to explore and provide information regarding the entire intoxicating beverage licensing issue. To that end, staff has provided an opinion provided by the League of Wisconsin Municipalities which explains the matter (see Appendix A).

According to the League, “Municipal governing bodies have broad discretion regarding whether to issue a license to a particular applicant for a particular location” on the initial application (not renewal applications). Given the totality of the circumstances, a municipality may deny an initial license application based on any number of issues such as traffic impacts, the neighborhood, parking, license density as well as the ability for law enforcement to provide services to the venue.

The article goes on to state though that “**once a license has been issued, however, a municipality may only refuse to renew the license if there are violations of chapter 125 or local regulations enacted under the authority of sec. 125.10 or violations that fit within the causes identified in sec. 125.12(2)(ag) (Please see Appendix B).**” If the Village decides not to renew a license, the license holder must be informed in writing the reasons why the license will not be renewed. The license holder must then be provided an opportunity to answer to those reasons via a hearing. The Village Attorney would be involved in this process and the license holder would be allowed to have council represent the license holder. The village board would act as judge and jury for the hearing and make a decision after hearing all testimony and witnesses.

Currently, according to DEO Dagneau, the Village of Howard has satisfactory compliance from the establishments that fall under the provisions of the Statute. There are currently no establishments that have incidents or issues that would necessitate proceedings for non-renewal or revocation of the established license.

FISCAL IMPACT:

- | | |
|------------------------------|------------------------|
| 1. Is There A Fiscal Impact? | <u>Yes</u> |
| 2. Is it Currently Budgeted? | <u>Yes</u> |
| 3. If Budgeted, Which Line? | Liquor License Revenue |

RECOMMENDED ACTION

Village staff recommends the Village Board approve all liquor licenses listed on the Consent Agenda with conditions of payment of personal property taxes and outstanding utility billings. Should the board agree, the following motion could be made as part of the Consent Agenda approval:

“I make a motion to approve the Consent Agenda with the approval of the renewal of liquor license applications contingent upon each business payment of delinquent personal property taxes and delinquent utility bills.”

POLICY ALTERNATIVE(S)

Table any or all of the applications and ask for more information.

ATTACHED INFORMATION

- I. Appendix A – League of Wisconsin Municipalities Article - A Primer for Local Officials on Alcohol Licenses
- II. Appendix B – Relevant Sections of Wisconsin Statute Chapter 125

League of Wisconsin Municipalities

A Primer for Local Officials on Alcohol Licenses

By Claire Silverman, Legal Counsel

Although alcohol license issues pop up periodically throughout the year, they always seem to dominate the months of May and June. This is because, with the exception of Milwaukee which issues licenses on an annual basis year-round, municipally-issued alcohol licenses expire on June 30th.

July 1st marks the beginning of the new license year and June brings a flurry of activity in this area as existing licensees apply for renewal of their licenses. The return of warmer weather also brings an increase in the number of organizations applying for temporary licenses to sell beer and/or wine at certain events. These licenses are commonly referred to as “picnic” licenses.

Because governing body members must make decisions regarding alcohol license applications, they should have a basic understanding of when licenses are necessary as well as what types of alcohol licenses exist and what activity each type of license authorizes. There are some other basic concepts that governing body members should understand. This legal comment attempts to explain these matters.

Regulation of Alcohol Beverages

Alcohol beverages are governed by chapter 125 of the Wisconsin Statutes. This is not an easy chapter to read! The regulations are complex and the chapter’s various prohibitions are riddled with exceptions. There are different classes of licenses (A, B and C). For the uninitiated who don’t know that the placement of quotation marks around the word Class and the letter (e.g., “Class A”) or around just the letter itself (e.g., Class “A”) depends on whether the license is a liquor license or a fermented malt beverage (beer) license, the chapter can be very confusing.

The legislature has provided that chapter 125 shall be construed as an “enactment of statewide concern for the purpose of providing a uniform regulation of the sale of alcohol beverages.”¹ This means that municipalities cannot create their own licensing system. However, sec. 125.10 authorizes municipalities to enact regulations incorporating any part of chapter 125 and also to prescribe additional regulations for the sale of alcohol beverages that are not in conflict with chapter 125.

When Are Licenses Required?

With certain limited exceptions,² Wisconsin law prohibits the sale of alcohol without an appropriate license.³ Because the term “sell” is broadly defined in sec. 125.02(20) to include the transfer of alcohol without consideration (i.e., money or some other benefit) if the transfer without consideration is knowingly made to evade the law, any charge made directly or indirectly for alcohol beverages or a recovery of the cost requires the person in charge to hold the appropriate license. Thus, a license is needed whenever there is a direct charge for alcohol as well as whenever there is an indirect charge for alcohol. Examples of indirect charges for alcohol include situations where a ticket price or the cost of a meal includes alcohol beverages or where a donation is required in order to be able to consume alcohol beverages.

With certain exceptions, state law also prohibits the owner, lessee, or person in charge of a public place from permitting the consumption of alcohol beverages in a public place unless the person has an appropriate license.⁴ Examples of a public place or event include an open house or grand opening or an event held at a location that caters to the general public. Municipalities, county-owned buildings and

parks, regularly established athletic fields and stadiums, school buildings, churches and clubs are among those exempt from the prohibition. Although such places are not subject to licensing in order to permit the consumption of alcohol beverages, a license is required if a charge is made directly or indirectly for the beverages. A commercial non-licensed business may not serve or possess alcohol beverages on the premises unless the event is restricted to personally invited guests and is not open to the general public. However, if a direct or indirect charge is made, the person in charge must have the appropriate license.

Municipal Immunity

Municipalities and their officers and employees are not civilly liable for damages to any person or property caused by the consumption of alcohol beverages by virtue of issuing a license, allowing a licensee or permittee to sell, give away or serve alcohol beverages on municipal property; or failing to monitor the activities of a licensee or permittee⁵

Important Definitions

Section 125.02 contains several important definitions that are important in understanding alcohol beverage regulations. "Alcohol beverages" is defined to mean fermented malt beverages and intoxicating liquor. "Fermented malt beverages" and "intoxicating liquors" are also statutorily defined. "Wine" has its own specific definition but is a type of "intoxicating liquor."

Classes of Licenses

Before reading this section, it's helpful to know the following. When quotation marks are placed before the word Class and after the letters A or B (e.g., "Class A" or "Class B"), the license is a liquor license. When quotation marks are placed around only the letter itself (e.g., Class "A" or Class "B"), the license is a fermented malt beverage license. The primary difference between A and B licenses is where they authorize consumption of alcohol. Class A licenses generally authorize consumption off the licensed premise (eg., liquor store or convenience store) whereas Class B licenses generally authorize consumption on the licensed premise (eg, tavern or restaurant). Of course, it's not that easy because Class B licensees can sell for off-premise consumption in certain instances and there's a limited exception that allows Class A fermented malt beverage and liquor licensees to offer fermented malt beverage and wine samples for consumption on the premises in limited amounts and during limited hours. However, that's the main difference and one trick that helps people remember the distinction between Class A and B licenses is to remember that "B is for bar" (on-premises consumption) while "A is for away" (off-premises consumption). It is also helpful to know that even though "fermented malt beverages" is commonly referred to as beer, it also includes other fermented malt beverages (e.g., wine coolers and other drinks that have a fermented malt beverage base).

The following retail alcohol beverage licenses may be issued by municipalities in which the premises are located:

Class "A" licenses: A Class "A" licensee may sell fermented malt beverages to consumers in original packages or containers for off-premises consumption and may also provide up to two free taste samples of not more than three fluid ounces not in the original package or container to customers and visitors of legal drinking age for on-premises consumption between the hours of 11 a.m. and 7 p.m.⁶

Class "B" licensees: A Class "B" licensee may sell beer to consumers for on-premises or off-premises consumption.⁷ A Class "B" license issued to a person operating a hotel authorizes that person to furnish a registered guest who has attained the legal drinking age with a selection of beer in the guest's room which is not part of the Class "B" premises.⁸

Temporary Class "B" licenses (commonly referred to as picnic beer licenses): Picnic beer licensees may sell beer to consumers at a picnic or similar gathering of limited duration. Such licenses may be issued only "to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges

or societies that have been in existence for at least six months . . . and to veterans' organizations."⁹ There is no limit on the number of picnic beer licenses an organization may obtain.

Temporary "Class B" (picnic) wine licenses: Picnic wine licensees may sell wine at a picnic, meeting, or similar gathering of limited duration. Such licenses may be issued only to "bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least 6 months . . . and to posts of veterans' organizations."¹⁰ Picnic wine licenses are limited to two in a twelve-month period.

"Class A" licenses: "Class A" licensees may sell intoxicating liquor to consumers only in original packages or containers for off-premises consumption.¹¹ "Class A" liquor licensees can also provide up to two free wine taste samples, between the hours of 11 a.m. and 7 p.m., of not more than three fluid ounces each to customers and visitors of legal drinking age for on-premises consumption unless prohibited by municipal ordinance.¹²

"Class B" licenses: "Class B" licenses are the only licenses subject to a state-imposed quota as explained below. "Class B" licensees may sell intoxicating liquor to consumers by the glass for on-premises consumption. If the municipality enacts an ordinance under sec. 125.51(3)(b), sales may also be made for off-premises consumption in quantities not exceeding four liters at any one time. Wine, however, may be sold for consumption off-premises in the original package or container in any quantity regardless of whether the municipality has adopted an ordinance for carryout liquor sales.¹³ All "Class B" licensees (with the exception of those holding a "Class B" issued to a winery and discussed below) are required to have a Class "B" beer license as well.¹⁴ A "Class B" license issued to a person operating a hotel authorizes that person to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the "Class B" premises.¹⁵

"Class B" license issued to a winery: A "Class B" winery license authorizes the sale of wine to be consumed by the glass or in open containers on the premises and also authorizes the sale of wine in the original package or container to be consumed off the premises, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine.¹⁶ It does not count against a municipality's quota.

Reserve "Class B" liquor licenses: Reserve "Class B" licenses were created by the legislature at the request of the Tavern League which sought special legislation to protect existing licensees. The Tavern League claimed that existing licensees were suffering due to competition with the casinos and that it was necessary to limit the number of licenses to increase the value of existing licenses. Reserve licenses are "Class B" licenses that were not granted or issued by a municipality on December 1, 1997.¹⁷ These licenses have a minimum initial issuance fee for each licensee of \$10,000. All future "Class B" licenses that a municipality gains by virtue of a population increase will be reserve licenses. However, existing licenses that are not reserve licenses do not become reserve licenses at a future date.

"Class C" wine licenses: "Class C" wine licensees may sell wine by the glass or in an opened original container for consumption on the premises where sold. "Class C" wine licenses may be granted to an applicant only if: (1) the applicant meets the qualifications set out in sec. 125.04(5) for other retail licensees; (2) the license is for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts; and (3) wine is the only intoxicating liquor sold in the barroom.¹⁸

Provisional retail licenses: Provisional retail licenses may be issued to persons who have applied for a Class "A", Class "B", "Class A", "Class B", or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes. A provisional retail license expires 60 days after its issuance or when the license is issued to the holder, whichever is sooner.¹⁹ The apparent purpose of a provisional

retail license when it was first enacted was to allow first-time applicants for retail licenses to open for business while completing a then newly-imposed responsible server training course requirement. However, the statute does not contain such a limitation. Governing bodies may establish, by ordinance, standards under which provisional licenses shall be issued and designate the municipal official having authority to issue provisional licenses.

Quotas

Each municipality in this state that is not dry by referendum has a statutory quota for "Class B" liquor licenses. A municipality's quota is based on the number of licenses granted or issued in good faith and in force on December 1, 1997 plus the number of reserve "Class B" liquor licenses the municipality is authorized to issue. If a municipality has granted or issued a number of "Class B" liquor licenses equal to its quota and therefore has no regular or reserve "Class B" licenses available, the municipal governing body may nevertheless issue a regular "Class B" liquor license to the following two types of businesses: A full-service restaurant that has a seating capacity of 300 or more persons; or a hotel that has 50 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.²⁰

The statutory quota applies only to "Class B" liquor licenses. However, some municipalities have chosen to establish quotas for "Class A" liquor licenses and Class "B" and Class "A" beer licenses.

Granting and Denying Licenses

Municipal governing bodies have broad discretion regarding whether to issue a license to a particular applicant for a particular location.²¹ The courts have held that state law does not confer upon a qualified applicant an absolute right to a license.²² If a governing body conducts a proper review of the application, considers public sentiment and local concerns, and has a rational basis for denial, the courts will likely not interfere with the municipality's decision to deny. When a governing body decides not to issue a new alcohol beverage license it must notify the applicant in writing and set forth the reasons for the denial.²³ Valid reasons for denial of a retail license are based on concern for the public health, safety, and welfare of the community. Possible reasons for denial include:

1. adverse impact on traffic;
2. adverse impact on the peace, quiet and cleanliness of the neighborhood where the establishment is located;
3. insufficient parking for patrons;
4. proximity to other licensed establishments, residential areas, schools, churches, or hospitals;
5. ability or inability of the police to provide law enforcement services to the new establishment and the impact of the new establishment on the ability of the police to provide law enforcement services to the balance of the community at all times.

[Note: Operator's, manager's and agent licenses should be denied only for failure to meet statutory qualifications. General public policy considerations would not normally be involved in denying these types of licenses.]

Once a license has been issued, however, a municipality may only refuse to renew the license if there are violations of chapter 125 or local regulations enacted under the authority of sec. 125.10 or violations that fit within the causes identified in sec. 125.12(2)(ag). A municipality that decides not to renew a license must follow the procedure set forth in sec. 125.12(3) and notify the licensee in writing that it intends not to renew the license and state the reasons why. The municipality has to provide the licensee with an opportunity for a hearing.

Intoxicating Liquors 937R1

1. Wis. Stat. sec. 125.01.
2. Exceptions from this license requirement include medical uses of alcohol, auctions, and the award of alcohol beverages as part of a raffle where an organization holds a raffle license from the Gaming Commission under Wis. Stat. sec. 563.90. See Wis. Stat. sec. 125.06. Also, the officers or employees of a county or municipality may sell beer at any public park operated by the county or municipality without a license or permit if it is authorized by an ordinance, resolution, rule or regulation enacted by the governing body. Wis. Stat. sec. 125.06(6).
3. Wis. Stat. sec. 125.04(1).
4. Wis. Stat. sec. 125.09(1).
5. Wis. Stat. sec. 125.037.
6. Wis. Stat. sec. 125.25.
7. Wis. Stat. sec. 125.26(1).
8. Wis. Stat. sec. 125.26(2m).
9. Wis. Stat. sec. 125.26(6).
10. Wis. Stat. sec. 125.51(10).
11. Wis. Stat. sec. 125.51(2).
12. Wis. Stat. sec. 125.06(13).
13. Wis. Stat. sec. 125.51(3)(b).
14. Wis. Stat. sec 125.51(3)((f).
15. Wis. Stat. sec. 125.51(3)(bm).
16. Wis. Stat. sec. 125.51(3)(am).
17. Wis. Stat. sec. 125.51(4).
18. Wis. Stat. sec.125.51(3m).
19. Wis. Stat. sec. 125.185.
20. Wis. Stat. sec. 125.51(4)(v).
21. For more information on municipal discretion with regard to issuance of alcohol licenses, see Intoxicating Liquors 921 and 922.
22. *State ex rel. Smith v. City of Oak Creek*, 139 Wis.2d 788, 407 N.W.2d 901, 906 (1987); Intoxicating Liquors 914.
23. Wis. Stat. sec. 125.12(3m).

http://www.lwm-info.org/index.asp?Type=B_BASIC&SEC={D746E3BD-06EB-4823-A22A-0B4AE68E7CC7}&DE={0A3F97F6-460A-48FC-AD78-1EC17876DE7C}

Accessed 4-28-11

Wisconsin Statute Chapter 125

125.12

125.12 Revocations, suspensions, refusals to issue or renew.

125.12(1)

(1) Revocation, suspension, nonissuance or nonrenewal of license.

125.12(1)(a)

(a) Except as provided in this subsection, any municipality or the department may revoke, suspend or refuse to renew any license or permit under this chapter, as provided in this section.

125.12(1)(b)

(b)

125.12(1)(b)1.

1. In this paragraph, "violation" means a violation of s. 125.07 (1) (a), or a local ordinance that strictly conforms to s. 125.07 (1) (a).

125.12(1)(b)2.

2. No violation may be considered under this section or s. 125.04 (5) (a) 1. unless the licensee or permittee has committed another violation within one year preceding the violation. If a licensee or permittee has committed 2 or more violations within one year, all violations committed within one year of a previous violation may be considered under this section or s. 125.04 (5) (a) 1.

125.12(1)(c)

(c) Neither a municipality nor the department may consider an arrest or conviction for a violation punishable under s. 101.123 (8) (d), 945.03 (2m), 945.04 (2m), or 945.05 (1m) in any action to revoke, suspend, or refuse to renew a Class "B" or "Class B" license or permit.

125.12(2)

(2) Revocation or suspension of licenses by local authorities.

125.12(2)(ag)

(ag) Complaint. Any resident of a municipality issuing licenses under this chapter may file a sworn written complaint with the clerk of the municipality alleging one or more of the following about a person holding a license issued under this chapter by the municipality:

125.12(2)(ag)1.

1. The person has violated this chapter or municipal regulations adopted under s. 125.10.

125.12(2)(ag)2.

2. The person keeps or maintains a disorderly or riotous, indecent or improper house.

125.12(2)(ag)3.

3. The person has sold or given away alcohol beverages to known habitual drunkards.

125.12(2)(ag)4.

4. The person does not possess the qualifications required under this chapter to hold the license.

125.12(2)(ag)5.

5. The person has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a

controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

125.12(2)(ag)5m.

5m. The person has been convicted of possessing any of the materials listed in s. 961.65 with intent to manufacture methamphetamine under that subsection or under a federal law or a law of another state that is substantially similar to s. 961.65.

125.12(2)(ag)6.

6. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

125.12(2)(ag)6m.

6m. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess any of the materials listed in s. 961.65 with the intent to manufacture methamphetamine.

125.12(2)(ag)7.

7. The person received the benefit from an act prohibited under s. 125.33 (11).

125.12(2)(ar)

(ar) Summons. Upon the filing of the complaint, the municipal governing body or a duly authorized committee of a city council shall issue a summons, signed by the clerk and directed to any peace officer in the municipality. The summons shall command the licensee complained of to appear before the municipal governing body or the committee on a day and place named in the summons, not less than 3 days and not more than 10 days from the date of issuance, and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served on the licensee at least 3 days before the time at which the licensee is commanded to appear. Service shall be in the manner provided under ch. 801 for service in civil actions in circuit court.

125.12(2)(b)

(b) Procedure on hearing.

125.12(2)(b)1.

1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the municipal governing body or the committee finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.

125.12(2)(b)2.

2. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If the hearing is held before the municipal governing body and the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked, except that, if a complaint under par. (ag) 4. is found to be true with respect to a license issued under s. 125.51 (4) (v), the license shall be revoked.

125.12(2)(b)3.

3. If the hearing is held before a committee of a city council, the committee shall submit a report to the city council, including findings of fact, conclusions of law and a recommendation as to what action, if

any, the city council should take with respect to the license. The committee shall provide the complainant and the licensee with a copy of the report. Either the complainant or the licensee may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the city council. The city council shall determine whether the arguments shall be presented orally or in writing or both. If the city council, after considering the committee's report and any arguments presented by the complainant or the licensee, finds the complaint to be true, or if there is no objection to a report recommending suspension or revocation, the license shall be suspended or revoked as provided under subd. 2.

125.12(2)(b)4.

4. The municipal clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.

125.12(2)(b)5.

5. If the municipal governing body finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the municipal governing body finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The municipal governing body or the committee may require the complainant to provide security for such costs before issuing the summons under par. (ar).

125.12(2)(c)

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

125.12(2)(d)

(d) Judicial review. The action of any municipal governing body in granting or failing to grant, suspending or revoking any license, or the failure of any municipal governing body to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the municipality. The procedure on review shall be the same as in civil actions instituted in the circuit court. The person desiring review shall file pleadings, which shall be served on the municipal governing body in the manner provided in ch. 801 for service in civil actions and a copy of the pleadings shall be served on the applicant or licensee. The municipal governing body, applicant or licensee shall have 20 days to file an answer to the complaint. Following filing of the answer, the matter shall be deemed at issue and hearing may be had within 5 days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled. The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

125.12(3)

(3) Refusals by local authorities to renew licenses. A municipality issuing licenses under this chapter may refuse to renew a license for the causes provided in sub. (2) (ag). Prior to the time for the renewal of the license, the municipal governing body or a duly authorized committee of a city council shall notify the licensee in writing of the municipality's intention not to renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in sub. (2) (b) and judicial review shall be as provided in sub. (2) (d). If the hearing is held before a committee of a city council, the committee shall make a report and

recommendation as provided under sub. (2) (b) 3. and the city council shall follow the procedure specified under that subdivision in making its determination.

125.12(3m)

(3m) Refusals by local authorities to issue licenses. If a municipal governing body or duly authorized committee of a city council decides not to issue a new license under this chapter, it shall notify the applicant for the new license of the decision not to issue the license. The notice shall be in writing and state the reasons for the decision.

125.12(4)

(4) Suspension or revocation of licenses on complaint of the department.

125.12(4)(ag)

(ag) Complaint. A duly authorized employee of the department may file a complaint with the clerk of circuit court for the jurisdiction in which the premises of a person holding a license issued under this chapter is situated, alleging one or more of the following about a licensee:

125.12(4)(ag)1.

1. That the licensee has violated this chapter.

125.12(4)(ag)2.

2. That the licensee keeps or maintains a disorderly or riotous, indecent or improper house.

125.12(4)(ag)3.

3. That the licensee has sold alcohol beverages to known habitual drunkards.

125.12(4)(ag)4.

4. That the licensee has failed to maintain the premises in accordance with the standards of sanitation prescribed by the department of health services.

125.12(4)(ag)5.

5. That the licensee has permitted known criminals or prostitutes to loiter on the licensed premises.

125.12(4)(ag)6.

6. That the licensee does not possess the qualifications required under this chapter to hold the license.

125.12(4)(ag)7.

7. That the licensee has been convicted of manufacturing, distributing or delivering a controlled substance or controlled substance analog under s. 961.41 (1); of possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under s. 961.41 (1m); or of possessing, with intent to manufacture, distribute or deliver, or of manufacturing, distributing or delivering a controlled substance or controlled substance analog under a substantially similar federal law or a substantially similar law of another state.

125.12(4)(ag)7m.

7m. That the licensee has been convicted of possessing any of the materials listed in s. 961.65 with intent to manufacture methamphetamine under that section or under a federal law or a law of another state that is substantially similar to s. 961.65.

125.12(4)(ag)8.

8. That the licensee knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture, distribute or deliver, or to manufacture, distribute or deliver a controlled substance or controlled substance analog.

125.12(4)(ag)8m.

8m. That the licensee knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess any of the materials listed in s. 961.65 with the intent to manufacture methamphetamine.

125.12(4)(ar)

(ar) Summons. Upon the filing of the complaint, the clerk of the court shall issue a summons commanding the licensee to appear before the court not less than 20 days from its date of issuance and show cause why his or her license should not be revoked or suspended. The summons and a copy of the complaint shall be served at least 20 days before the date on which the person is commanded to appear. Service shall be in the manner provided in ch. 801 for civil actions in circuit court.

125.12(4)(b)

(b) Procedure on hearing. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the court finds the allegations sufficient, it shall order the license either suspended for not more than 90 days or revoked, except that, for allegations under par. (ag) 6. with respect to a license issued under s. 125.51 (4) (v), it shall order the license revoked. The clerk of the court shall give notice of the suspension or revocation to the person whose license is suspended or revoked. If the licensee appears and answers the complaint, the court shall fix a date for the hearing not more than 30 days after the return date of the summons. The hearing shall be had before the court without a jury. If upon the hearing the court finds the allegations of the complaint to be true, it shall order the license either suspended for not more than 90 days or revoked, except that, if upon the hearing the court finds allegations under par. (ag) 6. to be true with respect to a license issued under s. 125.51 (4) (v), the court shall order that license revoked. If the court finds the allegations of the complaint to be untrue, the complaint shall be dismissed.

125.12(4)(c)

(c) Effect of revocation or suspension. When a license is revoked or suspended under this subsection, the clerk of court shall notify the authority which issued the license. If the license is revoked, no other license may be issued under this chapter to the person whose license was revoked or to any person related to him or her as owner, lessor, bailor or lender, within the 12 months after the date of revocation and no other license may be granted for the premises covered by the revoked license within 60 days of the date of revocation. The findings and order of the court shall be filed within 10 days after the hearing and the order shall be final unless appeal is taken to the court of appeals. If an appeal is taken from a revocation, any period during which the order is stayed shall be added to the 12 months and 60 days, respectively. No part of the fee paid for any license which is revoked may be refunded. Whenever any court has revoked or suspended any license under this subsection, no further proceedings shall be commenced under this subsection except upon grounds arising after the original revocation or suspension.

125.12(5)

(5) Revocations or suspensions of, or refusals to renew, permits by the department. The department may, after notice and an opportunity for hearing, revoke, suspend or refuse to renew any retail permit issued by it for the causes provided in sub. (4) and any other permit issued by it under this chapter for any violation of this chapter or ch. 139, except that, for a violation of sub. (4) (ag) 6. with respect to a license issued under s. 125.51 (4) (v) or a violation of s. 125.535 or 139.035, the department shall revoke the license or permit. A revocation, suspension or refusal to renew is a contested case under ch. 227.

125.12(6)

(6) Revocation or suspension of intoxicating liquor wholesalers' permits for certain violations.

125.12(6)(a)

(a) Any person may file a sworn written complaint with the department alleging that an intoxicating liquor wholesaler has violated s. 125.54 (7) (a). The complaint shall identify the specific legal basis for the complaint and sufficient facts for the department to determine whether there is cause to find that a violation has occurred. The department shall provide a copy of the complaint to any wholesaler against whom allegations are made, along with notice of the time period under par. (b) to show cause why the wholesaler's permit should not be revoked or suspended or to request a hearing.

125.12(6)(b)

(b) Within 30 days of receiving a copy of the complaint under par. (a), any wholesaler against whom allegations are made may file a sworn written response or a written request for an evidentiary hearing before the department under s. 227.44.

125.12(6)(c)

(c) Subject to pars. (d) 1. and (dm), if no request for an evidentiary hearing is made under par. (b), within 60 days of receiving any response under par. (b) or, if no response is made, within 60 days of the date on which a response or request for hearing is due under par. (b), the department shall make a written decision as to whether a violation has occurred and either dismiss the complaint or take action under par. (e). Any decision under this paragraph shall include findings of fact and conclusions of law and shall state all reasons for the decision. The department shall provide a copy of the decision to the complainant and to any wholesaler against whom allegations are made.

125.12(6)(cm)

(cm) Subject to pars. (d) 2. and (dm), if a request for an evidentiary hearing is made under par. (b), the hearing shall be conducted in the manner specified for a contested case under ss. 227.44 to 227.50, except that the hearing shall be conducted within 45 days of receiving the request for hearing under par. (b) and the department shall make its written decision, including whether a violation has occurred and whether the complaint is dismissed or action is taken under par. (e), within 15 days after the hearing. In addition to service of the decision as provided under s. 227.48, the department shall provide a copy of the decision to the complainant.

125.12(6)(d)

(d)

125.12(6)(d)1.

1. If no request for an evidentiary hearing is made under par. (b), within 60 days of receiving any response under par. (b) or, if no response is made, within 60 days of the date on which a response or request for hearing is due under par. (b), the department may extend the time period for making a decision under par. (c) by an additional 60 days if the department provides notice within the time period specified in par. (c) that an additional 60 days is necessary for investigation.

125.12(6)(d)2.

2. If a request for an evidentiary hearing is made under par. (b), within 45 days of receiving the request for hearing under par. (b), the department may extend the time period for conducting the hearing by an additional 45 days if the department provides notice within 45 days of receiving the request for hearing under par. (b) that an additional 45 days is necessary for investigation.

125.12(6)(dm)

(dm) Within 45 days of receiving any response or request for hearing under par. (b) or, if no response or request for hearing is made, within 45 days of the date on which a response or request for hearing is due under par. (b), the department may elect to file a complaint in circuit court under sub. (4) that includes all allegations of the complaint under par. (a) for which the department determines there is cause to find that a violation of s. 125.54 (7) (a) has occurred. If the department files a complaint in circuit court as provided under this paragraph, the department shall not conduct a hearing under par. (cm) or make a written decision under par. (c), but shall proceed with the matter as provided under sub. (4).

125.12(6)(e)

(e) If the department finds the allegations under par. (a) true and sufficient, the department shall either suspend for not less than 10 days nor more than 90 days or revoke the wholesaler's permit, and give notice of the suspension or revocation to the wholesaler.

125.12(6)(f)

(f) A revocation or suspension proceeding under this subsection is a contested case under ch. 227, except that ss. 227.44 to 227.50 apply to a proceeding under this subsection only if a request for an evidentiary hearing is made under par. (b).