

AGENDA
COMMITTEE OF THE WHOLE MEETING
CITY OF BERLIN
TUESDAY, JULY 7, 2020, 7:00 PM
COMMON COUNCIL CHAMBERS

1. Roll Call.
2. General Public Comments. Registration card required (located at podium in Council Chamber).
3. Approval of Minutes. RECOMMENDATION: Approve the minutes from the June 2, 2020 Committee of the Whole meeting.
4. COVID-19 Update from Green Lake County Health Department. RECOMMENDATION: Listen to update. No action required.
5. Discussion on Creation of Travel & Tourism Commission. RECOMMENDATION: Discuss and action as appropriate.
6. Discussion on Issues with Municipal Parking Lot Loitering. RECOMMENDATION: Discuss and action as appropriate.
7. Ordinance Amending the Code of Ordinance Related to Alcohol Beverage Licensing to Reflect Recent State Law Changes. RECOMMENDATION: Discuss and recommend to Common Council approval and adoption of Ordinance Amending the Code of Ordinance Related to Alcohol Beverage Licensing to Reflect Recent State Law Changes.
8. 130 W. Berlin Street Raze or Repair Order. RECOMMENDATION: Discuss and action as appropriate.
9. Sidewalk Café Permits. RECOMMENDATION: Discuss Sidewalk Café Permits and action as appropriate.
10. Discussion on Virtual Meetings. RECOMMENDATION: Discuss and action if appropriate.
11. Motion to convene into closed session pursuant to WI §19.85(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (*Discussion on negotiations relating to Student Resource Officer contract with Berlin Area School District*)
12. Adjourn.

Note: In adherence to the City of Berlin Public Meeting Participation Policy, public participation will be allowed under each agenda item at the discretion of the presiding officer, with the exception of the Consent Agenda. Attendees must register their intention to participate on either a general comments section or a specific agenda item prior to the meeting by filling out a Registration Card, which can be obtained from the Internet, City Clerk's office or in the City Hall Council Chambers at the podium. Registration Cards should be turned in prior to the meeting to either the presiding officer or City Clerk.

June 24, 2020

TO: Mayor & Common Council

FROM: Lindsey Kemnitz and Jodie Olson

SUBJECT: Discussion on creation of Travel & Tourism Commission

Currently the City has a hotel-motel room tax ordinance that requires rooms or lodging to transients by hotel keepers, motel operators and other person furnishing accommodations that are available for the public to pay 4% of the gross receipts for furnishing of rooms or lodging. Per state statute 66.0615, the city is required to forward the funds to a tourism entity or commission. A tourism entity is defined in the statutes as:

"Tourism entity" means a nonprofit organization that came into existence before January 1, 2015, spends at least 51 percent of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality, except that if no such organization exists, a municipality may contract with one of the following entities:

1. A nonprofit organization that spends at least 51 percent of its revenues on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality.
2. A nonprofit organization that was incorporated before January 1, 2015, spends 100 percent of the room tax revenue it receives from a municipality on tourism promotion and tourism development, and provides destination marketing staff and services for the tourism industry in a municipality.

State statutes have defined tourism promotion and tourism development as:

"Tourism promotion and tourism development" means any of the following that are significantly used by transient tourists and reasonably likely to generate paid overnight stays at more than one establishment on which a tax under sub. (1m) (a) may be imposed, that are owned by different persons and located within a municipality in which a tax under this section is in effect; or, if the municipality has only one such establishment, reasonably likely to generate paid overnight stays in that establishment:

1. Marketing projects, including advertising media buys, creation and distribution of printed or electronic promotional tourist materials, or efforts to recruit conventions, sporting events, or motorcoach groups.
2. Transient tourist informational services.
3. Tangible municipal development, including a convention center.

The City can create the commission which then shall contract with other organization's to perform the functions of a tourism entity if no tourism entity exists in that municipality. The commission consists of 4 to 6 members. One of the commission members shall represent the Wisconsin hotel and motel industry. Members shall be appointed by the principal elected official in the municipality and shall be confirmed by majority vote of the members of the municipality's governing body. Commissioners shall serve for a one-year term, at the pleasure of appointing official, and may be reappointed. A commission shall use the room tax revenue that it receives from a municipality for tourism promotion and tourism development in

the municipality. The commission shall report annually to each municipality from which it receives room tax revenue the purposes for which the revenues were spent.

The last couple of years the room tax has been about \$5,000, we anticipate the room tax to be less for 2020 due to COVID.

Waushara County has created a commission as they have several communities contributing to the funds. The commission has an online form to submit the request and the board reviews them yearly towards the end of November or the beginning of December. The funds are disbursed at the end of the year for the upcoming year's requests. The commission requires a presentation at the meeting of the project/event, if approved provide funds to organization/individual. The commission does not fund events or projects already completed nor does it provide continuous funding just one time aware for events/projects to be completed within a year. The commission requires an event/ project funding follow up form with receipts for major expense at least to the amount awarded. If the organization does not complete the follow up report the organization/ individual cannot receive funding from the Commission for any future project/ event.

DATE: June 26, 2020

TO: Committee of the Whole

FROM: Jodie Olson

RE: Discussion on Issues with Municipal Parking Lot Loitering

BACKGROUND: The Police Department has been having an increasing issue with loitering and littering in the S. Capron Street parking lot. Staff would like to discuss adding language to Sec. 70-459 Municipal Parking Lots regarding no loitering to provide a better avenue to address the issue.

Sec. 70-459. - Municipal parking lots.

When signs are erected giving notice thereof, no person shall park a vehicle or trailer in the following municipal parking lots for longer than the period specified in this section:

- (1) West Franklin Street parking lot: Twenty-four-hour restricted.
- (2) Commercial Street parking lot: Two-hour restricted. Further, parking in the Commercial Street parking lot shall be prohibited from 8:00 p.m. to 5:30 a.m.
- (3) Water Street parking lot: Twenty-four-hour restricted except for those parking stalls reserved for the exclusive use and parking by city hall employees in designated areas in accordance with posted restrictions.
- (4) West Park Avenue parking lot: Twenty-four-hour restricted, except for those parking stalls reserved for private use and for Berlin Public Library use in designated areas in accordance with posted restrictions.
- (5) South Capron Street parking lot: All parking north of a line 75 feet north of the centerline of Franklin Street shall be three-hour restricted. The remaining portion of the lot shall be 24-hour restricted, except for motor vehicles over capacity and bearing a commercial registration, including school buses, and commercially licensed trailers, including semi-trailers, which shall be prohibited from being parked or stored in this lot.

RECOMMENDATION: Discuss and action as appropriate.

DATE: July 7, 2020

TO: Committee of the Whole

FROM: Jodie Olson

RE: Ordinance Amending the Code of Ordinance Related to Alcohol Beverage Licensing to Reflect Recent State Law Changes

BACKGROUND: There have been a few law changes regarding alcohol licenses the need to be updated in our Code.

Act 166 is a recent Law change from March 5, 2020 that allows a municipal governing body to pass an ordinance to authorize a designated municipal official to issue operator's licenses in lieu of requiring Common Council approval. This reduces the time for applicants to receive their licenses and reduces the number of provisional bartender licenses that need to be issued. All of the requirements and PD approvals would still need to occur.

Act 6 was passed in 2019 which removes the 4 liter restriction on sale of intoxicating liquor in the original package or container to be consumed off the premises where sold by "Class B" licensed establishment.

RECOMMENDATION: Discuss and recommend to Common Council approval and adoption of Ordinance Amending the Code of Ordinance Related to Alcohol Beverage Licensing to Reflect Recent State Law Changes

State of Wisconsin



2019 Senate Bill 203

Date of enactment: March 3, 2020
Date of publication*: March 4, 2020

2019 WISCONSIN ACT 166

AN ACT to amend 125.17 (1), 125.17 (4) (intro.), 125.17 (5) (b), 125.17 (6) (a) (intro.) and 125.17 (6) (b) of the statutes; relating to: issuance by municipalities of alcohol beverage operator's licenses.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 125.17 (1) of the statutes is amended to read:

125.17 (1) AUTHORIZATION. Every municipal governing body shall issue an operator's license to any applicant who is qualified under s. 125.04 (5), except that the municipal governing body may by ordinance authorize a designated municipal official to issue operator's licenses. Operators' licenses may not be required other than for the purpose of complying with ss. 125.32 (2) and 125.68 (2) or s. 125.06 (3g). Operators' licenses may be issued only upon written application.

SECTION 2. 125.17 (4) (intro.) of the statutes is amended to read:

125.17 (4) TEMPORARY LICENSE. (intro.) Any municipal governing body or designated municipal official may issue a temporary operator's license under the terms of subs. (1) to (3), except that:

SECTION 3. 125.17 (5) (b) of the statutes is amended to read:

125.17 (5) (b) A provisional license may be issued only to a person who has applied for an operator's license under sub. (1). A provisional license may not be issued to any person who has been denied a license under sub.

(1) by the municipal governing body or designated municipal official.

SECTION 4. 125.17 (6) (a) (intro.) of the statutes is amended to read:

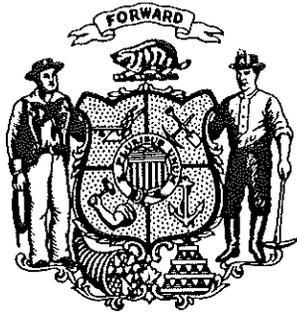
125.17 (6) (a) (intro.) Except as provided in par. (b), no municipal governing body or designated municipal official may issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course, which may include computer-based training and testing, that is approved by the department or the department of safety and professional services, or unless the applicant fulfills one of the following requirements:

SECTION 5. 125.17 (6) (b) of the statutes is amended to read:

125.17 (6) (b) A municipal governing body or designated municipal official shall issue a provisional operator's license to a person who is enrolled in a training course under par. (a) and who meets the standards established by the municipality by ordinance, if any. The municipal governing body shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

State of Wisconsin



2019 Senate Bill 83

Date of enactment: **June 24, 2019**
Date of publication*: **June 25, 2019**

2019 WISCONSIN ACT 6

AN ACT to amend 125.51 (3) (b) of the statutes; **relating to:** retail sales of intoxicating liquor for consumption off the licensed premises.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 125.51 (3) (b) of the statutes is amended to read:

125.51 (3) (b) In all municipalities electing by ordinance to come under this paragraph, a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold

and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and any quantity, to be consumed off the premises where sold. ~~Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.~~ This paragraph does not apply to a winery that has been issued a "Class B" license. Paragraph (am) applies to all wineries that have been issued a "Class B" license.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

AN ORDINANCE AMENDING THE CODE OF ORDINANCE RELATED TO ALCOHOL BEVERAGE LICENSING TO REFLECT RECENT STATE LAW CHANGES

WHEREAS, Wisconsin 2019 Act 6 and 2019 Act 166 were recently adopted into law which give rise to certain required and permitted modifications to the City of Berlin Code of Ordinances related to alcohol beverage licensing.

NOW THEREFORE, the Common Council of the City of Berlin do ordain as follows:

Section 6-39(a) of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 6-39. - Retail "class B" intoxicating liquor licenses.

- (a) *Reserve* "class B" license. A reserve "class B" intoxicating liquor license is a license that was not granted or issued on December 1, 1997 and is counted under Wis. Stats. § 125.51(4)(br), which authorizes the holder of such license to sell, deal and traffic in intoxicating liquors and wine to be consumed by the glass only on the licensed premises and in the original package or container in multiples, ~~not to exceed four liters at any one time in any quantity~~, to be consumed off of the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off of the premises.

Section 6-49(a) of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 6-49. - Application for operator's licenses.

- (a) The common council or the clerk-treasurer may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the clerk-treasurer only to persons at least 18 years of age. Operator's licenses shall be valid only within the limits of the city.

Section 6-50 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 6-50. - Issuance or denial of operator's licenses.

- (a) After the common council or the clerk-treasurer approves the granting of an operator's license, the clerk-treasurer shall issue the license. Such license shall be issued and numbered in the order it was granted, and shall state the applicant's name and address and the date of the expiration of such license.
- (b)
- (1) If the application is denied by the common council or the clerk-treasurer, the clerk-treasurer shall in writing inform the applicant of the denial, the reasons

therefore, and of the opportunity to request a reconsideration of the application by the common council, or appeal to the common council if the denial was originally by the clerk-treasurer, in a closed session. Such notice shall be sent by registered mail to, or served upon, the applicant at least ten days prior to the common council's reconsideration of the application or appeal hearing as applicable. At such reconsideration or appeal hearing, the applicant may present evidence and testimony as to why the license should be granted.

(2) If, upon reconsideration or appeal, the common council denies the application, the clerk-treasurer shall notify the applicant in writing of the reasons for such denial. An applicant who is denied a license upon reconsideration of the matter, may apply to circuit court pursuant to Wis. Stats. § 125.12(2)(d) for review.

(c) Consideration for the granting or denial of an operator's license shall be based on:

~~(5) If a licensee is convicted of an offense substantially related to the licensed activity, the common council may act to revoke or suspend the license.~~

(d) An application for an operator's license may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony, unless duly pardoned, or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the common council or the clerk-treasurer, the common council, or the clerk-treasurer as applicable, reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the common council, or the clerk-treasurer as applicable, at its their discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding the application, act to suspend such license for a period of one year or more.

Section 6-51 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 6-51. Training course.

(a) Except as provided in subsection (b) of this section, the common council or the clerk treasurer may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course as required under Wis. Stats. §125.17 (b).

(c) The common council or the clerk-treasurer may not require that applicants for operator's licenses undergo training in addition to that set forth in subsection (a) of this section, but may require applicants to purchase, at cost, materials which deal with relevant local subjects not covered in the course set forth in subsection (a) of this section.

Section 6-54 of the Code of Ordinances of the City of Berlin shall be amended as follows:

Sec. 6-54. - Operator's license fee.

- ...
- (b) The clerk-treasurer may issue provisional operator's licenses in accordance with Wis. Stats. § 125.17(5). The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The clerk-treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as set forth in section 6-51. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program. A provisional license may not be issued to any person who has been denied an operator's license by the common council, or clerk-treasurer unless overturned on appeal by the common council, or who has had his operator's license revoked or suspended within the preceding 12 months. The clerk-treasurer shall provide an appropriate application form to be completed in full by the applicant. The clerk-treasurer may revoke the provisional license issued if he the clerk-treasurer discovers that the holder of the license made a false statement on the license application. Following completion of the bartender awareness course and notification from the school, the operator's license shall be issued. Only one provisional license shall be issued to a person within a one-year period.

This ordinance shall take effect the day after publication.

The numeric section numbers and headings of any portions of the Code of Ordinances affected by this Ordinance shall be subject to modification in the discretion of the codifier, and the approval of the City Attorney, during codification into the City's current Code of Ordinances.

Passed, approved and adopted this _____ day of _____, 2020.

ROLL CALL VOTE:

CITY OF BERLIN

AYES

NAYS

ABSENT

BY: _____
Richard D. Schramer, Mayor

APPROVED AS TO FORM:

ATTEST: _____
Jodie Olson, City Clerk

Matthew G. Chier, City Attorney

June 24, 2020

TO: Mayor & Common Council

FROM: Lindsey Kemnitz

SUBJECT: Sidewalk Café License

During the COVID pandemic communities in Wisconsin have approved an accelerated approval process for sidewalk café permits, temporary outdoor seating areas and expansion of licensed premises for businesses. As the County Health Department is recommending limits on indoor seating and physical distancing, the temporarily seating will accommodate additional seating for the businesses and allow individuals that do not feel comfortable inside a business to still support our local businesses.

The City of Green Bay has allowed businesses to receive temporary use permit for outdoor alcohol sales on private property, within the right of way (public sidewalks and parking stalls), and on City property (city deck and park) that is adjacent to the licensed business. They are also allowing outdoor business activities that do not include alcohol sales on private property, within the right of way (sidewalk and parking stalls), and on City property (city deck and park) that is adjacent to the business. The permit expires December 31, 2020.

The City of Milwaukee has created active streets for business program that authorizes City Administration to implement a temporary outdoor dining program. The program provides expanded outdoor seating options at restaurants and bars through an accelerated approval process to use the streets and sidewalks.

City of Madison expanded the outdoor seating area for restaurants that alcohol beverages accounts for 50% or less of the gross receipts on private property and within the right of way (sidewalk and parking stalls) until October 25, 2020.

City of Oshkosh approved temporary use permits for temporary outdoor seating areas and expansion of licensed premises for taverns and restaurants. Previously the City of Oshkosh allowed this type of use, but it required a conditional use permit which is about a 45 day approval timeline. The City of Oshkosh has accelerated the approval process by handling it internally, which is now 2-3 business days. The temporary permit would expire October 1, 2020.

The City has had a couple of businesses in the downtown requesting the use of the right of way for outdoor seating due to the impacts from COVID. With the current ordinance, some of the businesses do not qualify for sidewalk café as their gross receipts consist of more than 50% alcohol sales.

Should the City allow temporary use permit to allow all types of businesses to expand their premise for a couple of months for 2020?

Should we limit it only to restaurants and bars?

Would you want to allow retailers to sell and display products in the right of way or only allow outdoor seating?

Do you want to allow businesses to use the sidewalk or the parking stalls? Or only allow bars and restaurants to utilize the parking stalls?