
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 send a written notice to the applicant to 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, the deliberations for which may be in a closed session. Such notice shall be sent by registered mail to, or served upon, the applicant, and if the applicant submits a request for reconsideration or appeal, it must be in writing, and must be submitted 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 14 day of July, 2020.

ROLL CALL VOTE:

6 AYES
0 NAYS
0 ABSENT

CITY OF BERLIN
BY: Richard D. Schramer
Richard D. Schramer, Mayor

APPROVED AS TO FORM:

Matthew G. Chier
Matthew G. Chier, City Attorney

ATTEST: Jodie Olson
Jodie Olson, City Clerk

