

RESOLUTION NO. 2020-08

**VILLAGE OF COTTAGE GROVE
GUIDELINES FOR ISSUANCE OF ALCOHOL BEVERAGE LICENSES**

WHEREAS, the Village of Cottage Grove (“Village”) issues alcohol beverage licenses (“License(s)”) pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 109 of the Village ordinances; and

WHEREAS, the Village recognizes that the granting of a License is a privilege and not a right, and further wishes to promote and protect the health, safety and welfare of its residents and the general public; and

WHEREAS, Wisconsin law states that Licenses may only be issued to a person who is not a habitual law offender, who has not been convicted of a felony, or who does not have an arrest or conviction record subject to Wisconsin Statutes 111.321, 111.322 and 111.335; and

WHEREAS, Wisconsin law specifically states at Wisconsin Statutes 111.335(3)(a) that it is lawful for a village board to deny a License if an applicant has been convicted of any felony, misdemeanor, or other offense which substantially relates to the circumstances of the licensed activity; and

WHEREAS, denial of a License based on illegal conduct has been upheld by the Wisconsin Supreme Court in the case *State ex rel. Smith v. Oak Creek*, 139 Wis. 2d 788 (1987); and

WHEREAS, the Village wishes to provide general guidelines with respect to review and approval or denial of Licenses when the applicant has a conviction record in order to promote consistency and fairness in the review process; and

WHEREAS, the Village recognizes that each application and applicant is unique and that independent review is essential to the Village Board’s proper exercise of its discretion when determining whether to grant or deny a License.

NOW, THEREFORE, based on the above recitals, which are incorporated by reference, the Village Board hereby adopts the following guidelines for reviewing License applications from applicants as follows:

1. OVERVIEW OF RELEVANT PORTIONS OF LICENSE REVIEW PROCESS.

All applications and applicants are subject to a background check. The Cottage Grove Police Department (CGPD) completes the initial review of the application and background check. The CGPD then forwards a recommendation along with a list of the applicant’s prior convictions to the Clerk and/or Village Board for consideration. The Village Board has final authority to approve or deny issuance of the License.

2. OWI.

The Village has generally found convictions for operating while intoxicated (“OWI”) or similar offenses are substantially related to the duties and responsibilities associated with selling or serving alcohol beverages. Such convictions demonstrate a lack of responsibility and judgment because operating while intoxicated is inherently dangerous. Further, such offenses show an inability to know when someone else is intoxicated, which is important for selling or serving alcohol. The following types of convictions have generally been found to be substantially related to holding a License:

- A. Operating Under the Influence of an Intoxicant or Other Drugs, under Wisconsin Statutes 346.63, local ordinances in conformity therewith, or other similar laws from other states, (commonly referred to as OWI, OWPBAC, PBAC, DWI, or DUI); or
- B. Driving any vehicle while under the influence of alcohol or operating a vehicle with a detectable amount of a restricted controlled substance in his or her blood; or
- C. Injuring any person or damaging any property while operating a vehicle under the influence of alcohol or other drugs.

The Village has generally found OWI convictions within one (1) year of application for a License are grounds for denial of a License. The Village has also generally found two or more OWI convictions within 5 years of application for a License can be grounds for denial of a License.

3. UNDERAGE DRINKING.

The Village has generally found as follows:

- A. An underage drinking conviction which is the same as or similar to Wisconsin Statutes 125.07 (3) or (4) within one year of application or two or more convictions within five years of application is substantially related to the duties and responsibilities associated with selling or serving alcohol beverage licenses and typically grounds for denial. This offense is substantially related to holding a License because it establishes the applicant is not responsible in regards to alcohol or the laws regulating the sale or use of alcohol.

4. SERVICE TO UNDERAGE PERSONS.

The Village has generally found as follows:

- A. Two convictions within one year of application for service to underage persons, or an offense which is the same as or similar to Wisconsin Statutes 125.07(1) (a), is substantially related to the duties and responsibilities associated with alcohol beverage licenses, and is typically grounds for denial. Such a conviction establishes a lack of judgment and responsibility regarding the seriousness of the effect alcohol has on minors. It also demonstrates a lack of diligence in ensuring alcohol is not provided to minors.

5. MISCELLANEOUS CONVICTIONS.

The Village has generally found that the following convictions are substantially related to the duties and responsibilities associated with alcohol beverage licenses.

- A. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under Wisconsin Statutes 961.41(1).
- B. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Wisconsin Statutes 961.41(1m).
- C. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law or law of another state that is substantially similar to Wisconsin Statutes 961.41(1) or (1m).
- D. 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 Wisconsin Statutes 961.65.
- E. Possessing Controlled substances as regulated by Chapter 961.

The Village has generally found any conviction for possession of a controlled substance within one year of application for a License are grounds for denial. The Village has also generally found two or more such convictions within 5 years of application for a License can be grounds for denial of a License.

6. OVERALL CONVICTION RECORD.

Other convictions not specifically listed above may also be grounds for denial of a License.

7. DISCRETION EXERCISED BASED ON INDIVIDUAL CIRCUMSTANCES.

This general policy is intended to provide guidance and promote consistency. It is not intended to, and shall not, substitute for individual review and consideration of an applicant's request for a License. Each application shall be evaluated to determine whether the applicant is qualified to hold a License consistent with Wisconsin law.

If the CGPD recommends denial of a License, an applicant may request an opportunity to speak before the Village Board. The applicant may choose to have such a meeting in open or closed session.

8. FALSE INFORMATION ON APPLICATION

If an applicant for a License provides any false, misleading, or incomplete information on the License application, it may be grounds for denial.

9. AMENDMENT.

This summary is solely intended to serve as guidance to the Village when reviewing applicants who have a conviction record. The Village may amend, revise or eliminate these guidelines at any time.

EFFECTIVE DATE

This ordinance shall take effect upon compliance with the publication/posting requirements of the Wisconsin Statutes.

Adopted this ____ day of _____, 2020.

BY ORDER OF THE VILLAGE BOARD
VILLAGE OF COTTAGE GROVE

John Williams, Village President

Attest:

Lisa Kalata, Village Clerk