

**CHAPTER 4**

**ALCOHOL BEVERAGES**

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## ARTICLE I. STATE STATUTES ADOPTED AND GENERAL REQUIREMENTS FOR THE LICENSING OF PREMISES

### SECTION 4-1 STATE STATUTES ADOPTED

Except as otherwise specifically provided, all provisions of Chapter 125 of the Wisconsin Statutes describing and defining regulations with respect to alcohol beverages are hereby adopted and by reference made a part of this Code as if fully set forth herein. To effect the legislative intent that regulation of alcohol beverages is a matter of statewide concern, it is the intention of this ordinance to include within such references all provisions of Chapter 125 of the Wisconsin Statutes in effect at the time of adoption of this section together with any applicable prior revisions and all future recodifications, renumberings and amendments unless otherwise expressly provided in such references. It is the intention of this section that any act required to be performed or prohibited by Chapter 125 of the Wisconsin Statutes, as previously amended, presently in effect or as may be amended in the future, incorporated within this section by reference, is an act required to be performed or is an act prohibited by this section.

### SECTION 4-2 PREMISES TO BE LICENSED

- (A) Type of Premises  
A license shall be required for each premises, room or enclosure or for each suite of rooms or enclosures which are in direct connection to each other where alcohol beverages are kept, sold, or offered for sale. No license shall be issued to any person, firm, or corporation for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling, house, flat, or residential apartment.
- (B) Schools  
The possession and/or use of intoxicating liquors or fermented malt beverages on primary and secondary public school property, is hereby prohibited. The use and possession of intoxicating liquor and fermented malt beverages is also prohibited at any public primary or secondary school sponsored event.

### SECTION 4-3 APPLICATION FOR LICENSE

- (A) Form  
Applications for a license to sell or deal in intoxicating liquor shall be made in writing on the form prescribed by law, and shall be sworn to by the applicant, as provided within chapter 125 of the Wisconsin Statutes, and shall be filed with the City Clerk not less than fifteen (15) days prior to the granting of such license.
- (B) Time for Filing  
All renewal applications for licenses will be issued on July 1st of any year and all original applications for such licenses to be issued on July 1st of any year shall be executed and filed with the City Clerk not later than April 15th preceding.
- (C) Payment of License Fee  
No license for the sale of alcohol beverages may be delivered to the applicant until the applicant files with the City Clerk a receipt showing payment of the prescribed license fee to the Treasurer. The applicant shall pay the prescribed license fee at least fifteen (15) days prior to the date the license is to be issued.

(D) Publication

Said application shall be accompanied by the cost of the publication in the amount as provided for within chapter 125 of the Wisconsin Statutes. Prior to the granting of such license notice of the application shall be published in the official newspaper at least three (3) times successively. Such publication shall include the name and address of the applicant, and kind of license applied for, and the location of the premises to be licensed.

**SECTION 4-4 LICENSE INVESTIGATION AND APPROVAL**(A) Investigation by Officials

The City Clerk shall notify the Chief of Police, the Health Director and the Chief of the Fire Department of each application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper person to be the recipient of a license.

These officials shall each file with the City Clerk, the information derived from such investigation accompanied by a recommendation as to whether a license should be granted or refused.

No license shall be renewed without an inspection of the records relating to the premises and reinspection of the premises if deemed appropriate by the officials designated.

The City Clerk shall also notify the Chief of Police who shall interview or cause to be interviewed the applicant for purposes of completing the Council Questionnaire.

(B) Approval by Council

The City Council may, upon the applicant's completion of all prescribed procedures, grant the license. If the Council decides not to grant a new license under this Chapter, it shall notify the applicant in writing of the decision and the reason(s) therefor. If the Council decides not to grant a renewal of the license for the reasons therein enumerated, the provisions of Section 125.12 of the Wisconsin Statutes shall apply.

(C) Appearance before Council

Unless notified otherwise, all applicants for the license need not appear in person before the City Council provided a completed questionnaire is presented to the Council with the requisite application.

**SECTION 4-5 GRANTING OF LICENSES: HEARING**

Opportunity shall be given by the Common Council to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Common Council, the City Clerk shall issue to the applicant a license. Each license shall be numbered in the order in which issued, and shall state the premises for which issued, the date of issuance, the fee paid, and the name of the licensee.

(A) Required use of License.

Failure to complete the requirements for issuance of a "Class B" or Class "B" license though such license has been granted by the Common Council and/or failure to conduct a license-related business on a premises for which a license shall be issued for any one year period shall be a violation of this chapter punishable by revocation of the license only.

**SECTION 4-6 GRANTING AND ISSUANCE OF LICENSE**

(A) Upon the approval of the applicant by the Common Council, the City Clerk shall issue to the applicant a license except as follows:

- 1) Premises.  
For any premises for which taxes, assessments, or special charges are delinquent and unpaid.
  - a. This subsection 1) shall not apply to prohibit the issuance of a license for any premises if:
    - i. the unpaid taxes, assessments or special charges were levied against the premises; and
    - ii. the license is necessary for the conduct of business on the premises by a lessee of the premises; and
    - iii. the licensee and owner have no immediate or extended family, business, or financial relationship with one another other than as landlord and tenant.
  
- 2) Persons.  
To any person who is delinquent in the payment of taxes, assessments or special charges related to the business or property for which the license or permit is sought.

Upon issuance of the license, the City Clerk shall remit the license fee to the City Treasurer who shall transfer said fee to the General City Fund. The full license fee shall be charged except as specifically provided for within this ordinance or by statute.

- (B) Appeal.  
Alleged errors in the determination of non-issuance of the license may be appealed to the Finance Director within 5 days of notice of the non-issuance of the license or permit. The Finance Director shall issue a notice setting forth a date and time for hearing on the matter, not less than three (3) days nor more than fifteen (15) days after the date of the notice of hearing. At the hearing, the complainant and a representative of the City may be represented by counsel, may present evidence and call and examine witnesses and cross examine witnesses of another party. Such witnesses shall be sworn or affirmed by the person conducting the hearing. The Finance Director shall act as the decision maker. If the Finance Director is unable to so act, a decision maker shall be appointed by the City Manager.

A written determination shall be made directing the continued holding of the license or permit or the issuance of such license or permit. Within ten (10) days of the hearing, the written determination shall be mailed to all interested parties and shall be placed on file with the City Clerk by the decision maker. The written decision shall specify the reasons for the decision made.

Within ten days of the date of posting of the written decision, any person aggrieved thereby may appeal such decision to the Common Council. Appeals shall be taken by filing a notice of appeal specifying the grounds therefor with the City Clerk. On Appeal the Finance Director or other decision maker shall forthwith transmit all papers relating to such appeal to the City Clerk. The Clerk shall give notice of the appeal to the Common Council at its next regular meeting. The Council shall then fix a reasonable time for hearing of the same and give public notice thereof, as well as notice to the parties interested, and shall promptly decide the appeal. Any party to the proceeding as well as any person who may be adversely affected by a decision of the Council may appear at the hearing and may produce witnesses and be represented by counsel. In addition to any other witnesses presented, the council may subpoena and examine such other persons as it

may deem necessary for a fair and impartial hearing of the appeal. The Clerk shall swear or affirm all persons testifying before the council in regard to the appeal, and shall maintain a record of all testimony and other evidence as may be presented.

The Council may reverse, affirm, or modify the decision of the Finance Director or other decision maker appealed from, and to this end may direct issuance or non-issuance of any license or permit. Within ten (10) days after the decision on any appeal, the City Clerk shall cause due notice thereof in writing to be mailed to all parties to the appeal as well as any other persons who may have appeared therein at their last known post office address. Such notice shall specify the grounds for the decision.

Any person aggrieved by the decision of the Common Council on appeal may seek such other legal relief as may be available.

**SECTION 4-7            DUPLICATE LICENSES**

Whenever a license or permit shall be lost or destroyed without fault on the part of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk upon the Clerk's satisfaction as to the facts.

**SECTION 4-8            LICENSE TO BE POSTED ON PREMISES**

- (A) Every license and permit issued pursuant to this Section shall be enclosed in a suitable wood or metal frame, having a clear glass space and a substantial wood or metal back, so that the whole of such license may be seen therein, and shall be posted up and at all times displayed in a conspicuous place in the room where such business is carried on, so that all persons visiting such place may readily see the same.
- (B) It shall be unlawful for any person to post such license or permit, upon premises other than mentioned in the application, or knowingly to deface or destroy such license or permit, or to remove it without the consent of the licensee or permit holder.

**SECTION 4-9            VIOLATIONS BY AGENT**

A violation of this Chapter by a duly authorized agent or employee of the licensee or permit holder shall constitute a violation by the licensee or permit-holder.

**SECTION 4-10          HEALTH RULES**

Each licensed premises shall have a City Health Permit or Restaurant License.

**ARTICLE II. LICENSES - INTOXICATING LIQUORS**

**SECTION 4-11          LICENSE REQUIRED**

No person shall vend, sell, deal, or traffic in, or for the purposes of evading any law or ordinance, give away any intoxicating liquors in any quantity whatever, or cause the same to be done within the City, without having procured a license, as provided in this Chapter.

**SECTION 4-12 CLASSES OF LICENSES: FEES**

There shall be three classes of licenses:

**(A) Retail "Class A" Liquor Licenses**

- (1) Fee: The fee for such retail "Class A" liquor license shall be Three Hundred Fifty (\$350.00) Dollars per year for a renewal application and Five Hundred Dollars (\$500.00) per year for a new application and license. If a renewal application is not filed in accordance with Section 4-3(B), the new application fee will be charged.

**(B) Retail "Class B" Liquor Licenses**

- (1) A retail "Class B" liquor license, when issued by the City Clerk under authority of the Common Council, shall permit its holder to sell, deal and traffic in intoxicating liquors in accordance with the provisions of section 125.51(3)(b) Wis. Stats.
- (2) Fee: The fee for such retail "Class B" liquor license shall be Three Hundred Fifty Dollars (\$350.00) for a renewal application and Five Hundred Dollars (\$500.00) per year for a new application and license. If a renewal application is not filed in accordance with Section 4-3(B), the new application fee will be charged.

**(C) Retail "Class C" Licenses**

- (1) Fee: The fee for such retail "Class C" license shall be One Hundred Dollars (\$100.00) per year.

**ARTICLE III. LICENSES - FERMENTED MALT BEVERAGES****SECTION 4-13 LICENSE REQUIRED**

No person shall sell, barter, exchange, offer for sale or have in possession with intent to sell, deal or traffic in fermented malt beverages or light wines within the City of Oshkosh without having first procured a license as provided in this Section.

**SECTION 4-14 CLASSES OF LICENSES; FEES**

There shall be 4 classes of fermented malt beverage licenses;

**(A) Class "A" Retailer's License**

- (1) Fee. The fee for such Class "A" license shall be One Hundred Dollars (\$100.00) per year. This fee shall be prorated for licenses issued during the license year.

**(B) Class "B" Retailer's License**

- (1) Fee. The fee for such Class "B" license shall be \$100.00. This fee shall be prorated for licenses issued during the license year.

**(C) Six Month Class "B" Licenses**

A license may be issued at any time for a period of six months in any calendar year for which one half of the license fee shall be paid, but such temporary license shall not be renewable during the calendar year in which issued.

(D) Special Class "B" License

(1) Application and Fees.

Applications shall be filed with the City Clerk together with a license fee of \$10.00. Persons employed by, or donating their services to, the holder shall be required to obtain a temporary operator's license as provided for in Article IV when required by the provisions of this Chapter.

(E) Wholesaler's License

(1) Fee. The fee for a wholesale license shall be \$25.00 per year or fractional part thereof.

## ARTICLE IV. OPERATOR'S LICENSES

### SECTION 4-15 OPERATOR LICENSES REQUIRED

No licensed premises may be open for business unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons selling or serving any fermented malt beverages or intoxicating liquor to customers. For the purpose of this Section, any member of the licensee's immediate family who is at least eighteen years of age shall be considered the holder of an operator's license. No person may serve fermented malt beverages or intoxicating liquor in any licensed premises unless the person has an operator's license or is at least 18 years of age and is under the direct and immediate supervision of the licensee or agent or a person holding an operator's license.

### SECTION 4-16 APPLICATION FOR OPERATOR'S LICENSE

A written application shall be filed with the City Clerk with such pertinent information as the City Clerk may require. The applicant shall pay the prescribed fee at the time of application. All applications shall be approved by the Chief of Police or the Chief's designee before consideration by the City Council. Applications shall be valid for a period of sixty (60) days.

### SECTION 4-17 ISSUANCE OF OPERATOR'S LICENSE

(A) The Common Council shall grant the operator's license only to persons who have met the requirements contained in this Code and Chapter 125 of the Wisconsin Statutes, as may be amended from time to time, at which time the City Clerk shall then issue the license.

(B) Where new application is made for a licensed premises on behalf of an individual, the individual shall successfully complete a responsible beverage server training course within sixty (60) days from the filing of the application with the City Clerk. The same shall be required for each partner of an application filed by a partnership, and for an agent of an application filed by a corporation, and for an agent of a Special Class "B" license.

(C) The City Clerk or designee may issue a temporary operator's license subject to the following conditions:

- (1) A written application shall be filed with the City Clerk by the person requesting said application with such pertinent information as the City Clerk may require.
- (2) At the time of application, the applicant shall pay a fee in the amount of two dollars (\$2.00).
- (3) A temporary operator's license shall be valid for fourteen (14) days and shall be issued only to operators employed by, or donating their services to, holders of Special Class "B" licenses under this code.
- (4) No person may hold more than one temporary license per calendar year.

(D) The City Clerk or designee may issue a provisional operator's license subject to the following conditions:

- (1) A provisional license may be issued only to a person who has applied for an operator's license as provided by this Chapter.
- (2) A provisional license shall expire 60 days after its date of issuance or when the Common Council grants a regular operator's license to the holder, whichever is sooner. The official who issued the provisional license may revoke the license if the official discovers that the holder of the license made a false statement on the application.
- (3) The fee for a provisional license shall be \$5.00 which is paid to the City Treasurer at the time application is made.

#### **SECTION 4-18 FEES AND EXPIRATION FOR OPERATOR'S LICENSE**

The fee for an operator's initial license shall be Sixty Dollars (\$60.00) for a two-year period or fraction thereof. The fee for an operator's renewal license shall be Fifty-five Dollars (\$55.00) for a two year period or fraction thereof. The fee for a duplicate operator's license shall be Fifteen Dollars (\$15.00). Every operator's license shall expire on the 30th day of June prior to the expiration of the two-year period from the date of issuance. Operator's licenses shall be signed by the City Clerk, and issued after approval thereof by the Common Council.

#### **SECTION 4-19 REVOCATION OF OPERATOR'S LICENSE**

Any violation of any of the terms or provisions of this Section by any person holding an operator's license shall be cause for revocation of said license. The provisions of Section 125.12 of the Wisconsin Statutes shall apply to any revocation under this section.

### **ARTICLE V. ADDITIONAL REGULATIONS**

#### **SECTION 4-20 CLOSING HOURS**

The closing hours for licensed premises shall be as established by the Wisconsin Statutes except as follows:

(A) "Class A" License

No premises for which a "Class A" license or permit is issued shall be permitted to remain open for the sale of intoxicating liquor between 9 p.m. and 8 a.m.

(B) Class "A" License

No premises for which a Class "A" license or permit is issued shall be permitted to remain open for the sale of fermented malt beverages between 9 p.m. and 8 a.m.

(C) No alcohol beverages shall be sold or consumed upon any licensed premises during the closing hours specified above.

#### **SECTION 4-21 NON-ALCOHOL EVENTS; UNDERAGE PERSONS ON LICENSED PREMISES**

(A) An underage person who is not accompanied by a parent, legal guardian or spouse who has attained the legal drinking age may enter and remain on a Class "B" or "Class B" licensed premises if:

- (1) No alcohol beverages including nonalcoholic beer, wine coolers, and other similar imitation type beverages, are consumed, sold, furnished, given away on or carried into the licensed premises during the hours specified in a prior written notification to the Chief of Police or designee; and
  - (2) During the period of any non-alcohol event, all alcohol beverages, not stored in a locked portion of the licensed premises, shall be stored in a secure place out of the sight and physical reach of any patron present and shall be under direct and immediate control and supervision of the licensee or agent or the licensed operator in the employ of the licensee or agent. All beer taps and automatic dispensers of alcohol beverages shall be disconnected, disassembled or made inoperable; and
  - (3) The licensee or agent has notified the Chief of Police or designee at least seven (7) calendar days in advance of any date on which underage persons will be present on the licensed premises. A separate notice shall be made for each date a non-alcohol event will be held. The notice shall be on a form prescribed by the Chief of Police and shall include the date and time during which the event is to occur. All notices shall be filed with the Chief or designee during the normal City business hours (weekdays, except holidays, between 8:00 a.m. and 4:30 p.m.). After notice of the event has been given, the licensee shall notify the Chief or designee in writing if the event is to be canceled; and
  - (4) During the period of any non-alcohol event, a notice card issued by the Chief shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold furnished, or given away on, or carried into the licensed premises during the event; and
  - (5) Closing hours established by appropriate state statute for such licensed premises shall be observed.
- (B) This section shall not apply to those portions of licensed premises which contain bowling alleys where the possession, sale and consumption of alcohol beverages is restricted to the bowling alley area, where separate ingress/egress and restroom facilities are provided within the bowling alley area for the exclusive use of those patrons and where all alcohol beverages normally available for sale not located within the bowling alley area are under the direct and immediate supervision of the licensee or agent or a licensed operator in the employ of the license holder.

## **SECTION 4-22            CONDITIONS OF LICENSES**

All licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Chapter and to all regulations of the City applicable thereto:

- (A) Consent to Inspections  
Every applicant procuring a license thereby consents to the entry of police or other duly authorized representative of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of this Section, or said laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such violation.
- (B) Unobstructed Windows Required  
All windows in the front of any licensed premises shall be of clear glass and the premises shall be so arranged as to furnish a clear view of the entire premises from the sidewalk. There shall be no partition, box, stall, screen, curtain, or other device which shall obstruct the view of such room from

the general observation of persons; provided, however, that the partitions, subdivisions, or panels any higher than 60 inches from the floor shall not be constructed as in conflict with the foregoing; provided, however, Retail "Class B" licenses shall entitle the holder thereof to serve such beverages in a separate room a banquets or dinners.

## **SECTION 4-23 SPECIAL CLASS "B" LICENSES**

All special class "B" licenses issued require the licensee to take appropriate safeguards to prevent abuse in the dispersion and consumption of alcohol beverages. All beverages shall be served or possessed in transparent or semi-transparent containers, except the beverages may be served or possessed in their original packaging/containers (see 125.32 and 125.68 for labeling and packaging regulations for alcohol beverages), and hot non-alcoholic beverages may be served in opaque paper or styrofoam containers. The applicant for the special class "B" license shall, in order to secure a license, and as part of the application, specify which of the provisions of section 4-24 will be used in enforcing applicable City ordinances.

## **SECTION 4-24 BEERGARDENS**

### **(A) Required.**

No person shall possess, sell or offer for sale any alcohol beverages in any parking lot or any other open area for any special event unless a temporary beergarden is established in accordance with the following provisions. A special event for purposes of this ordinance shall be defined as an event for which a special class "B" license is obtained or an event not within the ordinary course of a licensee's business including, but not limited to, promotions days, celebrations and festivals open to the general public and other similar events.

### **(B) Special Class "B" Licenses within Parks**

All special class "B" licenses issued for use in any City of Oshkosh municipal park shall require the applicant to comply with the following provisions:

(1) When required by subsection (A) above, the applicant shall either:

(a) erect a fenced beergarden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 1/2) feet in height and spaced six feet apart. No fence which defines a temporary beergarden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beergarden; or

(b) obtain a specific waiver of the fencing requirements contained within paragraph (a) above from the City Council. The request shall be submitted upon a form provided by the City Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Council may grant or deny, in whole or in part, or may grant subject to conditions the waiver requested.

(2) The sponsoring organization may prohibit beverage carryins of any type, limiting consumption to those beverages sold within the confines of the beergarden or part of the park as specified in the application. The sponsoring organization shall place signs at all entrances to the beer garden or part of the park specified and at such other locations as specified by the Oshkosh Police Department as necessary to give persons reasonable notice of this prohibition. Such signs shall be a minimum of 8 1/2" by 11", bright yellow in color, and shall specify "No Carryin Beverages Allowed within this Area pursuant to section 4-24(B)(2) of the Oshkosh Municipal Code" in letters at least 1/2" high. No person shall bring into or possess within the area designated any carryin beverages.

- (3) The decision as to specific location, fencing, size and number of beergardens shall be made by and at the discretion of the City administration, except that the fence which defines any beergarden area shall be located no closer than five (5) feet away from any public right-of-way.
- (4) (Repealed 5/25/99)
- (5) The cost of procuring, installing, maintaining, and disassembling any of the beer garden fence, park perimeter fence or similar demarcation device shall be borne by the licensee or his designated agent. Restitution or remuneration or damage to City property shall be at the sole expense of the applicant.
- (6) Sale of beer in any park shall be prohibited after 9:00 p.m. except in those instances wherein the City Council, by resolution, grants an extension of hours.

(C) Other Special Class "B" Licenses.

All special class "B" licenses not issued for use in any City of Oshkosh municipal park shall require the applicant to comply with the following provisions:

- (1) When required by subsection (A) above, the applicant shall either:
  - (a) erect a fenced beergarden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 1/2) feet in height and spaced six feet apart. No fence which defines a temporary beergarden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beergarden; or
  - (b) obtain a specific waiver of the fencing requirements contained within paragraph (a) above from the City Council. The request shall be submitted upon a form provided by the City Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Council may grant or deny, in whole or in part, or may grant subject to conditions the waiver requested.
  - (c) Licenses issued for property owned and operated by Winnebago County shall be governed by the requirements set forth by Winnebago County.
- (2) Amplified sound or music shall not be permitted after 10:00 p.m. Sunday through Thursday and after 11:00 p.m. Friday and Saturday evenings. This section shall not be construed to limit the authority of the police department to respond to complaints and to take any appropriate action in response thereto.

(D) All Other Licensees.

- (1) When required by subsection (A) above, the applicant shall either:
  - (a) erect a fenced beergarden defined as an enclosed area with specially marked entrances and exits and consisting of a fence or wall not less than five (5) feet in height or with two (2) temporary fences not less than three and one-half (3 1/2) feet in height and spaced six feet apart. No fence which defines a temporary beergarden area shall be located closer than five (5) feet away from the adjacent public right-of-way. Consumption of alcohol beverages shall be restricted to that area within the confines of the beergarden; or

(b) obtain a specific waiver of the fencing requirements contained within paragraph (a) above from the City Council. The request shall be submitted upon a form provided by the City Clerk and shall be filed at the time of license application. The request shall specify what safeguards the licensee will take to prevent abuse in the dispersion and consumption of alcohol beverages. The Council may grant or deny, in whole or in part, or may grant subject to conditions the waiver requested.

(2) Amplified sound or music shall not be permitted after 10:00 p.m. Sunday through Thursday and after 11:00 p.m. Friday and Saturday evenings. This section shall not be construed to limit the authority of the police department to respond to complaints and to take any appropriate action in response thereto.

**SECTION 4-25 HOURS OF CONSUMPTION**

(A) No consumption of any alcoholic beverages, including fermented malt beverages, shall be allowed in any City park after 10:00 p.m., except in the following designated areas where softball league play has been sanctioned, or a Special Class "B" license exemption for such activity has been issued:

- (1) Esther Reetz Softball complex in Menominee Park, located north of the parks maintenance (block) building, east of the recreation trail, south of Siewert Trail, and west of Reetz Softball Complex/boat launch parking lot.
- (2) Spanbaur Memorial Field located at 9th Avenue and Sawyer;
- (3) "Carry-in" of alcoholic beverages is strictly prohibited within the above designated areas/boundaries during official operation times of Class "B" licensed operators.

**SECTION 4-26 (Repealed 5/15/99)**

(Previously KEG BEER PERMITS REQUIRED)

**SECTION 4-27 SALE OF CERTAIN ALCOHOL BEVERAGES PROHIBITED**

No beverages of an alcohol content prohibited by the laws of the United States shall be kept in or about licensed premises.

**Section 4-28 (REPEALED 6/24/97)**

**ARTICLE VI. PENALTIES**

**SECTION 4-29 PENALTIES**

Any person convicted of a violation of any of the provisions of the following Sections of this Chapter shall for each offense be punished by the forfeitures as set forth, together with the costs of prosecution and in default of payment of such forfeitures and costs, by imprisonment in the County Jail for Winnebago County for the terms hereinafter stated; except that if a different penalty is enumerated by the Wisconsin Statutes, as adopted by this Chapter, then the enumerated penalty including alternative penalty for default of payment shall be imposed.

- (A) General Penalty. Any person who violates any provision of this Chapter for which a specific penalty is not provided below shall be fined not less than Fifty Dollars (\$75.00) nor more than One Thousand Dollars (\$1000.00).
- (B) General Penalty - Juveniles. Any person age 16 and under who violates any provision of this Chapter for which a specific penalty is not provided below shall be fined Twenty Five Dollars (\$25.00).
- (C) A forfeiture of not less than Fifty Dollars (\$50.00) for a first violation, a forfeiture of not less than One Hundred Dollars (\$100.00) for a second violation within a twelve month period and a forfeiture not less than One Hundred Fifty (\$150.00) nor more than Five Hundred Dollars (\$500.00) for a third or subsequent violation within a twelve-month period and in default of payment loss of driving privileges for a violation of any of the following:

Section 4-2(C) as it affects children ages 16 and under.

Section 4-1 which adopts by reference Sec. 125.07(4)(b), and 125.09(2) Wis. Stats., as it affects children ages 16 and under.

- (D) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than Two Hundred Dollars (\$200.00) for a first violation, a forfeiture of not less than Two Hundred Twenty-five Dollars (\$225.00) nor more than Three Hundred Dollars (\$300.00) for a second violation within a twelve-month period, a forfeiture of not less than Three Hundred Twenty-five Dollars (\$325.00) nor more than Five Hundred Dollars (\$500.00) for a third violation within a twelve-month period, and a forfeiture of not less than Five Hundred Twenty-five Dollars (\$525.00) nor more than One Thousand Dollars (\$1,000) for a fourth or subsequent violation within a twelve-month period and in default of payment loss of driving privileges for a violation of any of the following:

Section 4-1, which adopts by reference Sec. 125.07(4)(b), Wis. Stats., as it affects persons age 17, 18, 19 and 20.

Section 4-2(C) and Sec. 4-1 adopting sec. 125.09(2) Wis. Stats., as it affects persons age 17, 18, 19, and 20.

- (E) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than Five Hundred Dollars (\$500.00), and in default of payment by imprisonment for not exceeding ninety (90) days or loss of driving privileges for a violation of any of the following:

Sections 4-2(A) and (C), 4-11, 4-13 and 4-21.

- (F) A forfeiture of not less than One Hundred Seventy-five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second and subsequent violations within a twelve-month period a forfeiture of not less than Two Hundred Seventy-Fifty Dollars (\$275.00) and in default of payment by imprisonment for not exceeding ninety (90) days or loss of driving privileges for a violation of any of the following:

Section 4-1 adoption sec. 125.07(2)(a), and Section 4-20(A) adopting sec. 125.68(4) and 125.32(3) Wis. Stats. and Section 4-20(C)

- (G) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second violation within a twelve-month period a forfeiture of not less than One Hundred Seventy-five Dollars (\$175.00) and for a third or subsequent violation within

a twelve-month period a forfeiture of not less than Two Hundred Twenty-five Dollars (\$225.00) and in default of payment by imprisonment for not exceeding ninety (90) days or loss of driving privileges for a violation of any of the following:

Section 4-1 which adopts by reference Sec. 125.085(3)(a), Wis. Stats.

- (H) A forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second offense within a twelve-month period a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00) and for a third or subsequent offense within a twelve-month period a forfeiture of Five Hundred Dollars (\$500.00) and in default of payment by loss of driving privileges for any violation of the following:

Section 4-1 which adopts by reference Sec. 125.085(3)(b), Wis. Stats., as each affects children ages 16 and under.

- (I) (a) A forfeiture of not less than Two Hundred Fifty Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second violation within a twelve-month period a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00) and for a third or subsequent violation within a twelve-month period a forfeiture of Five Hundred Dollars (\$500.00) and in default of payment by imprisonment not exceeding ninety (90) days or loss of driving privileges for violation of the following:

Section 4-1 which adopts by reference Sec. 125.07(4)(a)(1), (2), & (4) as it affects children ages 16 and under, Wis. Stats.

- (b) A forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second violation within a twelve-month period a forfeiture of not less than Three Hundred Twenty-five Dollars (\$325.00) nor more than Five Hundred Dollars (\$500.00) and for a third or subsequent violation within a twelve-month period a forfeiture of Five Hundred Twenty-five Dollars (\$525.00) and in default of payment by imprisonment not exceeding ninety (90) days or loss of driving privileges for violation of the following:

Section 4-1 which adopts by reference Sec. 125.085(3)(b)(2) as it affects persons age 17, 18, 19, and 20.

- (J) A forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00) for a first violation, a forfeiture of not less than Three Hundred Twenty-five Dollars (\$325.00) nor more than Five Hundred Dollars (\$500.00) for a second violation within a twelve-month period, a forfeiture of not less than Five Hundred Twenty-five Dollars (\$525.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for a third violation within a twelve-month period, and a forfeiture of not less than Seven Hundred Seventy-five Dollars (\$775.00) nor more than One Thousand Dollars (\$1,000) for a fourth or subsequent violation within a twelve-month period and in default of payment loss of driving privileges for a violation of any of the following:

Section 4-1 which adopts by reference Sec. 125.07(4)(a)(1), (2) & (4) Wis. Stats., as it affects persons age 17, 18, 19, and 20.

- (K) A forfeiture of not less than Two Hundred Twenty-five Dollars (\$225.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second violation within a twelve-month period a forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00) and for a third or subsequent violation within a twelve-month period a forfeiture of Four Hundred Seventy-five Dollars (\$475.00) and in default of payment by imprisonment not exceeding ninety (90)

days or loss of driving privileges for violation of the following:

Section 4-1 which adopts by reference Sec. 125.085(3)(b)(1), (3) & (4) as it affects persons age 17, 18, 19, and 20.

- (L) A forfeiture of not less than Three Hundred Twenty-five Dollars (\$325.00) nor more than Five Hundred Dollars (\$500.00) for a first violation, a forfeiture of not less than Three Hundred Seventy-five Dollars (\$375.00) nor more than Five Hundred Dollars (\$500.00) for a second violation within a twelve-month period, a forfeiture of not less than Five Hundred Seventy-five Dollars (\$575.00) nor more than Seven Hundred Fifty Dollars (\$750.00) for a third violation within a twelve-month period, and a forfeiture of not less than Eight Hundred Twenty-five Dollars (\$825.00) nor more than One Thousand Dollars (\$1,000) for a fourth or subsequent violation within a twelve-month period and in default of payment loss of driving privileges for a violation of any of the following:

Section 4-1 which adopts by reference Sec. 125.07(4)(a)(3) Wis. Stats., as it affects persons age 17, 18, 19, and 20.

- (M) A forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), excepting that for a second violation within a twelve-month period a forfeiture of not less than Three Hundred Fifty Dollars (\$350.00) nor more than Five Hundred Dollars (\$500.00) and for a third or subsequent violation within a twelve-month period a forfeiture of Five Hundred Dollars (\$500.00) and in default of payment by imprisonment not exceeding ninety (90) days or loss of driving privileges for violation of the following:

Section 4-1 which adopts by reference Sec. 125.07(4)(a)(3) as it affects children ages 16 and under, Wis. Stats.

- (N) A forfeiture of not less than One Hundred Seventy-five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for a 1st violation, and A forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00) for a second or subsequent violation within a twelve month period for violation of any of the following:

Section 4-1 adopting 125.07(3)(b) Wis. Stats.

- (O) A forfeiture of not less than One Hundred Seventy-five Dollars (\$175.00) nor more than Five Hundred Dollars (\$500.00) for a 1st violation, and A forfeiture of not less than Two Hundred Seventy-five Dollars (\$275.00) nor more than Five Hundred Dollars (\$500.00) for a second violation within a twelve month period, a forfeiture of not less than Five Hundred Twenty-five Dollars (\$525.00) nor more than One Thousand Dollars (\$1000.00) for a third violation within a twelve month period, and not less than One Thousand Twenty-five Dollars(\$1025.00) nor more than Five Thousand Dollars (\$5000.00) for a fourth or subsequent violation within a twelve month period for violation of any of the following:

Section 4-1 adopting 125.07(1)(a)

- (P) A forfeiture of not less than one Hundred Dollars (\$100.00) nor more than Three Hundred Dollars (\$300.00) for a first violation, a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars for a second violation within a twelve (12) month period, and a forfeiture of not less than Five Hundred dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for a third or subsequent violation within a twelve (12) month period and in default of payment by imprisonment not exceeding ninety (90) days or loss of driving privileges for violation of the following:

Section 4-1 which adopts by reference Sec. 125.07(1)(a)(1) and 125.07(1)(a)(3) Wis. Stats. as it affects children ages 16 and under.

Section 4-2(A) as it affects children age 16 and under.

(Q) A forfeiture of not less than One Hundred Twenty-five Dollars (\$125.00) nor more than Five Hundred Dollars (\$500.00) for a first violation, and a forfeiture of not less than Five Hundred Twenty-five Dollars (\$525.00) nor more than One Thousand Dollars (\$1,000.00) for a second violation within a twelve month period, and a forfeiture of not less than One Thousand Twenty-five Dollars (\$1,025.00) for a third or subsequent violation within a twelve month period, together with the costs of prosecution, and in default of payment thereof, by imprisonment in the County Jail for a period not to exceed one hundred twenty (120) days for violation of any of the following:

Section 4-28

(R) In addition to the penalties herein provided, any license issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to revocation by a Court of record. Further, any license issued under this Chapter held by a person convicted of violating the provisions of this Chapter shall be subject to suspension or revocation by the Oshkosh Common Council.

(S) In addition to the penalties herein provided, a person convicted of violating the provisions of this Chapter shall be subject to suspension or revocation by a Court of record of their operating privileges as provided within Chapter 343 of the Wisconsin Statutes.