



AMENDED

To: Menasha Common Council
From: Jenny Groeschel and Ginger Tralongo, Police Records
RE: Beverage Operator License (Bartender) Applicants
Date: **May 17, 2013**

The below individuals have applied for a bartender license to serve, dispense and/or sell alcohol at a licensed establishment within the City. They have all met the criteria under the "Guidelines for Operator Licenses" approved by the Common Council. Therefore, staff is recommending the following people be **APPROVED** for an Operator's License for the 2013-2015 licensing period:

Chela M. Tetzlaff – CVS	Patricia (NMI) Hancock – Walgreens
Gail M. Bottine – Pat's Legend Inn	Becky L. Weber - Walgreens
Victor W. Ratchman – Germania	Mary A. Kersten - Walgreens
Colleen S. Reiser – Pat's Legend Inn	Kathleen (NMI) Harris - Walgreens
Constance L. Thompson – CVS	David J. Schroeder - Walgreens
Sarah J. Straw – Trailside Tavern	Robin J. Benson – Marathon
Dawn M. Steele – Pat's Legend Inn	Amanda C. Urbaniak – Trailside
Steven A. Andrews – Pat's Legend Inn	Veronica A. Prince – Walgreens
Christina A. Wynen – Walgreens	Toni A. Minor - Walgreens
Tifani L. Harris – Trailside	Donna M. Benotch - Walgreens
Charles W. Lipke – Hanks	Crystal M. Short - Walgreens
Kathryn M. Tews – Tonys	Laura D. Untiet - Walgreens
Karen J. Gallagher – R&R	Kimberley M. McFarland-Walgreens
George E. Reckin – Elks Club	Debra M. Sprangers - Walgreens
Colten C. Christensen – Kwik Trip	Lewis J. Kumbier - Walgreens

Mindy M. Gasch – Kwik Trip

Dana R. Bortle – Locker Room

Tina A. Fox – Walgreens

Shiva R. Sapkota – Marathon

Matthew C. Shelton – CVS

Margaret M. Bezotte – Kwik Trip

Lori L. Roeske – Tony's

Brenda S. Jones – R&R

Nicole J. Peik – Kwik Trip

Jon L. Laflin – Elks

Joshua W. Lefeber – Kwik Trip

Brenda L. Heinritz – CVS

Carol L. Quella – R&R

Mary L. Peck – Pat's Legend Inn

The following individuals have applied for a bartender license to serve, dispense and/or sell alcohol at a licensed establishment within the City. They have not met the criteria under the "Guidelines for Operator Licenses" approved by the Common Council. Therefore, staff is recommending the following people be DENIED an Operator's License:

Ashley N. Burkett – R&R

Sierra Kristina Will – Club Tavern

Dear city hall,

I'm appealing my denial of my bartending license by the cause of my misunderstanding with the questions that was asked. There's an affirmation saying I have given false information on my bartending application which in return denied its approval.

I unknowingly gave them the inaccurate information being the process in which I took to obtain the license was a first for me. Because I did not understand exactly what to put down on a few of the questions, I asked the clerk at the Menasha City Police Station for assistance in answering some of the questions. She did a semi background check to see if there's any information on me. With the information that was given to me and the confusion of the questions before hand, the clerk and I were unsure of what should be written.

I believe my application should be reconsidered for I provide a responsible yet fun atmosphere for the customers in the establishment. Everything I do is the best of my ability in memorization, cleanliness, money management and internal personal relationships with the clientele. From the class I took about responsibilities with serving alcohol, that was put together by the Police Department of fox valley areas, I understand the methods used to slow drinking and applied them to the customers.

My sincerest apology for the misunderstanding and am asking you to grant me the opportunity to be reconsidered. I look forward to meeting with you to discuss this matter. Feel free to call me with any questions at (920) 707-4646. I appreciate the time you have taken to read my appeal.

Sincerely,
Ashley Burkett

CITY OF MENASHA
ALCOHOL OPERATORS LICENSE APPLICATION

Establishment of Employment R+R
SPECIAL EVENT PROVISIONAL (TEMP) REGULAR RENEWAL

Name Burkett Orinley N
Last First Middle

Address 316 1/2 Second St. Menasha WI 54952
Street City State/Zip Code

Phone _____ Social Security _____

Height _____ Weight _____ Eyes _____ Hair _____ Sex _____ Race _____

Birth Date _____ Age _____ Birthplace _____

Scars, Marks, Tattoos Tattoo on wrist, left arm, left leg, right leg
Drivers License No. _____ State of Issue WI
Expiration Date _____

NOTE: A license may be denied if applicant fails to provide accurate information or if the information is incomplete! Please read this section carefully.

Please explain all yes answers completely on the back of this form!

- Do you currently have any criminal charges pending against you? YES
- Have you ever been convicted of a felony? NO
- Have you ever been convicted of a misdemeanor? NO
- Have you ever been convicted of operating a motor vehicle while under the influence of an intoxicant or drug? NO
- Have you ever been convicted of any law statute or ordinance pertaining to the use or sale of alcohol (including drinking alcohol underage)? NO
- Have you ever been convicted of any law, statute or ordinance pertaining to the possession, use or sale illegal drugs? NO

I UNDERSTAND THAT THE APPLICATION FEE WILL NOT BE RETURNED IF LICENSE IS DENIED.

SIGNATURE Orinley Burkett Date 4.17.13

WITNESS _____ Date _____

Approved _____ Denied h Expiration Date _____
Chief of Police W. H. [unclear] Date 4/23/13
Comments: Guideline 2-4

REVOKED FOR VIOLATION: _____

Please answer all yes questions from the front of this form completely! Include correct charges, date of offense, and sentence. Failure to include all information or inaccurate information may result in the denial of your application!

Arrested but not convicted of possession of Δ THC through it is under deferred judgement.

— See attached CCAP Document

[The following section contains multiple horizontal lines for text entry, which are mostly blank or contain very faint, illegible markings.]



April 25, 2013

Ashley N. Burkett
316 ½ Second St.
Menasha, WI 54952

COPY
mailed
4/25/13
GT

Re: City of Menasha Alcohol Operators License Application

Ms. Burkett,

I've reviewed your application for a city of Menasha Alcohol Operators License and in doing so it was discovered that there were several issues with your application. The first issue with this application was that you provided inaccurate information on the application. The fifth question on the application 'Have you ever been convicted of any law statute or ordinance pertaining to the use or sale of alcohol (including drinking alcohol underage)?' and your response was "no". In doing a background investigation, it was determined that you have a conviction for underage drinking with a conviction date of September 6, 2011 out of Winnebago County, WI.

The next issue which is covered under Guideline #3 of the city of Menasha Policy Guidelines for Operators License you have two or more offenses arising out of separate incidents within the last three years which disqualify you for an Operators License. You have an underage drinking conviction in Winnebago County, WI on September 06, 2011 as well as a conviction in Winnebago Co, WI on January 24, 2013 for Possession of THC. Both of these convictions substantially relate to the license for which you have applied.

Based on the above mentioned information, I will at this time be denying your application for a city of Menasha Alcohol Operators License. You may appeal this decision by contacting the city of Menasha Clerks Office at 920-967-3603 within thirty days of this denial to request an appeal before the Common Counsel. At this appeal, you have the right to be represented and to be heard and to present evidence in favor of granting the license and to rebut the evidence presented in opposition to the granting of this license at a hearing held within forty-five days of filing such an appeal.

Sincerely,

Lt. Ron Bouchard
Investigative Services

CITY OF MENASHA
ALCOHOL OPERATORS LICENSE APPLICATION

Establishment of Employment Club Tavern
TEMPORARY _____ PROVISIONAL _____ REGULAR RENEWAL _____

call

Name Wohl Sierra Kristina
Last First Middle

Address 966 Grove St. Menasha WI 54952
Street City State/Zip Code

Phone _____ Social Security _____

Height _____ Weight _____ Eyes _____ Hair _____ Sex _____ Race _____

Birth Date _____ Age _____ Birthplace _____

Scars, Marks, Tattoos left wrist: Love, Right wrist: Peace, Back: Lower: Stars
Drivers License No. _____ State of Issue _____

Expiration Date _____

NOTE: A license may be denied if applicant fails to provide accurate information or if the information is incomplete! Please read this section carefully.

Please explain all yes answers completely on the back of this form!

Do you currently have any criminal charges pending against you? YES

Have you ever been convicted of a felony? NO

Have you ever been convicted of a misdemeanor? never

Have you ever been convicted of operating a motor vehicle while under the influence of an intoxicant or drug? YES

Have you ever been convicted of any law, statute, or ordinance pertaining to the use or sale of alcohol (including drinking alcohol underage)? NO - should be yes (WA)

Have you ever been convicted of any law, statute, or ordinance pertaining to the possession, use, or sale of illegal drugs? NO - should be yes

I UNDERSTAND THAT THE APPLICATION FEE WILL NOT BE RETURNED IF LICENSE IS DENIED.

SIGNATURE Sierra Wohl Date 5/6/13

WITNESS _____ Date _____

Approved _____ Denied Expiration Date _____
Chief of Police Walter B. R... Date 5/10/13

Comments: Habitual offender 11/01 - 01/05, 7/09 WA, 6/09 Poss M.D.
Pending Misd. charge Poss M.D.

REVOKED FOR VIOLATION: _____

Please answer all yes questions from the front of this form completely! Include correct charges, date of offense, and sentence. Failure to include all information or inaccurate information may result in the denial of your application!

06-08-2009 Underage drinking Shawano County
pd fine

~~03/22/2011~~ 03/22/2011 DWI Fondulac County pd fine

01/11/12 Driving after revoked Columbia County
pd fine

11/07/12 Possession of THC Columbia County
- Talking to trial, not charged yet



COPY

mailed 5-10-13
∞

May 10, 2013

Sierra K Will
966 Grove St
Menasha, WI 54952

Re: City of Menasha Alcohol Operators License Application

Dear Ms. Will

I have reviewed your application for an alcohol operator's license with the City of Menasha and in doing so it was discovered that there were several issues with this application. Under guideline #4 you are required to completely fill out the application truthfully and honestly and I discovered that there were several issues with your application regarding this matter. The question was asked if you have ever been convicted of a misdemeanor you left this item blank. The other question is regarding have you ever been convicted of any law, statute, or ordinance pertaining to the use or sale of alcohol (including drinking alcohol underage) you responded no which is not a correct answer based on the background investigation. The last question have you ever been convicted of any law, statute, or ordinance pertaining to the possession, use, or sale of illegal drugs you answered no which is incorrect, in that you do have a possession of marijuana on your record. Secondly I noted that you have several convictions which would classify you under our policy as a habitual law offender which means you have multiple convictions or pending charges that add up to 3 or more offenses within the last 5 years. These offenses also substantially relate to the license activity for which you are applying for.

The records check revealed that on June 10, 2009 you were convicted of Possession of Marijuana in the City of Menasha municipal court.

On July 6, 2009 you were convicted of underage alcohol violation in Shawano County.

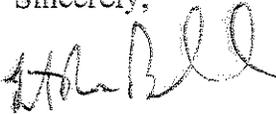
On November 2, 2011 you were convicted of operating a motor vehicle while intoxicated in Fond Du Lac County.

You also have a pending charge of Possession of Marijuana which appears to be a misdemeanor according to court records this is in Columbia County regarding Columbia County case number 2012CM000637 this is for an arrest that occurred on October 25, 2012.

Since you were convicted of three or more offenses in the last five years and you have a pending misdemeanor charge of Possession of Marijuana, I am going to be denying your application for an alcohol operator's license within the City of Menasha under our policy dealing with habitual law offenders. Each one of these offenses is directly related to the licensing activity for which you applied.

I would like to further advise you that you may appeal this decision, by contacting the Menasha City Clerk's Office at (920)967-3603 within 30 days of this denial to request an appeal before the common council. At this appeal you have the right to be represented and to be heard and to present evidence in favor of granting the license and to rebut the evidence presented in opposition to the granting of this license at a hearing held within 45 days of the filing of such appeal.

Sincerely,



Lt. Ron Bouchard
Investigative Services
Menasha Police Department

CITY OF MENASHA POLICY GUIDELINES FOR OPERATOR LICENSES

1. Intent: It is the responsibility of the Menasha Police Chief to screen applications for operators' licenses (bartender licenses) for the City of Menasha. The following guidelines are adopted in order to specify the reasons for denying, non-reviewing or revoking an operator's license and outlines the steps and considerations given, for any denials that are appealed to the Menasha Common Council.

All applications for operators' license applications are submitted to the Menasha Police Department for a background check. The Menasha Police Chief makes the decision on licensing by either accepting or rejecting the application.

*Due to the discretionary nature of the alcohol beverage licensing process, it is not possible to state every circumstance that may result in approval of a license application and what circumstances will result in approval of a license application. However, it is possible to enumerate what will be considered in the decision-making and what circumstances are more likely to result in the **denial** of a license application.*

Individuals granted an operator's license must act in cooperation with law enforcement to enforce the alcohol beverage laws, drunk driving laws, and assist with minimizing disturbances of the peace and maintain the safety of the community. Therefore, individuals with a past history of negative or uncooperative contacts with police agencies will be scrutinized.

It is with these goals in mind that these guidelines are adopted. Furthermore, to the extent that Wis. Statutes Ch. 125 or Menasha City Ordinances provide additional grounds for denial, suspension, revocation or non-renewal, the Police Chief may also rely on such provisions.

In the event an individual with an operator's license is considered for non-renewal, suspension or revocation, all offenses will be considered, the circumstances of which are substantially related to the license regardless of whether some of the offenses occurred prior to the adoption of these guidelines.

Upon request, a copy of these guidelines shall be provided to each person who applies for a license.

Guidelines: What is meant by **substantially related**? The law does not specifically define this term although there are many court decisions on the topic. The Wisconsin Supreme Court has stated that the purpose of the test is to assess whether the tendencies and inclinations to behave a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed. The "**substantially related**" test looks at the circumstances of an offense, where it happened, when, what, etc. compared to the circumstances of the licensed activity.

Where does the licensed activity typically occur, when and what is involved in performing the licensed activity, etc.

Examples of “substantially related” in the context of an operator’s license: There is a substantial relationship between the illegal purchase, use and sale of controlled substances and engaging in bartending, which involves the purchase and sale of a closely regulated substance. The same is true for offenses involving alcohol, e.g. drunk driving, selling to underage, possession and/or consuming as an underage, committing law violations while under the influence of alcohol or drugs, etc.

- **Guideline 1.** Provided the offense is substantially related to the circumstances of the license activity, circumstances of the offense substantially relate to the circumstances of the job or licensed activity, **any person who has been convicted of any FELONY, unless duly pardoned, does not qualify for an operator’s license.** Sec. 125.04(5)(b), Wis. Stats. (To the extent the other guidelines reference a specific offense; this guideline shall apply if the offense constitutes a *felony*.)

- **Guideline 2.** Provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity, **offense is substantially related to the circumstances of the licensed activity**, any person who has been convicted of or has a current charge pending, for two (2) or more offenses within the last five (5) years or for two (2) or more offenses, arising out of separate incidents, within the last five (5) years in the following subcategories, does not qualify for an operator’s license:
 - Violent crimes against the person of another, including but not limited to battery, criminal disorderly conduct, sexual assault, injury by negligent use of a vehicle, intimidation of a victim or witness.
 - Crimes involving cooperation (or lack thereof) with law enforcement officials, including but not limited to, resisting or obstructing a police officer, bribery of public officers/employees, eluding police, bail jumping, hit and run, perjury, or acts/threats of terrorism.
 - Manufacturing, distributing, delivering a controlled substance or a controlled substance analog; maintaining a drug trafficking place; possessing with intent to manufacture, distribute, or deliver a controlled substance or a controlled substance analog. Sec. 111.335(1)(c), Wis. Stats.

- **Guideline 3.** Provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity, offense is **substantially related to circumstances of the license activity**, any person who has been convicted of or has a current charge pending, for two (2) or more offenses, arising out of separate incidents, within the last three (3) years in the following subcategories, does not qualify for an operator’s license:
 - Disorderly conduct, criminal damage to property, solicitation of prostitution or other prostitutions-related offenses, wherein the offense involves an incident at a place that is, or should have been licensed under Wis. Stat. Ch. 125.

- Alcohol beverage offenses (under Wis. Stat. Ch. 125 or Menasha City Ordinances).
- Possessing a controlled substance, controlled substance analog without a valid prescription, or possessing drug paraphernalia.
- Operating a motor vehicle while under the influence of intoxicants or drugs.
- Operating a motor vehicle with a prohibited alcohol concentration (PAC) in excess of .08% by weight.
- Open intoxicants in a public places or in a motor vehicle.

What is a **habitual law offender**? The term “habitual” refers to multiple convictions or pending charges and could include an offender with two (2) offenses occurring within a relatively short period of time. The term “offender” refers to a person with civil violations such as ordinance convictions and/or misdemeanor convictions (or pending charges), which substantially relate to the licensing activity. A legal opinion rendered by the League of Wisconsin Municipalities states that a person with two drunk driving convictions within the last couple years would be considered a habitual offender under the alcohol beverage licensing laws. Intoxicating Liquors #890 (1991). Some examples include:

- Two (2) or more offenses, each with a separate incident, within the immediately preceding one (1) year.
 - Three (3) or more offenses, each a separate incident, within the immediately preceding five (5) years.
 - Six (6) or more offenses, each a separate incident, within the preceding ten (10) years.
- **Guideline 4.** Applicants must truthfully and completely fill out applications:
 - If an applicant provides false information on an application, that application shall be denied and the applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of denial of such application.
 - If the Police Chief determines that information was *intentionally* omitted from an application, the application shall be denied and the applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of the denial of such application.
 - If the Police Chief determines that information was OMITTED from an application due to inadvertence, mistake or excusable neglect, the Chief may allow the applicant to submit a corrected application and recommend granting of the license, if the applicant is otherwise qualified.
 - **Guideline 5.** Recommending approval of an operator’s license application for an applicant who would otherwise be denied under these policy guidelines:
 - The Common Council may approve an operator’s license application if the application would otherwise be denied under this policy if the applicant presents substantial, credible evidence of rehabilitation. Such evidence includes letters of recommendation from Alcohol and Other Drug (“AODA”) counselors, probation agents or other relevant service providers, other professional counselors, certificates and/or letters confirming satisfactory completion of an AODA or other

relevant counseling program. Any such letters shall be on the letterhead of the agency offering the recommendation in order for the letter to be considered credible evidence of rehabilitation. Any evidence must be in the form of documents submitted to the Common Council and may not be statements of the applicant at the time of the hearing.

- The reason for any recommendation of approval of an operator's license application under this paragraph must be clearly stated in the record.

- **Guideline 6.** If the Police Chief recommends denial of an operator's license application, the reasons for the denial must be clearly stated on the record and shall be consistent with the criteria outlines above.

APPEAL PROCESS FOR DENIED LICENSE APPLICATION.

If the Police Chief recommends denial of an operator's license application, the applicant has the right to file an appeal with the City Clerk within thirty (30) days and appear and be represented before the Common Council, to be heard, to present evidence in favor of the granting of the license, and to rebut the evidence presented in opposition to the granting of the license, at a hearing held within forty (40) days of the filing of such appeal.