



To: Menasha Common Council
From: Jenny Groeschel and Ginger Tralongo, Police Records
RE: Beverage Operator License (Bartender) Applicants
Date: March 3, 2016

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 **2015-2017** licensing period:

Daniel Zeilinski
Angela Disalvo
Asghar Khan
Jon Schwarze
Samantha King

The following individual has applied for a bartender license to serve, dispense and/or sell alcohol at a licensed establishment in 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 person be **DENIED** an Operator's License:

Jacob King

CC: Chief Styka

CITY OF MENASHA
ALCOHOL OPERATORS LICENSE APPLICATION

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

Name King Jacob Lee
Last First Middle

Address 52 Racine st Menasha WI/54952
Street City State/Zip Code

Phone _____

Height _____ Weight _____ Eye _____ Hair _____ Sex _____ Race _____

Birth Date _____ Age _____ Birthplace _____

Scars, Marks, Tattoos _____
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? NO
Have you ever been convicted of a felony? NO
Have you ever been convicted of a misdemeanor? YES
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
Have you ever been convicted of any law, statute, or ordinance pertaining to the possession, use, or sale of illegal drugs? NO
Have you ever been convicted of a criminal traffic offense? Yes

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

SIGNATURE [Signature] Date 2-10-16

Approved _____ Denied _____ Expiration Date _____
Chief of Police [Signature] Date 02/12/16
Comments: Habitual Offender

REVOKED FOR VIOLATION: _____

Entered 2/10/16

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!

In 2010, as a minor (age 17) I was pulled over for operating a moped with expired plates. The officer asked me to do a field sobriety test. I passed the several tests, but the officer still drove me to the hospital to draw blood. NO alcohol was found in my system. However a small amount of THC was detected, so I was charged with an OWI - I was 17 at the time, and now am 24. This happened in 2010.

- I have also been charged with driving after suspension



February 12, 2016

Jacob L. King
52 Racine St.
Menasha, WI 54952

Re: City of Menasha Alcohol Operators License Application

Dear Mr. King,

A background investigation was conducted on you regarding this application and it was determined you have been convicted of the following offenses which substantially relate to the license for which you have applied.

On March 9, 2011 you were convicted of Operating While Intoxicated in Winnebago County.

On November 2, 2011 you were convicted of Underage Alcohol Violation in the Menasha/Neenah Municipal Court, Winnebago County.

On April 16, 2012 you were convicted of Operating After Revocation in Winnebago County.

On October 8, 2014 you were convicted of Operating While Suspended in the Menasha/Neenah Municipal Court, Winnebago County.

On January 14, 2015 you were convicted of Operating While Suspended in the Menasha/Neenah Municipal Court, Winnebago County.

On May 13, 2015 you were convicted of Operating While Suspended in the Menasha/Neenah Municipal Court, Winnebago County.

On June 24, 2015 you were convicted of Operating While Suspended in the Outagamie County Circuit Court.

On November 11, 2015 you were convicted of Operating While Suspended in the Menasha/Neenah Municipal Court, Winnebago County.

Engaging in bartending involves the purchase and sale of a closely regulated substance/alcohol and individuals granted an operator's license must act in cooperation with law enforcement to enforce the alcohol beverage laws, drunken driving laws and assist with minimizing disturbances of the peace and maintaining the safety of the community.

Guideline #3 of the City of Menasha policy guidelines for Operator's License indicates you are a habitual offender in that you have been convicted of six or more offenses, stemming from separate incidents within the preceding ten years. Based on the results of this investigation, I will be recommending that the Menasha Common Council deny your request for an Operator's License in the City of Menasha.

The recommendation will be given to the Common Council at its next meeting on March 7, 2016, at 6:00 p.m. or shortly thereafter. Should you wish to provide comment to the Common Council on your application, you may do so during the public participation portion of the meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Lt. Ron Bouchard". The signature is stylized and cursive.

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.