

**VILLAGE OF LITTLE CHUTE
ORDINANCE NO. 4, SERIES 2020**

**AN ORDINANCE AMENDING CHAPTER 4 ALCOHOL BEVERAGES; ARTICLE V
REGARDING OPERATOR'S, PROVISIONAL AND TEMPORARY LICENSES**

BE IT ORDAINED by the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin as follows:

ARTICLE V. - OPERATOR'S, PROVISIONAL, AND TEMPORARY LICENSES

Sec. 4-115. - Operator's license required.

- (a) *Operator's licenses for Class "A," Class "B" or "Class C" premises.* Except as provided under Wis. Stats. §§ 125.32(3)(b) and 125.07(3)(a)10, no premises operated under a Class "A," Class "B," or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation, or some person who has an operators license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Wis. Stats. § 125.27(2), is valid outside the municipality that issues it. For the purpose of this section, any person holding a manger's license under Wis. Stats. § 125.18, or any member of the licensee's or permittee's immediate family who has attained the age of 18, shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A," Class "B," or "Class C" license or permit unless he has an operator's license, who is on the premises at the time of the service.
- (b) *Use by another prohibited.*
 - (1) No person may allow another to use his Class "A" or Class "B" license or permit to sell alcohol beverages.
 - (2) The license or permit of a person who violates subsection (b)(1) of this section shall be revoked.

(Code 2006, § 7-2-30)

Sec. 4-116. - Procedure upon application.

- (a) ~~The village board~~ **The village clerk or other Village Board designee** may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from ~~the police department~~ **the village clerk's office** only to persons 18 years of age or older. Operator's licenses shall be operative only within the limits of the village.
- (b) All applications are subject to an investigation by the police department and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant including, but not limited to, requesting information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the ~~village board~~ **village clerk or other Village Board designee** approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

(Code 2006, § 7-2-31)

Sec. 4-117. - Duration.

Licenses issued under the provisions of this article shall be valid for a period of one or two year and shall expire on June 30.

(Code 2006, § 7-2-32; Res. No. 8(Ser. of 1994), 4-6-1994)

Sec. 4-118. - Operator and provisional licenses; fees.

- (a) *Fee.* The fee for an operator's license and/or a provisional license shall be established by the village board, from time to time, and made available for public examination in the office of the village clerk. There shall be no fee for a temporary operator's license.
- (b) *Provisional license.* The village clerk may issue provisional operator's licenses in accordance with Wis. Stats. § 125.17(5). The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The chief of police shall submit to the clerk a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the clerk establishing that the applicant is enrolled in an alcohol awareness training program established pursuant to Wis. Stats. § 125.17(a). The village clerk may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the approved program, and the applicant shall also apply for a regular operator's license. A provisional license may not be issued to any person who has been denied an operator's license by the ~~village board~~ **village clerk or other Village Board designee**, who has had his operator's license revoked or suspended within the preceding 12 months, or who previously held an operator's license and who failed to complete the alcohol awareness training program without first successfully completing the program. The village clerk shall provide an appropriate application form to be completed in full by the applicant. ~~The village clerk shall provide an appropriate application form to be completed in full by the applicant.~~ The village clerk may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.
- (c) *Temporary license.* The clerk may issue a temporary operator's license provided that:
 - (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - (2) No person may hold more than one license of this kind per year.
 - (3) The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.
- (d) *Issuance.* After the ~~village board~~ **village clerk or other Village Board designee** approves the granting of an operator's license, the village clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- (e) *Denial of application.*
 - (1) If the application is denied by the ~~village board~~ **village clerk or other Village Board designee**, the village clerk shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the village board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten days prior to the board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(2) If, upon reconsideration, the board again denies the application, the village clerk shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to circuit court pursuant to Wis. Stats. § 125.12(2)(d), for review.

(f) *Considerations.*

(1) Consideration for the granting or denial of a license will be based on:

- a. Arrest and conviction record of the applicant, subject to the limitations imposed by Wis. Stats. §§ 111.321, 111.322 and 111.335;
- b. The financial responsibility of the applicant;
- c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
- d. Generally, the applicant's fitness for the trust to be reposed.

(2) If a licensee is convicted of an offense substantially related to the licensed activity, the village board may act to revoke or suspend the license.

(g) *Conditions for denial.* An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony, unless duly pardoned, or if the applicant has habitually been a law offender. For purposes of this licensing procedure, the term "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a licensee is a privilege, the issuance of which is a right granted solely to the ~~village board~~ **village clerk or other Village Board designee**, the ~~village board~~ **village clerk or other Village Board designee** reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the ~~village board~~ **village clerk or other Village Board designee**, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more.

(Code 2006, § 7-2-33; Ord. No. 8(Ser. of 1994), 4-6-1994)

Sec. 4-119. - Training course.

(a) Except as provided in subsection (b) of this section, the ~~village board~~ **village clerk or other Village Board designee** may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements.

- (1) Has completed a responsible beverage server training course;
- (2) Is renewing an existing operator's license;
- (3) Has completed the training course, within the last two years; or
- (4) Has held a retail license, manager's or operator's license within the last two years.

(b) The ~~village board~~ **village clerk or other Village Board designee** may issue a provisional operator's license to a person who is enrolled in a training course under subsection (a) of this section and shall revoke that license if the applicant fails successfully to complete the course in which he enrolls.

(c) The ~~village board~~ **village clerk or other Village Board designee** may not require that applicants for operator's licenses undergo training in addition to that under subsection (a) of this section, but may

require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection (a) of this section.

(Code 2006, § 7-2-35)

Sec. 4-120. - Display of license.

Each license issued under the provisions of this article shall be posted on the premises whenever the operator dispenses beverages or be in his possession, or carry a license card.

(Code 2006, § 7-2-36)

Sec. 4-121. - Revocation of operator's license.

Violation of any of the terms or provisions of the state law or of this chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

(Code 2006, § 7-2-37)

Introduced, Approved and Adopted: June 3, 2020

VILLAGE OF LITTLE CHUTE
BY: 
Michael Vanden Berg, Village President

BY: 
Laurie Decker, Village Clerk