



Wauwatosa, WI

7725 W. North Avenue
Wauwatosa, WI 53213

Signature Report

Ordinance: O-24-16

File Number: 24-0684

Enactment Number: O-24-16

Ordinance amending Chapter 6.08 and creating Chapter 6.10 of the Wauwatosa Municipal Code related to liquor licensing and cigarette and vape store licenses to conform to the provisions of 2023 Wisconsin Act 73

The common council of the City of Wauwatosa do ordain as follows:

Part I. Subsection 6.08.020 C. of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

C. "Fermented malt beverages" means any of the following:

1. Any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5 percent or more of alcohol by volume.
2. Any beverage recognized by the federal department of the treasury as beer under [27 CFR part 25 <https://docs.legis.wisconsin.gov/document/cfr/27%20CFR%2025>](https://docs.legis.wisconsin.gov/document/cfr/27%20CFR%2025), except sake or similar products.

Part II. The current Subsection 6.08.020 K. of the Wauwatosa Municipal Code of Ordinances is hereby repealed, current subsections designated by the letters "F." through "J.", consecutively, are hereby re-designated by the letters "G." through "K.", consecutively, and a new Subsection "F." is created to read in its entirety as follows:

K. "Operator's Permit" means a current and valid operator's permit issued by the Department of Revenue, Division of Alcohol Beverages pursuant to Sec. 125.175, Wisconsin Statutes

Part III. Subsection 6.08.040 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

Applications for licenses for retail sales of alcohol beverages shall be made to the city clerk of the city of Wauwatosa by use of the application forms created by the Wisconsin Department of Revenue, Division of Alcohol Beverages, pursuant to sec. 125.04(3) of the Wisconsin Statutes.

Part IV. Subsection 6.08.130 A. (Intro) of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

A. No person other than the licensee shall be permitted to sell or serve alcoholic beverages in any place operated under a class "A", "Class A", class "B", "Class B" or "Class C" retailer's license unless he or she:

Part V. Subsection 6.08.130 A.1. of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

1. Has an operator's license or an operator's permit.

Part VI. Subsection 6.08.170 (Title) of the Wauwatosa Municipal Code of Ordinances is hereby amended to read as follows:

Consumption and possession in public places prohibited - Exceptions

Part VII. Section 6.08.250 of the Wauwatosa Municipal Code of Ordinances is repealed and is recreated to read in its entirety as follows:

6.08.250 - Provisional retail licenses.

- A. A provisional retail license may be issued to a person who has applied for a Class "A," Class "B," "Class A," "Class B" or "Class C" license, provided that the provisional retail license only authorizes the activities that the type of retail license applied for authorizes. A provisional retail license may not be issued if the quota prohibits issuing an annual license for the same.
- B. A provisional retail license authorizes applicants for retail licenses to open for business while completing the responsible beverage server training course requirement, provided the applicant meets all the other qualifications set out in article IV and divisions 3 and 4 of article V of this chapter.
- C. A provisional retail license expires 60 days after its issuance or when the retail license applied for is issued or denied, whichever is sooner.
- D. No person may hold more than one provisional retail license for each type of license applied for by the holder per year.
- E. The city clerk may revoke, in accordance with division 4 of article II of this chapter, the license if he/she discovers that the holder has made a false statement on the application.

Part VIII. Section 6.08.260 (Title) of the Wauwatosa Municipal Code of Ordinances is hereby amended to read as follows:

Temporary operator's license

Part IX. Subsection 6.08.260 B. of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

- B. No person may hold more than two licenses of this kind per year;

Part X. Section 6.08.330 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

No Class "B" license may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license. These restrictions do not apply to any of the following:

- A. A hotel.
- B. A restaurant, whether or not it is a part of or located in any mercantile establishment.
- C. A combination grocery store and tavern.
- D. A combination novelty store and tavern.
- E. A bowling center or recreation premises.
- F. A club, society or lodge that has been in existence for 6 months or more prior to the date

of filing application for the Class "B" license.

- G. A movie theater.
- H. A painting studio.
- I. An axe throwing facility.

Part XI. Section 6.08.350 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

Class "A" retailer's license-Presence of person who has an operator's license or operator's permit required.

- A. Whenever a Class "A" retailer's license has been issued there shall be upon the licensed premises a licensee or other person who has an operator's license or operator's permit.
- B. No person shall sell or dispense fermented malt beverages unless such person is of legal drinking age or has an operator's license or operator's permit or is at least eighteen years of age and is under the immediate supervision of the licensee or agent or a person holding an operator's license or operator's permit.
- C. No person, firm or corporation shall allow or permit any employee to sell or dispense fermented malt beverages unless such employee or agent is of legal drinking age or has an operator's license or operator's permit or is at least eighteen years of age and is under the immediate supervision of the licensee or agent or a person holding an operator's license or operator's permit.

Part XII. Subsection 6.08.390 B. of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

- B. Retail "Class B" License. A retail "Class B" license, when issued by the city clerk under authority of the common council, shall permit its holder to sell, deal and traffic in wine or intoxicating liquors to be consumed by the glass on the premises so licensed, shall authorize the sale of pre-mixed drinks containing intoxicating liquor in the manner described in Subsection 125.51(3)(bg) of the Wisconsin Statutes, or otherwise not in the original package or container for consumption off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. Wine or intoxicating liquor may also be sold, in the original package or container, in unlimited quantities, to be consumed off the premises where sold. The fee for such retail "Class B" license shall be as shown in the fee schedule and shall be prorated based on the number of months remaining in the licensing period.

Part XIII. Section 6.08.400 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

6.08.400 - Retail "Class C" licenses.

- A. A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- B. A "Class C" license may be issued to a person qualified under Section 125.04(5) of the Wisconsin Statutes, except a person acting as an agent for or in the employ of another.
- C. A "Class C" license shall particularly describe the premises for which it is issued.

Part XIV. Section 6.08.440 of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

“Class A” licensed premises-Operator’s license, operator’s permit or immediate family member required.

No person other than the licensee shall be permitted to sell, deal or traffic in intoxicating liquors in any place under a retail “Class A” liquor license unless he or she has an operator's license, operator’s permit or unless he or she is a member of the immediate family of the licensee who is of legal drinking age or unless he or she is under the immediate supervision of the licensee or of a person holding an operator's license or operator’s permit.

Part XV. Subsection 6.08.470 B. of the Wauwatosa Municipal Code of Ordinances is hereby amended to read in its entirety as follows:

B. No retail “Class A”, “Class B” or “Class C” licensee shall employ any person under legal drinking age to sell or serve intoxicating liquors in any part of the licensed premises, unless such person has been issued a valid operator's license under this chapter or an operator’s permit.

No retail “Class A”, “Class B” or “Class C” licensee shall employ any person under sixteen years of age to perform the sale or service of intoxicating liquors in any part of the licensed premises.

Part XVI. Section 6.08.510 of the Wauwatosa Municipal Code of Ordinances is hereby deleted.

Part XVII. Chapter 6.10 of the Wauwatosa Municipal Code of Ordinances is hereby created to read in its entirety as follows:

Chapter 6.10 CIGARETTE, ELECTRONIC VAPING DEVICES, AND TOBACCO PRODUCTS RETAILER LICENSE

6.10.010 - License Required.

No person shall sell cigarettes, electronic vaping devices, or tobacco products in the city without first obtaining a license from the city clerk. The provisions of Section [134.65](https://docs.legis.wisconsin.gov/document/statutes/134.65) [<https://docs.legis.wisconsin.gov/document/statutes/134.65>](https://docs.legis.wisconsin.gov/document/statutes/134.65) Wisconsin Statutes are hereby adopted and made a part of this section by reference. All current provisions of this code, including but not limited to Chapters 8.12 and 8.70, shall continue to be fully in force and in effect.

6.10.020 - License Fee.

The license fee shall be as specified in the Consolidated Fee Schedule adopted annually by the Common Council.

6.10.030 - Penalty.

Any person, firm, partnership, or corporation who violates any part of this chapter shall be subject to the general penalty provisions of this code.

Part XVIII. This ordinance shall take effect on and after its dates of passage and publication.

By: Government Affairs Committee

Adopted



City Clerk Steven Braatz

Date

5-21-24

Approved Dennis H. McBride Date 5/23/24
Mayor Dennis McBride