

ORDINANCE 2020-07

REPEALING and RE-CREATING SECTIONS 12.01, 12.02 (4), (6), and (16) (GENERAL PROVISIONS, APPLICATION INVESTIGATION, OPERATOR'S LICENSE and TEMPORARY OPERATOR LICENSE) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, does ordain as follows:

Section 1: That Sections 12.01, 12.02 (4), (6), and (16) of the Municipal Code of the City of Prairie du Chien, Wisconsin be repealed and re-created to read as follows:

12.01 GENERAL PROVISIONS

(1) **LICENSES OR PERMITS REQUIRED.** No person shall engage in any trade, profession, business or privilege in the City for which a license or permit is required by any provision of this Code without first obtaining such license or permit from the City in the manner provided in this chapter, unless otherwise specifically provided.

(2) **APPLICATION AND ISSUANCE.** Unless otherwise provided, application for a license or permit shall be made in writing to the Clerk-Treasurer upon forms provided by the Clerk-Treasurer and the applicant shall state the location of the proposed activity and such other facts as may be required for or be applicable to the granting of such license or permit and that the City Clerk/Treasurer have the authority to issue temporary Class "B" picnic beer licenses and temporary Class "B" wine cooler picnic licenses. Pursuant to Wis. Stats. Sec. 125.17(1), the Clerk-Treasurer is authorized to issue Operator's licenses consistent with this Chapter 12.

(3) **PAYMENT OF FEE.** The fees for any license or permit shall be paid at the office of the Clerk-Treasurer upon the issuance of such license or permit.

(4) **BOND AND INSURANCE.** All required bonds shall be executed by 2 sureties or a surety company and be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney. Satisfactory evidence of coverage by bond or insurance shall be filed with the City before the license or permit is issued.

(5) **FORM.** Licenses and permits shall show the name of the licensee or permittee, the date of issue, the activity licensed and the term of the license or permit, and shall be signed in the name of the City by the Clerk-Treasurer and be impressed with the City seal. The Clerk-Treasurer shall keep a record of all licenses and permits issued.

(6) **LICENSE AND PERMIT TERM.**

(a) Unless otherwise provided, the term of the license year shall end on June 30 of each year.

(b) When the issuance of a license for a period of less than one year is permitted, the effective date of such license shall commence with the date of issuance.

(c) Permits shall be issued for the term set forth in the permit.

(7) EXHIBITION OF LICENSES OR PERMITS. Every licensee or permittee shall carry his license or permit upon his person at all times when engaged in the activity for which the license or permit was granted, except that where such activity is conducted at a fixed place or establishment, the license or permit shall be exhibited at all times in some conspicuous place in his place of business. The licensee or permittee shall exhibit the license or permit when applying for a renewal and upon demand of any police officer or person representing the issuing authority.

(8) TRANSFER. Unless otherwise provided, no license or permit shall be transferable or assignable.

(9) RENEWAL. Unless otherwise provided, license or permit renewals shall be issued in the same manner and be subject to the same conditions as the original license or permit.

(10) SUSPENSION AND REVOCATION OF LICENSES AND PERMITS. Except as otherwise specifically provided, any license or permit granted under this chapter may be suspended or revoked by the Council for cause after giving the licensee or permittee an opportunity to be heard, as provided by law. Cause may include the following:

(a) Fraud, misrepresentation or incorrect statement contained in the application or made in carrying on the licensed or permitted activity.

(b) Conviction of any crime or misdemeanor, subject to 111.32(5)(a) and (h), Wis. Stats.

(c) Conducting such activity in such manner as to constitute a breach of the peace or a menace to the health, safety or welfare of the public, or a disturbance of the peace or comfort of residents of the City upon recommendation of the appropriate City official.

(d) Expiration or cancellation of any required bond or insurance.

(e) Actions unauthorized or beyond the scope of the license or permit granted.

(f) Violation of any regulation or provision of this Code applicable to the activity for which the license or permit has been granted, or any regulation or law of the State so applicable.

(g) Failure to continuously comply with all conditions required as precedent to the approval of the license or permit.

12.02 (4) APPLICATION INVESTIGATION

The Clerk-Treasurer shall notify the Health Officer, the Chief of Police, the Fire Chief and the Building Inspector of each new license and permit application and these officials shall review such application and inspect, or cause to be inspected, the premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto. These officials shall furnish to the Clerk-Treasurer, in writing, the information derived from such investigation. No license or permit provided for in this section shall be issued without the approval of the Clerk-

Treasurer, and no license shall be renewed without a report from the Chief of Police and subsequent approval of the Clerk-Treasurer.

12.02 (6) OPERATOR LICENSE

- (a) All renewal applications for an operator's license shall be filed in the office of the Clerk-Treasurer on or before May 31 of each odd-numbered year. A \$10 surcharge shall be applied to any application filed after May 31st.
- (b) All renewal applications shall go before the Clerk-Treasurer for approval.
- (c) Nothing shall prevent the Clerk-Treasurer from granting any licenses which are applied for at any other time for a fraction of the two (2) year license period, but no proration of the required fee shall be granted.
- (d) An applicant must meet the following requirements:
 - 1. Applicant must be at least 18 years or older for an Operator's License.
 - 2. Applicant must not have a felony conviction within the last 5 years, the offense(s) substantially relating to the alcohol beverage licensing activity, nor be a habitual law offender as defined in State Statutes 9.39.62(2). In determining habitual law offender status, the background check may go back 15 years.
 - 3. Applicant has not had three or more Operating While Impaired (OWI) conviction within the past five years.
 - 4. Applicant has not had two or more convictions of the following offenses within the past two years:
 - a. Conviction of selling intoxicants to underage persons.
 - b. Conviction of allowing a person to use operator's license.
 - c. Conviction of selling to an intoxicated person.
 - d. Conviction of selling after hours.
 - e. Conviction on selling without a license.
 - f. Conviction of giving away intoxicating liquor to evade provisions of law.
 - g. Conviction of any part of Chapter 125 State Statutes relating to alcohol beverages.
 - h. Other arrests or convictions of charges related to the activities performed while bartending.
 - 5. Applicant does not have any criminal or ordinance convictions that are related to the license requested, to include but not limited to, gambling, controlled substances, disorderly conduct, and battery in a bar within the past 2 years.
 - 6. Applicant does not have a possession of a controlled substance conviction within the past 2 years.
 - 7. Applicant does not have a Sale or Delivery of controlled substance conviction within the past 5 years.
 - 8. Applicant has complied with all court ordered assessments resulting from an OWI or controlled substance conviction.
 - 9. Applicant does not have any pending charges, the offense(s) of which are substantially relating to the alcohol beverage license.
- (e) A criminal background records check will be conducted on all applicants by the Prairie du Chien Police Department. This background check will include, but is not

limited to, Wisconsin State Criminal History, Prairie du Chien Police Department records, Driver's License (CIB, NCIC, P&P, and DOT) and with other law enforcement agencies where applicant previously resided. The Prairie du Chien Police Chief, or his designee, will make a report and recommendation to the Clerk-Treasurer.

(f) Any person who lies, misrepresents or omits their personal information on an application shall have their operator's license or provisional license application denied.

(g) If the Police Chief, or his designee, recommends denial of an operator's license application, the applicant has the right to file an appeal with the City Clerk within forty-five (45) 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.

(h) The Clerk-Treasurer 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 a regular beverage operator's license as provided by this Chapter, and meets the requirements as set forth above in 12.02 (6) (d)
2. A provisional license may not be issued to any person who has been denied a regular operator's license by the Common Council or Clerk-Treasurer.
3. A provisional license shall expire 60 days after its date of issuance, or when a regular operator's license is granted by the Clerk-Treasurer and is issued to the holder, whichever is sooner.
4. The fee for a provisional beverage operator's license shall be \$15.00.
5. On issuance of the provisional operator's license the Clerk/Treasurer or that person's designee shall provide the Police Department with a copy of the application and the Police Department shall then make a background check on the license holder and report the results of same to the Clerk/Treasurer's office.
6. The Police Chief or that person's designee may revoke the provisional operator's license if it is determined that that person's criminal or civil conviction record substantially relates to the duties and circumstances of a beverage operator's position.
7. Any person whose provisional license is revoked shall have the right to file an appeal with the City Clerk within forty-five (45) 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.
8. No person shall be issued more than 3 provisional operator's licenses in any 2-year period.

12.02 (16) TEMPORARY OPERATOR LICENSE

(a) The Clerk-Treasurer may issue a temporary operator's license under the terms of this article except 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.

(4) The fee for a temporary operator's license shall be \$5.00.

Section 2: All sections of Chapter 12.02 not repealed and recreated by this Ordinance remain in full force and effect. Any Ordinance or parts thereof inconsistent herewith are hereby repealed.

Section 3: This Ordinance shall be effective from and after its passage and publication as required by law.

Passed and approved this 21st day of July, 2020.

David Hemmer, Mayor

ATTEST:

Chad Abram, City Administrator

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Certification

I, Tina Fuller, am the duly qualified and acting City Clerk of the City of Prairie du Chien, Crawford County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Common Council.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on this 22nd day of July, 2020

(SEAL)

Tina Fuller
City Clerk