

LICENSE CONDITIONS

To effectively control the circumstances by which alcohol is sold to consumers, municipalities should consider applying specific conditions prior to granting a new alcohol license. Requiring license conditions is a useful and often underutilized tool that allows a community to tailor a license to the very specific concerns of each licensee without amending local ordinances.

License conditions can be extremely helpful to municipalities at limiting problems associated with alcohol sales and service, provided that the municipality effectively enforces the conditions. When considering applications for a new Class A or Class B alcohol license, the municipality may attach specific conditions to the license. License conditions can address past problems at a location and secure binding assurances for the community. Prior to a vote granting a new license, an applicant has an incentive (the license) to agree to proposed conditions. Frequently, the applicant will agree to the conditions if the municipality holds firm that without the conditions the license will not be granted. Violation of alcohol license conditions may be grounds for suspension, nonrenewal or revocation.

License conditions should be attached to the original license. Waiting until problems occur is frequently too late. Before a license is granted for the first time, the initial license application may be denied for any reason that is not arbitrary (based on preference rather than reason or fact), capricious (contrary to evidence or law), or discriminatory (based on the applicant belonging to a certain classification of people). When a business is sold or otherwise transferred, the new business owner's application is for a new original alcohol license (not a renewal), and therefore an excellent opportunity to apply license conditions.

Once the license has been granted, a municipality may not unilaterally impose license conditions. Once awarded, a license can only be suspended, revoked or non-renewed for cause: the municipality can only attach conditions to a license renewal if the licensee agrees to the conditions. Unless there are problems sufficiently serious to threaten the license's renewal, once the license is granted, the licensee no longer has an incentive to cooperate.

Municipalities need to consider possible problems including past problems at the location prior to initially issuing the license. License conditions can be written to cover most aspects of the licensee's business and its operation. Licensees that fail to meet those conditions find themselves facing suspension or revocation. License conditions should be tailored to the applicant's situation. Municipal authority is broad, and each situation specific. Neighborhood groups and residents may recommend license conditions before a license is awarded.

License conditions are particularly useful where an ordinance would be inappropriate. For example, an ordinance requiring all licensed establishments to sweep a parking lot and sidewalk area at the close of business may be impractical, since not all licensees will have parking areas and sidewalks. Such an ordinance might be unenforceable. This would be better addressed with a license condition. Similarly, a

license condition might be an excellent way to address the hours during which a business is allowed to play amplified music at an outdoor patio.

They are also appropriate to prevent dangerous situations. For example, a license condition attached to the license for a large venue with sidewalk and parking areas, that outlines specific exterior cleaning tasks or standards, might provide an effective solution to neighborhood concerns about littering and trash accumulation. Similarly, concerns about violence and/or underage drinking might be mitigated with license conditions that require a checkpoint at the door, an electronic ID scanner with memory, video cameras at specific locations, and records maintained for a defined time period.

The following examples are a starting point for consideration and discussion.

Examples of conditions for Class B – on and off premises licenses: restaurants, clubs, taverns

Security:

- Make the licensee responsible for maintaining an orderly queue or entrance line.
- Require all alcohol servers and bar staff to take Responsible Beverage Server Training.
- Ban bar patrons who have been involved in a physical altercation, for a certain number of days.

Management:

- Establish a dress code, to reduce gang activity or set standard of decorum.
- No flat fee or timed drinks specials.
- Limitations on entertainment, such as no live bands after 10:00 pm, no amplified music in exterior seating areas.
- Set an occupancy number – the total number of individuals in the building – that reflects the number of patrons based on concerns for public safety or crowd control. The number set by the fire or building inspector is the upper limit, but a lower number may be placed on the license.
- Establish and enforce employee rules prohibiting drinking or measurable alcohol in blood or breathe or limits employees to a .04 BAC.
- Set earlier closing time: Earlier closing time makes it less likely that a restaurant will operate as a club late in the evening. Earlier staggered closing times can help relieve over congested sidewalks and streets resulting from uniform closing time.
- Establish an acceptable sound level in cooperation with neighborhood representatives.

- Require staff to sweep and remove trash (cigarette butts) within x feet of the entrance.

Possible conditions for Class A off-premises licensees:

Merchandise

- Agrees to remove any product from the shelves immediately at the request of law enforcement.
- Will not sell single serving containers of alcohol.
- Separate coolers for alcohol and alcohol-free beverages.

Promotional Activities

- Prohibit alcohol tasting events where gasoline is sold.
- Limit the number of tasting events annually or simultaneously.
- Restrict alcohol promotions to specific areas of the store.
- Limit or prohibit alcohol advertising in the store that is viewable from the outside.

Wisconsin Alcohol Policy Project

Comprehensive Injury Center, Medical College of Wisconsin
Please contact us for questions, technical assistance, or training.

Maureen Busalacchi, Director, mbusalacchi@mcw.edu

Felice Borisy-Rudin, Policy Analyst, fborisyrudin@mcw.edu

<https://www.mcw.edu/departments/comprehensive-injury-center/wi-alcohol-policy-project>

WARNING AND DISCLAIMER: THE WISCONSIN ALCOHOL POLICY PROJECT PROVIDES TECHNICAL ASSISTANCE, TOOLS, AND TRAININGS. THE WISCONSIN ALCOHOL POLICY PROJECT DOES NOT PROVIDE LEGAL ADVICE, LEGAL COUNSEL, OR LEGAL REPRESENTATION. READING THE CONTENT PROVIDED BY THE WISCONSIN ALCOHOL POLICY PROJECT DOES NOT ESTABLISH AN ATTORNEY-CLIENT RELATIONSHIP. CONTACTING THE WISCONSIN ALCOHOL POLICY PROJECT OR PROVIDING IT OR ITS STAFF WITH INFORMATION DOES NOT ESTABLISH AN ATTORNEY-CLIENT RELATIONSHIP. IF YOU NEED LEGAL REPRESENTATION, YOU SHOULD CONSULT WITH YOUR OWN ATTORNEY.