

**TOWN OF COTTAGE GROVE  
ALCOHOL BEVERAGE LICENSES AND  
ARREST / CONVICTION RECORDS  
GUIDELINES  
Revised/Approved 08-18-2008**

**WHEREAS**, the Town of Cottage Grove (“Town”) issues alcohol beverage licenses (“License(s)”) pursuant to Chapter 125 of the Wisconsin Statutes and Chapter 5 of the Town ordinances; and,

**WHEREAS**, the Town recognizes that the granting of a License is a privilege and not a right, and further wishes to promote and protect the health, safety and welfare of its residents and the general public; and,

**WHEREAS**, Wisconsin law states that Licenses may only be issued to a person who is not a habitual law offender, who has not been convicted of a felony, or who does not have an arrest or conviction record subject to Wis. Stats. §§ 111.321, 111.322 and 111.335; and,

**WHEREAS**, Wisconsin law specifically states at Wis. Stats. § 111.335(1)(c) that it is lawful for a town board to deny a License if an applicant has been convicted of any felony, misdemeanor, or other offense which substantially relates to the circumstances of the licensed activity; and,

**WHEREAS**, denial of a License based on arrest and conviction record has been upheld by the Wisconsin Supreme Court in the case *State ex rel. Smith v. Oak Creek*, 139 Wis.2d 788 (1987); and,

**WHEREAS**, the Town wishes to summarize its current practices with respect to review and approval or denial of Licenses when the applicant has an arrest or conviction record in order to promote consistency and fairness in the review process; and,

**WHEREAS**, the Town simultaneously recognizes that each application and applicant is unique and that independent review is essential to the Town Board’s proper exercise of its discretion when determining whether to grant or deny a License.

**NOW, THEREFORE**, based on the above recitals, which are incorporated by reference, the Town Board summarizes its current practices for reviewing License applications from applicants with arrest and conviction records, as follows.

1. Purpose and Intent. This summary of current practices is intended to provide guidance to the Town Clerk and Town Board in evaluating an applicant’s background check that contains arrest or conviction records. The purpose of providing this summary is to promote consistency and fairness in the review process. These guidelines are not to be applied in a manner that removes the discretion appropriately granted to the Town Clerk and Town Board in its review of applications. The Town expressly recognizes that each application and applicant is unique and that independent review is essential to the proper exercise of discretion.

2. Overview of Relevant Portions of License Review Process. All applications and applicants are subject to a background check. The Town Clerk completes the initial review of the application and background check. If the Town Clerk concludes that the applicant meets the standards necessary to obtain a License, the Town Clerk may issue the License. The Town Clerk may also refer the application and supporting documentation to the Town Board for a review and decision. The Town Board has final authority.

3. OWI. The Town has generally found that the following arrests or convictions are substantially related to the duties and responsibilities associated with alcohol beverage licenses (all collectively referred to herein as “OWI”):

- A. Operating Under the Influence of an Intoxicant or Other Drugs, under Wis. Stat. § 346.63, local ordinances in conformity therewith, or other similar laws from other states, (commonly referred to as OWI, OWPBAC, PBAC, DWI, or DUI); or
- B. Driving any vehicle while under the influence of alcohol or drugs; or
- C. Injuring any person or damaging any property while driving under the Influence or alcohol or other drugs.

The Town has generally found that OWI arrests or convictions within 2 years of application for a License are grounds for denial of a License. The Town has also generally found that two or more OWI arrests or convictions within 5 years of application for a License are grounds for denial of a License.

4. Underage Drinking. The Town has generally found as follows:

- A. Any underage drinking arrest or conviction the same as or similar to Wis. Stat. § 125.07(3) or (4) is substantially related to the duties and responsibilities associated with alcohol beverage licenses.
- B. Any such underage drinking arrest or conviction within 1 year of application for a License is typically grounds for denial.
- C. Two or more such underage drinking arrests or convictions within 5 years of application are typically grounds for denial.

5. Service to Underage Persons. The Town has generally found as follows:

- A. Any service to underage persons convictions the same as or similar to Wis. Stat. § 125.07(1)(a) is substantially related to the duties and responsibilities associated with alcohol beverage licenses.
- B. Two or more such service to underage persons convictions within 1 year of application for a License is typically grounds for denial.

6. Miscellaneous Convictions. The Town has generally found that the following arrests or convictions are substantially related to the duties and responsibilities associated with alcohol beverage licenses:

- A. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under Wis. Stats. § 961.41(1).
- B. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Wis. Stats. § 961.41(1m).
- C. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law or law of another state that is substantially similar to Wis. Stats. § 961.41(1) or (1m).

- D. Possessing any of the materials listed in s. 961.65 with intent to manufacture methamphetamine under that section or under a federal law or a law of another state that is substantially similar to Wis. Stats. §961.65.

The Town has generally found that such arrests or convictions within 2 years of application for a License are grounds for denial.

7. Overall Arrest Conviction Record. Other arrests or convictions not specifically listed above may also be grounds for denial of a License, as reasonably determined in the sound discretion of the Town.

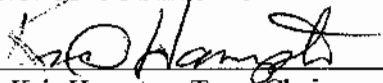
8. Discretion Exercised Based on Individual Circumstances. This summary has been prepared solely to provide guidance and promote consistency. It is not intended to, and shall not, substitute for individual review and consideration of an applicant's request for a License. The Town shall review and consider applications in a reasonable manner and shall then exercise its discretion in reaching a determination as to whether a License should be granted or denied.

9. Future Town Board Not Bound. By ratifying this summary of practices, the current Town Board does not intend to nor shall it bind future Town Boards. This summary is solely intended to serve as guidance to the Town when reviewing applicants who have an arrest or conviction record.


10. Amendment. The Town may amend, revise or eliminate these guidelines at any time.

This summary of practices was duly considered and ratified by the Town Board of the Town of Cottage Grove on this 18<sup>th</sup> day of August, 2008, by a vote of 5 for, 0 against and 0 abstaining.

TOWN OF COTTAGE GROVE

  
By: Kris Hampton, Town Chair

ATTEST:

  
Kim Banigan, Town Clerk