

ORDINANCE NO. 2018-08

**AN ORDINANCE AMENDING PROCEDURE FOR OPERATOR'S LICENSE
REVIEW**

Purpose: To update Village Ordinance on Operator's License to update the review procedure.

Sponsor: Village Clerk Cassandra Suettinger and Police Chief Craig Sherven

Recommended Referral: Public Safety Committee

Public Hearing: None required.

The Village Board of the Village of McFarland do hereby ordain as follows:

1. Article XI of the McFarland Municipal Code is hereby amended to read as follows:

Sec. 11-71. - Procedure upon application for operator's license.

(a) *Application.* The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Clerk-Treasurer only to persons 18 years of age or older as the requirement in Wis. Stats. § 125.04(5)(a)3. that the applicant must have attained the legal drinking age does not apply to applicants for operators' licenses under Wis. Stats. § 125.17. Operator's licenses shall be operative only within the limits of the Village. Applicants shall provide the following information:

(1) Name, address, home, and work phone numbers.

(2) Date of birth, gender, social security number, and driver's license or state identification card number.

(3) Whether the applicant has completed a responsible beverage server training course pursuant to Wis. Stats. § 125.17(6).

(4) Whether the applicant has held an operator's license within the previous two years. If one has been held in a different municipality, a copy of the license or a letter from the clerk of the municipality shall be provided.

(5) Whether the applicant has been arrested for and/or convicted of violating any law of the state or the United States, including traffic violations. If so, the applicant shall provide the date of arrest, date of conviction, name of the court, and nature of the offense.

(6) Whether the applicant has had a license to serve alcohol beverages suspended, revoked, or surrendered in lieu of suspension or revocation and if so, the name of the municipality and the date the license was suspended, revoked, or surrendered.

(7) Whether the applicant has been hospitalized or treated for drug abuse or alcoholism within the previous five years, and if so, the applicant shall provide an explanation of the circumstances and dates of occurrence.

(8) Whether the applicant is a citizen of the United States and a resident of the state.

(9) The address and date of residency for each place the applicant has resided for the previous five years.

~~(10) Sworn to be true and accurate under oath before a notary public.~~

(11) Any other information required by the Village Clerk-Treasurer or Chief of Police to run all required background checks or to otherwise process the application.

(12) Any other information required by the Village Board.

(b) *Investigation.* All applications are subject to an investigation by the Police Department and/or other appropriate authority to determine whether the applicant to be licensed complies with all regulations, ordinances and laws applicable thereto. The Police Department 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 Police Department shall recommend, in writing, to the Village Board approval or in writing to the public safety committee denial of the application. If the Police Department recommends denial, the Police Department shall provide, in writing, the reasons for such recommendation. The recommendation for denial shall be forwarded to the Public Safety Committee for further review and a recommendation to the Village Board. If the Police Department finds the application to be incomplete or omitting any required information from 11-71a, the application shall be rejected and returned to the applicant. ~~Based upon such investigation, the Police Department shall recommend, in writing, to the Village Board approval or denial of the application. If the Police Department recommends denial, the Police Department shall provide, in writing, the reasons for such recommendation.~~

(c) *Training course.*

(1) Except as provided in Subsection (c)(2) of this Section, the Village Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a technical college district and that conforms to curriculum guidelines specified by the technical college system board or a comparable training course, which may include computer-based

training and testing that is approved by the department or the educational approval board or unless the applicant fulfills one of the following requirements:

- a. The person is renewing an operator's license.
- b. Within the past two years, the person held a Class "A," Class "B," "Class A," "Class B" or "Class C" license or permit or a manager's or operator's license.
- c. Within the past two years, the person has completed such a training course.

(2) The Village Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (c)(1) of this Section and who meets the standards established by the Village and shall revoke that license if the applicant fails to successfully complete the course in which the applicant enrolls.

(3) The Village Board may not require that applicants for operator's licenses undergo training in addition to that under Subsection (c)(1) 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 (c)(1) of this Section.

Sec. 11-72. - Duration.

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

Sec. 11-73. - Operator's license fee.

(a) *Operator's license.* The fee for an operator's license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code for the term or part thereof.

(b) *Temporary operator's license.* The fee for a temporary operator's license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code.

(c) *Provisional operator's license.* The fee for a provisional operator's license shall be the fee established by the Village Board from time to time and provided in Appendix A to this Code.

Sec. 11-74. - Issuance or denial of operator's license.

(a) *Issuance of approved licenses.* After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall give the applicant's name and address and the date of the expiration of such license. The Village Clerk-Treasurer shall issue each license approved by the Village Board and shall make the same available at the Village Clerk-Treasurer's office. Any operator's license for which the fee

is not paid within 15 days of approval of the application by the Village Board shall be returned to the Village Clerk-Treasurer for cancellation or other disposition.

(b) *Denial.*

(1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefor, 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 Village 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 Village Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license may apply to Circuit Court pursuant to Wis. Stats. § 125.12(2)(d), for review.

(c) *Basis for ~~granting of~~ denial.*

(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, and Wis. Stats. § 125.12(1)(b);

~~b. The financial responsibility of the applicant; and~~

c. 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.~~

(3) 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, "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 license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board 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, at its discretion, may, based upon an arrest or conviction record of two or more offenses that are substantially related to the licensed activity

Commented [CS1]: Is confusing and an oxymoron

Commented [CS2]: This doesn't belong in this section. Revocation is addressed in 11-76

within the five years immediately preceding, act to suspend such license for a period of one year or more.

Sec. 11-75. - Display of license.

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

Sec. 11-76. - Revocation of operator's license.

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

ORDINANCE 2018 – 08			
MOTION		SECOND	
Adrian		Clow	
ACTION		DATE	
Adopted		07/23/2018	
Referred			
Tabled			
Withdrawn			
Defeated			
Published			
INDIVIDUAL VOTING RECORD			
Adrian	Aye	Kolk	Aye
Brassington	Aye	Lytle	Aye
Clow	Aye	O'Hearn	Aye
Czebotar	Aye		
VOTING RESULTS			
Motion Carried: 7-0			
Motion Defeated:			

APPROVED:

Brad Czebotar, Village President

ATTEST:

Cassandra Suettinger,
Village Clerk- Treasurer