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## OPERATOR'S LICENSE GUIDELINES

Pursuant to Wis. Stat., Chapter 125, the City of New Richmond is empowered to issue licenses for operators' licenses. It is the responsibility of the Police Department to screen applications for operator's licenses in the City of New Richmond. The following guidelines are established in order to specify the reasons for denying, non-renewing, or revoking an operator's license. Further, to the extent Wis. Stat. Ch. 125 or City Ordinances provide additional grounds for denial, suspension, revocation or non-renewal, the City Council may also rely on such provisions.

### GUIDELINES

**Substantially Related.** What does “**substantially related**” mean when considering whether to approve an Operator's License? The law does not specifically define the term “substantially related”, although there are many court decisions on the topic.

The Wisconsin Supreme Court has stated that the purpose of the test is to assess whether the tendencies and inclinations of an Applicant to behave a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed. The “**substantially related**” test looks at the circumstances of an offense, where and how it happened compared to the circumstances of the licensed activity. Where does the licensed activity typically occur, when and what is involved in performing the licensed activity?

**Examples of “substantially related” in the context of an Operator's License:** There is a substantial relationship between the illegal purchase, use and sale of controlled substances and engaging in bartending, which involves the purchase and sale of a closely regulated substance. The same is true for offenses involving alcohol, e.g. drunk driving, selling to underage, possession and/or consuming as a minor, committing illegal acts while under the influence of alcohol or drugs, etc.

**Guideline 1.** Any person who has been convicted of any FELONY for an **offense substantially related to the circumstances of the licensed activity or job**, unless duly pardoned, does not qualify for an Operator's License. Wis. Stats, Sec. 125.04(5)(b). (To the extent the other guidelines reference a specific offense; this guideline shall apply if the offense constitutes a *felony*).

**Guideline 2.** Any person who has been convicted of or has a current charge pending, for one (1) or more offenses, **provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity**, within the last five (5) years or for two (2) or more offenses, arising out of separate incidents, within the last ten (10) years in the following subcategories, does not qualify for an Operator's License:

- 2.1. Violent crimes against the person of another, including but not limited to battery, criminal disorderly conduct, sexual assault, injury by negligent use of a vehicle, intimidation of a victim or witness.
- 2.2. Crimes involving cooperation (or lack thereof) with law enforcement officials, including but not limited to, resisting or obstructing a police officer, bribery of public officers/employees, eluding police, bail jumping, hit and run, perjury, or acts/threats of terrorism.
- 2.3. Manufacturing, distributing, delivering a controlled substance or a controlled substance analog; maintaining a drug trafficking place; possessing with intent to manufacture, distribute, or deliver a controlled substance or a controlled substance analog. Sec. 111.335(1)(c), Wis. Stats.

**Guideline 3.** Any person who has been convicted of or has a current charge pending, for two (2) or more offenses, **provided the circumstances of the offense substantially relate to the circumstances of the job or licensed activity**, arising out of separate incidents, within the last three (3) years in the following subcategories, does not qualify for an Operator's License:

- 3.1. Disorderly conduct, criminal damage to property, solicitation of prostitution or other prostitutions-related offenses, wherein the offense involves an incident at a place that is, or should have been licensed under Wis. Stat. Ch. 125.
- 3.2. Alcohol beverage offenses (under Wis. Stat. Ch. 125 or New Richmond City Ordinances).
- 3.3. Possessing a controlled substance, controlled substance analog without a valid prescription, or possessing drug paraphernalia.
- 3.4. Operating a motor vehicle while under the influence of intoxicants or drugs.
- 3.5. Operating a motor vehicle with a prohibited alcohol concentration (PAC) in excess of .08% by weight.
- 3.6. Open intoxicants in a public place or in a motor vehicle.

**Guideline 4.** Any person who is a habitual law offender does not qualify for an Operator's License, **provided the circumstances of the offenses substantially relate to the circumstances of the job or licensed activity**. Wis. Stats. Sec 125.04(5)(b).

**What is a "habitual law offender?"** The term "habitual" refers to multiple convictions or pending charges and could include an offender with two (2) offenses occurring within a relatively short period of time. The term "offender" refers to a person with civil violations such as ordinance convictions and/or misdemeanor convictions (or pending charges), which substantially relate to the licensing activity. A legal opinion rendered by the League of Wisconsin Municipalities states that a person

with two drunk driving convictions within the last couple of years would be considered an habitual offender under the alcohol beverage licensing laws. Intoxicating Liquors #890 (1991).

For purposes of these guidelines, a habitual offender includes, but is not limited to a person who has committed:

- 4.1 Two (2) or more offenses, each with a separate incident, within the immediately preceding one (1) year.
- 4.2 Three (3) or more offenses, each a separate incident, within the immediately preceding five (5) years.
- 4.3 Six (6) or more offenses, each a separate incident, within the preceding ten (10) years.

**Guideline 5.** Any person who is on probation or parole and has a rule or order prohibiting them from entering bars, taverns or liquor stores does not qualify for an Operator’s License.

**Guideline 6.** Applicants must truthfully and completely fill out Applications:

- 6.1. If an Applicant provides false information on an Application, that Application shall be denied and the Applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of denial of such Application.
- 6.2. If the Police Department determines that information was *intentionally* omitted from an Application, the Application shall be denied and the Applicant shall not be eligible to reapply for an operator license for a period of one (1) year from the date of the denial of such Application.
- 6.3. If the Police Department determines that information was OMITTED from an Application due to inadvertence, mistake or excusable neglect, the Police Department may allow the Applicant to submit a corrected Application and recommend granting of the license, if the Applicant is otherwise qualified.

**Guideline 7.** Recommending approval of an Operator’s License Application for an Applicant who would otherwise be denied under these policy guidelines:

- 7.1. The City Council may approve an Operator’s License Application if the Application would otherwise be denied under this policy if the Applicant presents substantial and credible evidence of rehabilitation. Such evidence includes letters of recommendation from Alcohol and Other Drug (“AODA”) counselors, probation agents or other relevant service providers, other professional counselors, and/or certificates or letters confirming satisfactory completion of an AODA or other relevant counseling program. Any such letters shall be on the letterhead of the agency offering the recommendation in order for the letter to be considered credible evidence of rehabilitation. Any evidence must be in the form of documents

submitted to the City Council and may not be statements of the Applicant at the time of the hearing.

- 7.2. The reason for any recommendation of approval of an Operator's License Application under this paragraph must be clearly stated in the record.

**Guideline 8.** If the Police Department recommends denial of an Operator's License Application, the reasons for the denial must be clearly stated on the record and shall be consistent with the criteria outlines above.

### **APPEAL PROCESS FOR DENIED LICENSE APPLICATION**

If the Police Department recommends denial of an Operator's License Application, the Applicant has the right to file an appeal with the City Clerk within thirty (30) days and appear and be represented before the City 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.