

Dear Applicant,

There has been some confusion in this community as to which organizations are qualified to obtain temporary alcohol licenses (sometimes referred to as Picnic Beer Licenses) and also as to the responsibilities of a temporary license holder. This letter is intended to clarify these matters. However, this letter is not intended to provide legal advice nor does it address all areas of concern or responsibility for a licensee. As the dispensing of alcoholic beverages exposes you to serious personal and legal risks, including potential civil and criminal liability, you are strongly encouraged to seek the advice of your own legal counsel.

FAQ's Concerning Temporary Alcohol Licenses

We are including two free drinks in the price of admission to our event. Since we aren't selling alcohol, we don't need a license, right?

WRONG! A license is required whenever you are dispensing alcohol beverages. Alcohol regulations apply to "the transfer, gift, barter, trade, exchange, or any shift, device, scheme, or transaction whatsoever, whereby alcohol beverages may be obtained. Giving away alcohol beverages or using any other device to evade the law relating to its sale is an unlawful sale." Wis. DOR Publication 302.

A license is not required for a private party wherein a limited number of guests have been invited to attend. A house party that is open to anyone walking by or in which hundreds of people are in attendance, probably won't qualify as a private party.

Who may obtain a temporary alcohol license?

Only the following organizations, which have been in existence for no less than six months prior to the application for a license, qualify to obtain a temporary license under Madison ordinances and Wisconsin law:

Bona Fide Clubs – defined by statutes as "... an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and which only sells alcohol beverages incidental to its operation." The definition of club is fairly broad. A qualifying club must be at least an occupant of a part of a building used exclusively for club purposes, such as holding meetings. The club must be operated for the purposes set forth above and not as a profit making business venture. The club's sale of alcohol must be only a minor element in its operations.

Churches - a religious sect organized, practicing, incorporated and recognized by the State of Wisconsin pursuant to Chapter 187, Wis. Stats. Please note that there are many religious organizations, some affiliated with churches, that are not churches and therefore, do not qualify for temporary licenses under this provision.

Lodges/Societies - Any organization registered with the State of Wisconsin pursuant to Wis. Stats. § 132.16 and/or established, operated and subject to the provisions of Wis. Stats. Chapter 188, Wis. Stats. or Wis. Stats. § 614.12.

Veterans Organizations - Any organization where 75% of its membership is composed of past or present members of the United States Armed Forces and/or the United States Coast Guard (including students in college or university ROTC programs or at United States Armed Services academies) and whose primary purpose is the charitable support and service of United States Armed Forces/ United States Coast Guard military veterans, their (surviving) spouses and immediate (surviving) family members to include:

1. to promote the social welfare and common good of the community;
2. to assist disabled and needy veterans and members of the United States Armed Forces and their dependents - and the widows and orphans of deceased veterans;
3. to provide entertainment, care, and assistance to hospitalized veterans or members of the United States Armed Forces;
4. to carry on programs to perpetuate the memory of deceased veterans and members of the United States Armed Forces and comfort their survivors;
5. to conduct programs for religious, charitable, scientific, literary or educational purposes;
6. to sponsor or participate in activities of a patriotic nature;
7. to provide insurance benefits for members or their dependents, or;
8. to provide social and recreational activities for members.

No part private shareholder or individual of a Veterans' Organization's may benefit from the net earnings of the organization. Examples of such organizations include but are not limited to AMVETS, Wounded Warrior Project, Disabled American Veterans, Army Emergency Relief, and all such veteran's organizations set forth in Chapter 188, Wis. Stats.

Fair Associations/Agricultural Societies – only those groups formally organized and maintained for the purpose of operating a local fair in accordance with §93.23, Wis. Stats. and subject to the jurisdiction of the Wisconsin Department of Agriculture, Trade and Consumer Protection.

Who in a qualifying organization may apply for a temporary license?

An officer of the organization must sign the completed application and the organization must be in charge of the overall event. At least one person must be a City of Madison licensed bartender (Operator's License). This person must be capable of supervising the event.

May a non-qualifying organization partner with a qualifying organization to obtain a temporary license?

This question is tricky. There is no issue with qualifying and non-qualifying organizations combining their resources to operate the overall event. However, **the organization which obtains the temporary alcohol license is legally required to be the operator of the alcohol operations.** The licensee cannot delegate these responsibilities to another organization nor to a concessionaire, caterer, or other business. Obtaining a license with the intent that another organization or party will be responsible for the alcohol operations may **void the license** and deprive the participating organizations of the privileges and immunities associated with such a license. If your organization's name is on the license, your organization is the licensee and will be held accountable. This means that you must supply

the people from your organization to actively manage and operate the alcohol operations. Your members may be supplemented by paid personnel and volunteers.

We intend to hire a bar/tavern or a caterer to conduct the alcohol sales. Is that permissible?

No. The holder of a regular alcohol license may not operate under your license. You are the license holder and must be the operator of the event. A bar/tavern cannot sell under your license and cannot sell its alcohol beverages through your organization. A caterer may sell alcohol for consumption off their licensed premise but only for consumption (not sale) at a private party/event.

Do we have to have bartender's licenses for everyone selling/dispensing the alcoholic beverages?

No. The law simply requires that you have one City of Madison "licensed operator" (bartender) on the premise. However, that person must be capable of supervising and controlling the alcohol sales at the venue. Therefore, with large venues or venues that have multiple and separated places where alcohol will be sold/dispensed, it may be necessary to have additional "licensed operators" so that they can effectively perform their legal obligations. These duties include (but are not limited to) ensuring that the alcohol beverages are securely maintained; that no underage persons are on the licensed premise without the appropriate adult parent, guardian, or spouse; that no underage persons are served alcohol; that false ID's are confiscated and turned over to police; and that no person is over served.

We intend to hold our event at a City Park or close a City Block for our event, do special rules apply?

Yes, and you will want to apply for your license no fewer than 60 days prior to your event. Because of the complexities of hosting such events, the City may not grant a license if you fail to comply with this deadline. These complexities include the need for your organization to provide proof that it has obtained the appropriate event insurance (**issued to the same organization** that is applying for the temporary alcohol license) and other appropriate licenses (such as a Street Use Vending License and/or Temporary Food Permit). Additionally, these license applications must be reviewed and coordinated with the affected City Departments. Unlike other temporary licenses, which may be approved by the City Clerk, these licenses must be reviewed by the Alcohol License Review Committee and granted by the Common Council. To read detailed information that will walk you through the process and procedure for obtaining a permit for an event at a City Park, please refer to the Park's web site at www.cityofmadison.com/specialevents/documents/parkevents.pdf. To read detailed information regarding process and procedure for obtaining a permit to close a City Block, please refer to the Special Events page at the City's web site at www.cityofmadison.com/specialevents/documents/streetevents.pdf.

Are there limits on the number of temporary license our organization may hold?

There are no limits on the number of fermented malt beverage temporary licenses that an organization may be granted. Temporary wine licenses are limited to two licenses in any twelve month period, however, a single license may cover multi-day events. The City Clerk will closely scrutinize multi-day events to ensure that they are truly a single event of the same quality, character, purpose, and intent and are not an attempt to circumvent the two license restriction.

Now that we have our temporary license can we get our alcohol supplies donated to us from the local grocery store, liquor store or tavern?

No. Wisconsin has a three tier system for the sale of alcohol. It is composed of manufacturers, brewers, and distilleries who must sell their products to distributors. Distributors, in turn, must sell their wares to retailers. Retailers may only sell to consumers. Your license is considered a retail license. Therefore, your alcohol must be purchased from a licensed alcohol distributor. By law, the distributor is required to sell the alcohol to you at the same price that they sell the alcohol to for other licensees purchasing in the same quantities.

Sam's Club, Costco, Woodman's, and WalMart are all retailers and therefore, cannot sell alcohol for resale purposes. Wisconsin Distributors, Frank Beverage Group, H&M Distributing Company, and General Beverage Distributors are examples of licensed distributors who may sell alcohol for resale by the holder of a temporary alcohol license.

Is there a temporary alcohol license for liquor?

No. There are two types of temporary alcohol licenses:

1. Fermented malt beverage license (beer, wine coolers, etc.), and;
2. Wine.

You may obtain and operate under one or both licenses at a time. There is no temporary license that permits you to sell intoxicating liquor (i.e., whisky, rum, vodka, brandy, etc.).

Who does our organization contact if we have further questions?

Every organization contemplating engaging in the sale or dispensing of alcohol is encouraged to consult with its own privately retained legal counsel.

Additional resources regarding the City's application process and procedures may be obtained by calling the City Clerk's Office at (608) 266-4601 or by reviewing the online resources at <http://www.cityofmadison.com/clerk/licensingLiquor.cfm>

Applicants whose events require a street closure will also want to review the online materials at <http://www.cityofmadison.com/specialevents/streetEvents/>

Information concerning park reservations is available at <http://www.cityofmadison.com/parks/reserve/>

Thank you,

City Clerk