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TO: Safety and Licensing Committee
Common Council

FROM: Lt. Ben Goodin

DATE: 2/20/2024

RE: Police Department's Recommendation for Denial of Isaiah Nettles's Bartender License Application

Committee Members:

The police department is requesting that the Safety and Licensing Committee recommend to the Common Council to deny Isaiah Nettles's application for a Bartender license.

Pursuant to Wis. Stat. §111.335(2)(b) and (3)(a), it is not employment discrimination for a licensing agency to deny an applicant based on an arrest or conviction record where the circumstances of the conviction substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(a)1., no license or permit related to alcohol beverages may be issued to an individual with an arrest or conviction record where the circumstances of the record(s) substantially relate to the circumstances of the particular licensed activity.

Pursuant to Wis. Stat. §125.04(5)(b), no license or permit related to alcohol beverages may be issued to a "habitual law offender" where the circumstances of the habitual law offenses substantially relate to the circumstances of the particular licensed activity.

Also pursuant to Wis. Stat. §111.335(4)(c), if the licensing agency refuses to license an individual based upon arrest or conviction record, the applicant is allowed an opportunity to show "evidence of rehabilitation and fitness to engage in the licensed activity," *unless the conviction(s) are for "exempt offenses."* Wis. Stat. §111.335(4)(d) provides the following options that the applicant may produce to conclusively demonstrate their rehabilitation and fitness from a given conviction:

A copy of the local, state, or federal release document; and either

(1) a copy of the relevant department of corrections document showing completion of probation, extended supervision, or parole; or

(2) other evidence that at least one year has elapsed since release from any local, state, or federal correctional institution without subsequent conviction of a crime along with

evidence showing compliance with all terms and conditions of probation, extended supervision, or parole.

Additionally, the licensing agency must consider any of the following evidence if presented by the individual:

- (1) Evidence of the nature and seriousness of any offense of which he or she was convicted.
- (2) Evidence of all circumstances relative to the offense, including mitigating circumstances or social conditions surrounding the commission of the offense.
- (3) The age of the individual at the time the offense was committed.
- (4) The length of time that has elapsed since the offense was committed.
- (5) Letters of reference by persons who have been in contact with the individual since the applicant's release from any local, state, or federal correctional institution.
- (6) All other relevant evidence of rehabilitation and present fitness presented.

STATEMENT ON SUBSTANTIAL RELATIONSHIP

Because Mr. Nettles was convicted of 3rd Degree Sexual Assault, a criminal felony offense, in Outagamie County case # 2020CF000878 and Battery, a criminal misdemeanor offense, in Outagamie County case number 2011CF000184, and because these convictions are "exempt offenses" under Wis. Stat. §111.335(1m)(b), there is no requirement for the licensing agency to state the substantial relationship between the circumstances of the offense(s) and the licensed activity in writing, or to allow the individual an opportunity to show rehabilitation and fitness to engage in the licensed activity. Based upon these records alone, Mr. Nettles does not meet the statutory eligibility criteria to be granted an operator/bartender license.

As part of any denial of licensing, the police department must determine if crimes are substantially related to selling alcoholic beverages. Aside from the exempt offenses listed above, Mr. Nettles was also convicted of:

Possession of Methamphetamine [Modifiers: Repeater] in Outagamie County case # 2021CF000270. This is a criminal, felony offense.

Two counts of Manufacture/Deliver Amphetamine (<=3g) in Outagamie County case # 2017CF000822. This is a criminal, felony offense.

Possession of Methamphetamine in Winnebago County case # 2017CF000070. This is a criminal, felony offense.

Possess Drug Paraphernalia [Modifiers: Repeater] in Brown County case # 2016CM001626. This is a criminal, misdemeanor offense.

Resisting or Obstructing an Officer [Modifiers: Repeater] in Outagamie case # 2012CM001250. This is a criminal, misdemeanor offense.

Possession of THC and Drug Paraphernalia in Outagamie County case # 2011CM000177. This

is a criminal, misdemeanor offense.

Possess Drug Paraphernalia in Outagamie County case # 2010CM001353. This is a criminal, misdemeanor offense.

These convictions are substantially related to the sale of alcoholic beverages. His drug usage history has escalated from Misdemeanor Possession of Paraphernalia to THC Possession, Methamphetamine Possession, two counts of Dealing Methamphetamine, followed by another Methamphetamine Possession. The associated conviction history qualifies him as a habitual law offender.

The service of alcohol includes coming into contact with individuals in a very vulnerable state. A licensed operator bartender will likely find themselves in the position of needing to determine when someone is too intoxicated to be served more alcohol. While the convictions noted above do not involve the use of alcohol, they involve the unlawful use and distribution of other intoxicating substances. These offenses relate to one's ability and willingness to follow rules related to distribution of intoxicated substances, and the judgement and desire to do so in only a safe manner. Safe and lawful sale / distribution of an intoxicating substance is primary demand of those licensed for alcohol sales; nothing could be more substantially related. Based upon the above record and reasoning disqualifying Mr. Nettles from license eligibility, it is recommended that his application be denied.

Very Respectfully:

Lt. Ben Goodin
Appleton Police Department

