

CHAPTER 25

LIQUOR

25.01 STATE STATUTES ADOPTED

The provisions of Chapter 125, Wisconsin Statutes, as well as any amendments or revisions thereto which may be adopted by the State of Wisconsin subsequent to the adoption of this ordinance, relating to the sale of intoxicating liquor and fermented malt beverages, except Sections 125.66(3), 125.04(5), 125.09(6), 125.69, 125.11(1), 125.12(2)(a) and 125.14(4), exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes, are hereby adopted and made a part of this chapter by reference.

25.02 LICENSE FEES

The following fees shall be charged for licenses issued by the Town Board for the sale of intoxicating liquors and fermented malt beverages with the town:

(a) Class A fermented malt beverage license (authorizing the retail sale of beer and other fermented malt beverages in original packages to be consumed away from the premises, \$10 per year or a fractional part thereof.

(b) Class A liquor licenses (authorizing the retail sale of intoxicating liquor in original packages to be consumed away from the premises where sold). \$200 per year or a fractional part thereof.

(c) Class B Fermented malt beverage license (authorizing taverns, hotels, restaurants, clubs, societies, lodges, fair associations, and similar businesses to sell retail beer and fermented malt beverages for consumption on or off of the premises where sold), \$100 per year or a fractional part thereof.

(d) Class B liquor Licenses (authorizing taverns, restaurants, hotels and similar establishment to sell intoxicating liquor for consumption on or off the premises as is permitted more particularly by Section 125.51(3)(b), Wisconsin Statutes, which is hereby specifically incorporated into this code). \$300 per year or a fractional part thereof.

(e) Class B picnic licenses (authorized by Section 125.26(6), Wisconsin Statutes), \$5 each day with a maximum of \$10.

(f) Wholesaler's or Class C malt beverage license, \$25 per year or a fraction part thereof.

(g) Class D or operators license, \$5 per year or a fractional part thereof.

(h) Dancing license, \$25 per year or fractional part thereof.

25.03 LICENSE FOR DWELLING PROHIBITED

No license under this chapter shall be issued to any person to sell or offer for sale fermented malt beverages or intoxicating liquors in any dwelling, flat or apartment.

25.04 APPLICATION FOR LICENSE

Each applicant for a license under this chapter (individual or partnership) shall at the time of application be fingerprinted by the Sheriff's Department, except those applicants who have had a license in the town continuously for at least 3 years. All corporate applicants, including president, secretary and agent, shall be fingerprinted at the time of application. The Town Clerk shall keep a record of all applicants and shall issue all licenses granted by the Town Board.

25.05 TREASURER TO ISSUE RECEIPTS

Each applicant for a license under this chapter shall pay the total required fees therefore to the Town Treasurer who shall issue a receipt therefore. The deposits on all applications denied shall be refunded by the Town Treasurer upon the surrender of the receipt issued by the Town Treasurer.

25.06 INVESTIGATION OF LICENSE APPLICANTS

(a) Class A Liquor and Class B Liquor and Beer Premises.

Upon receipt of an application for a Class A or Class intoxicating liquor license, or a Class B fermented malt beverage license, the Town Clerk shall notify the Building Inspector, and that officer shall inspect the premises and make such investigation as is necessary to determine whether the premises sought to be licensed comply with all regulations, ordinances and laws applicable thereto.

(b) Investigation of Applicant

Application for a license under this chapter shall be referred to the Sheriff of Waukesha County to make such investigation as shall be necessary to determine the fitness and qualifications of the applicant

(c) Renewal of License.

No license shall be renewed without a reinspection of the premises and report as originally required.

(d) Action on Investigations

Each official required to inspect any premises proposed to be licensed, or to investigate the applicant, shall report in writing to the Town Clerk the results of his investigation, together with his recommendation as to whether a license should be granted. The Town Clerk shall refer such report to the next meeting of the Town Board. In determining the suitability of any applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed, and generally the applicant's fitness for the trust to be reposed.

(e) Premises Undergoing Construction or Remodeling

If an application made for a proposed premises at a proposed location which by reason of construction or remodeling cannot be fully inspected and approved as required herein, the Town Board may, if it is satisfied that the applicant is a proper recipient for a license, consider the appropriateness of the proposed location and premises proposed, and may authorize the issuance of the license to the applicant at such time as the premises comply with the regulations, ordinances and laws applicable thereto.

25.07 BEER LICENSE FOR RESTAURANTS

(a) A Class B fermented malt beverage license only (not in combination with a Class B intoxicating liquor license) may be issued to a person who operates a properly licensed, bona fide restaurant as defined in Section 125.56(1) of the Wisconsin Statutes,

provided the sale of food and Nonintoxicating beverages at retail shall constitute at least 65 percent of the gross sales of the establishment, based upon an annual computation, or as hereinafter provided:

(1) The applicant, if a town license has not been previously issued shall, at the time of application, furnish to the Town Board such information as is required by that committee to establish that in the prior year's operation, or such period of time as is determined by the Town Board, the sale of food and Nonintoxicating beverage constituted 65 percent or more of the gross sales, or

(2) The licensee seeking renewal of the license shall furnish to the Town Board between March 1 and April 15 of each year a report, compilation or record satisfactory to the Town Board as to form and clarity supply the information required for the purpose of establishing the gross sales of the licensee for the prior.

(b) In the event the Town Board establishes that less than 65 percent of the gross sales for the past calendar year, or part thereof, comprised the sale of food and Nonintoxicating beverages, the Town Board shall not issue the Class B fermented malt beverage license or renew the same for the next ensuing year commencing the following July 1.

(c) In the event the applicant or licensee refuses or neglects to furnish the information relative to the gross sales as required to the Town Board within the times indicated, the Town Board shall not issue or renew the Class B fermented malt beverage license for the next ensuing year commencing the following July 1.

25.08 OPERATOR'S LICENSE

A operator's license entitles a holder thereof to be an operator in any place operated under a Class B intoxicating liquor or fermented malt beverage license issued by the Town Board.

25.09 RESTRICTIONS ON GRANTING LICENSES

(a) Town Residence Required

No fermented malt beverage or intoxicating liquor license shall be issued to a person or agent for a corporation unless such person or agent has resided in the town continuously for at least one year prior to the date of filing the application except for a Class A retail fermented malt beverage license.

(b) Prohibited Locations

No Class A or Class B intoxicating liquor or fermented malt beverage license shall be granted for any premises in any residential district, nor for premises less than 300 feet from any established public school, parochial school, hospital or church. Such distance shall be measured via the shortest route along the highway from the closest point of the boundary of such school, church or hospital to the closest entrance to such premises.

(c) Delinquent Taxes and Charges

No license shall be granted to an applicant by whom or for premises upon which taxes or assessments or other financial claims of the town are delinquent and unpaid.

(d) Sales on Public Property

No license shall be issued for the sale of intoxicating liquor or fermented malt beverages in public parks or on any other town-owned property.

(e) Limited Interests

No Class A or Class B intoxicating liquor or fermented malt beverage license shall be granted to any person who has a direct or indirect interest in more than one other Class A or Class B intoxicating liquor or fermented malt beverage license issued by the town.

(1) Direct interest means that such person is the licensee.

Indirect interest means any interest either as a partner or a stockholder in any corporation that is the licensee irrespective of how minor such interest may be.

(2) Any false statement made on any application for a license relative to the interest of the applicant in other Class A or Class B intoxicating liquor or fermented malt beverage license shall be sufficient reason for revocation of any license granted to any person making such false statement.

(3) If a licensee holding a current license acquires an interest in such additional Class A or Class B license, contrary to the provisions of this section, such current license shall be revoked forthwith by the Town Board.

25.10 LICENSE QUOTAS; SURRENDER OF LICENSE

When a license is surrendered for the reason endorsed thereon and signed by the licensee named therein, or when a license is revoked by any authorized law enforcement official, no further license shall be issued to any other person unless the remaining number of licenses in force at that time is below the maximum.

25.11 OPERATOR REGULATIONS

(a) Report on Changes Required

Whenever anything occurs to change any fact set out in the application, the licensee or applicant shall file with the Town Clerk a notice in writing of such change within 10 days.

(b) Posting of License

No person shall post any license issued under this chapter upon any premises other than those listed in the application and no person shall knowingly deface or destroy such license.

(c) Consent to Inspection

Every applicant procuring a liquor license thereby consents to the entry of the Sheriff's Department or other duly authorized representatives of the town without warrant to all reasonable hours for the purpose of inspection and search, and consents to the removal from such premises of all things and articles there had in violation of town ordinances or state laws, and consents to the introduction of such things and articles of evidence in any prosecution that may be brought for such offenses.

(d) Clear View of Interior

No premises licensed for the sale of fermented malt beverages or intoxicating liquor at retail shall, during the days they are required to close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, blinds, screens or any other manner, a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquor is permitted, a full and complete view of the interior from the outside shall be afforded either through an entrance door or a window and during such hours their premises shall be properly and adequately lighted.

(e) Operators to Tend Bar

No person other than a Class B licensee or licensed operator shall tend bar or shall draw or remove any fermented malt beverage from any barrel, keg, cask, bottle or other container on premises requiring a Class B license for sale or service to a customer for consumption in or upon the premises where sold.

(f) Credit Sales

No retail Class A or B licensee shall sell or offer to sell any person on credit fermented malt beverages or intoxicating liquor or receive from any person any goods, wares, merchandise or other articles in exchange therefore where fermented malt beverages or intoxicating liquor is to be consumed on the premises so licensed, except the prohibition on extension of credit shall not apply to credit extended by a hotel to a resident guest or a club to a bona fide member.

(g) Music

All music in any licensed premises shall cease one-half hour before legal closing time.

(h) Diluting Liquor

No person shall dilute or add to any fermented malt beverage or intoxicating liquor for the purpose of selling or offering the same for sale from or in any original container. Possession of any original container containing any fermented malt beverage or intoxicating liquor so diluted or added to shall be prima facie proof that the possessor thereof intended to violate the provisions of this subsection.

(i) Evasion of Requirements

The giving away of fermented malt beverages or intoxicating liquors or other shift or device to evade the provisions of this chapter relating to the sale of such beverages or liquors shall be deemed to be unlawful selling.

(j) Free Drinks in Restaurants

No person operating a restaurant shall, directly or indirectly, give away or furnish free of charge or permit the giving away or furnishing free of charge any fermented malt beverages or intoxicating liquor on his restaurant premises.

(k) Service in Restaurants

Fermented malt beverages and intoxicating liquor shall be sold in restaurants only at tables and to seated customers.

(l) Employment of Minors

No retail Class B licensee shall employ any person under 18 years of age, but this shall not apply to hotels, restaurants or combination grocery stores and taverns where not to exceed 20 percent of the gross revenue is derived from the sale of fermented malt beverages and intoxicating liquors.

(m) Orderly Operation

Each licensed premises shall at all times be conducted in an orderly manner, and do disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.

(n) Gambling

No gambling of any sort shall be permitted in any form upon the licensed premises. Slot machines or any similar devices of chance are prohibited and shall not be kept on the premises. No license holder or any employee thereof shall participate in any dice game which is not considered gambling, at any time.

(o) Dancing

No dancing of any kind shall be permitted upon the premises by patrons or entertainers, except in bona fide clubs, hotels or on other premises where traffic in fermented malt beverages or intoxicating liquors is incidental only and not the object or purpose of its existence, and except premises licensed under this chapter for dancing.

25.12 CLOSING HOURS

(a) Prohibited Hours

Section 125.32(3), Wisconsin Statutes, shall apply except that premises for which a Class C wholesaler's license has been issued shall also be closed between 1:00 a.m. and 6:00 a.m., and provided further that no premises for which a Class B license has been issued shall remain open between 6:00 p.m., December 24, and 8:00 a.m., December 25.

(b) "Closed" Defined

The word "closed" as used in this chapter means locked and cleared of all persons. Permission may be obtained from the Sheriff's Department for the making of necessary repairs to the licensed premises during closing hours.

(c) Sales When Closed

No person shall sell, offer for sale, or serve any fermented malt beverages on any licensed premises during the hours within which such premises are required to be closed.

(d) Grocery Store Sales

No fermented malt beverage shall be sold, given away, exchanged, offered for sale or removed from any grocery store licensed to sell fermented malt beverages between the hours of 1:00 a.m. and 8:00 a.m.

25.13 LICENSE TO BE USED

Except for Class B picnic licenses, all fermented malt beverages or intoxicating liquor licenses shall be actively used during the regular operating hours on the licensed premises. If substantial use is not made of a license throughout any 60-day period, the license shall be void and shall be available for reissue by the Town Board. Periodic use of the license during the 60-day period shall not be considered substantial use.

25.14 REVOCATION OF LICENSES

Whenever there is reason to believe that the holder of any fermented malt beverage or intoxicating liquor license shall have violated this chapter or any regulation adopted pursuant thereto, proceedings for the revocation of the license may be undertaken in the manner and under the procedure established by [Section 125.12, Wisconsin Statutes](#).

25.15 DANCING ON LICENSED PREMISES

(a) Purpose

The purpose of this section is to permit dancing on premises licensed to sell fermented malt beverages or intoxicating liquor on the conditions as set forth herein.

(b) License Required; Fee

No dancing shall be permitted upon premises licensed under this chapter by patrons or entertainers, except those excluded by [Section 25.11\(o\)](#), unless an annual \$25 dancing license shall have been obtained by the Town Clerk. The term of such license shall be from July 1 through June 30.

(c) Application for License

Written application for a dancing license shall be filed with the Town Clerk. Only the licensee of the premises sought to be licensed for dancing may make such application for a dancing license. Application shall be made to the Town Clerk. The Town Clerk shall keep a record of all applications and shall issue all licenses granted by the Town Board under the provisions of this section upon payment of the license fee. The applicant for a dancing license shall describe in detail the premises for which he is making application.

(d) Floor Area; Capacity

The premises for which a dancing license is desired must have a minimum of 1,200 square feet of interior floor area available excluding kitchen, restroom and entrance areas, and a minimum of 300 additional square feet of floor area available for dance space. Such dance space shall be contiguous and unobstructed and shall not include any part of the area within 6 feet of the front edge of any bar, counter or kitchen area or any part of the area within 3 feet of any door or exit passageway. The dance space so provided shall be designated as such and no dancing shall be allowed in any other part of the premises. The dance space shall be limited in capacity to 10 square feet per person.

(e) Investigation of Premises

Whenever an applicant for a dancing license shall have complied with all conditions and regulations relative to the filing of his application, the Town Clerk shall forward such application to the Town Board at the next regular or special meeting. The Town Clerk shall notify the [Sheriff's Department](#) of each application and the officers shall inspect the premises and make such investigation as is necessary to determine whether the premises sought to be licensed comply with all regulations, ordinances and laws applicable thereto. These officials shall furnish to the Town Board in writing the information derived from such investigation together with their recommendations as to whether a license should be granted or refused. No license shall be renewed within a reinspection of the premises and report as originally required. In determining the suitability of such premises, consideration shall be given to the appropriateness of the location and premises proposed.

(f) Hours and Music

Dancing and music shall be allowed in such licensed premises until one-half hour before legal closing time when all dancing and music shall cease. Dancing and music shall cease at 12:30 a.m. if it is not within the confines of the building on the premises.

(g) Transferability

A separate license shall be required for each place of business and such license shall not be transferable from licensee to licensee nor from one premises to another.

(h) Report of Changes

Whenever anything occurs to change any fact set out in the application, the licensee shall file a notice in writing of such change with the Town Clerk within 10 days.

(i) Revocation

Any dancing license granted under this section shall be subject to revocation by the Town Board for violation of any provision of this chapter or for any other cause specified by the Wisconsin Statutes upon which the town is empowered to act. When a license is revoked, it shall be so entered of record by the Clerk and no dancing license shall be granted to such person within 12 months of the date of revocation, nor shall any part of the money paid for the license so revoked be refunded.

25.16 SALES TO MINORS

No intoxicating liquor or fermented malt beverages shall be sold, dispensed, given away, or furnished to any person under the age of 18 years unless accompanied by parent, guardian or spouse.

25.17 PENALTIES

Any person who himself or by his agent or employee shall violate any of the provisions of this chapter, or who having his license revoked, shall continue to operate, shall upon conviction thereof, be punished by a forfeiture of not more than \$500 and the costs of prosecution or by imprisonment in the county jail until such forfeiture and costs are paid for a term of not more than 90 days, and his license shall be subject to revocation by the court in its discretion. In the event that any person shall be convicted of a felony, such offender, in addition to the penalties herein provided, shall forfeit forthwith any license issued under this chapter without further notice.

25.18 USE OF PREMISES WITHOUT SALE OF ALCOHOLIC BEVERAGES

Licensee may permit underage persons to enter or remain upon the premises on a date specified by the licensee or permittee during which time no alcoholic beverages shall be consumed, sold or given away, subject to the terms of this provision. An underage person may enter or remain on Class "B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the Town Police Department, in advance, of the times underage persons will be allowed on the premises under this ordinance. Such notification shall be in writing and must be received in the office of the Chief of Police not less than 48 hours prior to the start of the scheduled nonalcohol event.