

## Chapter 6

### ALCOHOL BEVERAGES\*

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\*Cross reference--Businesses, ch. 18.

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### **Sec. 6-1. Penalties.**

Any adult, firm, corporation or the employee or agent of any licensee under this chapter, adjudged to have violated any provisions set forth, shall be subject to a forfeiture not less than \$10.00 nor more than \$500.00 plus allowable statutory costs per each offense. Failure to pay any forfeiture hereunder shall subject such violator to be sentenced to the county jail and/or revocation or suspension of driving privileges. (Ord. No. 96-5, § 2(12), 10-9-1996)

### **Sec. 6-2. Intoxicating liquor and fermented malt beverages state statutes adopted.**

The current and future provisions of Wis. Stats. ch. 125, defining and regulating the types, sale, procurement, dispensing, and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated in this section, are intended to be made a part of this section in order to secure uniform statewide regulations of alcohol beverages in this state. (Ord. No. 96-5, § 2(1), 10-9-1996)

### **Sec. 6-3. Basic requirements.**

(a) *Occupancy permit required.* No person on any licensed premises, as defined in Wis. Stats. § 125.02, shall conduct any transactions regulated by this chapter unless a licensee holds a valid occupancy permit, as may be required, issued by the town. The occupancy permit shall be specific in detail as to what area of the premises shall be licensed for the sale of alcohol beverages. Any violation is grounds for suspension or revocation of any license or permit issued under this chapter.

(b) *Seller's permit required.* No person on any licensed premises shall conduct any transactions regulated under this chapter unless a licensee holds and maintains a valid seller's permit as required under statute, issued to the premises and licensee described in the license during the period of licensing. Any violation is grounds for suspension or revocation of any license or permit issued under this chapter. (Ord. No. 96-5, § 2(2), 10-9-1996)

### **Sec. 6-4. Applications.**

A written application for any license or permit by the provisions of this chapter shall be on the form provided by the clerk.

- (1) *Content.* All applications other than operator's licenses shall contain all the information required under Wis. Stats. § 125.04(3), and any other information required by the clerk. Operator's license applications shall be on a form prescribed by the clerk containing all information deemed

necessary, including but not limited to name, residence, age, plus a written request of the holder of the alcohol beverage license.

- (2) *Filing.* All applications for licenses and permits to sell alcohol beverages shall be filed with the clerk in which the premises are located as required by law. Operator's licenses and licenses issued under Wis. Stats. § 125.26(6), for a picnic or other gathering lasting less than four days must be filed with the clerk at least 24 hours prior to the granting of the license or permit.

(Ord. No. 96-5, § 2(3), 10-9-1996)

#### **Sec. 6-5. Fees.**

(a) Licenses and permits may be issued by the clerk under the authority of the town board after payment of the appropriate fees, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Wis. Stats. ch. 125.

(b) Fees for such licenses and permits shall be in such amount as may be established by the town board from time to time by separate resolution.

(c) Any applicable publication fee and/or application fee and/or investigation fee shall be submitted with the license or permit application as may be established by the town board from time to time by separate resolution.

(d) The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication fees and investigation fees.

(e) Fees for partial licensing years may be prorated. In all cases when an alcohol beverage license is issued for a partial year, a minimum fee of \$25.00 and all actual publication fees and investigation fees must be paid.

(f) Once any license or permit is issued, no return of any payment shall be made regardless of whether the license or permit is used for the entire year.

(Ord. No. 96-5, § 2(4), 10-9-1996)

#### **Sec. 6-6. Investigation.**

Upon receipt of a license application under the provisions of this chapter, the clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant as set forth in this section.

- (1) *All alcohol beverage licenses.* The police department, fire department, health department, and building inspector and other persons authorized, may conduct an investigation and inspection of the premises mentioned in the applications, to determine if the premises comply with all applicable regulations, ordinances and laws. The police department shall investigate

all persons included in the application, both new and renewal, to determine the suitability and character of the applicants.

- (2) *Operator's licenses.* The police department shall conduct an investigation of all applicants, both new and renewal, which will include fingerprinting at the sheriff's department, to determine the suitability and character of the applicant.
- (3) *Report.* Upon completion of all investigations, written reports shall be submitted to the clerk. In the case of renewals of operator's licenses only, the clerk may, if the written report is favorable, proceed to issue the license. If the report is in any way unfavorable, or in the case of new operator's licenses and all other licenses, new or renewal, the clerk shall forward the written report and application to the town board for action.
- (4) *Review.* The town board may refer any and all licenses to the appropriate committee for review and recommendation prior to action by the town board.

(Ord. No. 96-5, § 2(5), 10-9-1996)

#### **Sec. 6-7. Provisional retail license.**

(a) The town clerk may issue a provisional retail license to any person who has applied for a Class "A" retail fermented malt beverage license, a Class "B" retail fermented malt beverage license, a "Class A" retail liquor license, or a "Class B" retail liquor license and whose license application has been approved by the town board except for the failure of the applicant to have completed a responsible beverage server course as required under Wis. Stats. § 125.04(5)(a)5. The provisional retail license shall authorize only those activities authorized by the type of retail license applied for and shall only be issued to an applicant who is in the course of completing a responsible beverage server course as required under Wis. Stats. § 125.04(5)(a)5.

(b) A provisional retail license shall expire 60 days after the issuance of the provisional retail license or upon the issuance of the Class "A" retail fermented malt beverage license, a Class "B" retail fermented malt beverage license, a "Class A" retail liquor license, or a "Class B" retail liquor license to the holder, whichever is sooner.

(c) The town clerk may revoke the provisional retail license if he discovers that the holder of the license made a false statement on the application.

(d) The fee for a provisional retail license shall be in such amount as may be established by the town board from time to time by separate resolution.

(e) No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

(f) No person shall apply for or obtain a provisional retail license for purposes of circumventing the license requirements of this chapter. A provisional retail license shall only be issued to a person who has satisfied all provisions of this chapter and whose application for a regular retail malt beverage or liquor license has been approved by the town board, but who cannot obtain such license because of failure to complete the responsible beverage server course as required under Wis. Stats. § 125.04(5)(a)5. (Ord. No. 96-5, § 2(6), 10-9-1996)

**Sec. 6-8. Operator's license.**

- (a) *Kinds of licenses and permits.*
  - (1) *Regular operator's license.* Regular operator's licenses may be granted to individuals by the town board for the purposes of complying with Wis. Stats. §§ 125.32(2) and 125.68(2) and this chapter. The fee for such license shall be set by resolution.
  - (2) *Provisional operator's license.*
    - a. The clerk, upon authorization by the chief presiding officer, may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as death, disability, absence of the regular operator on the premises and the like. The chief presiding officer before authorizing such issuance, shall determine that the applicant has a satisfactory record, and probably would be issued a regular operator's license. The license shall be valid for a period of not to exceed 60 days unless sooner revoked by the town board. The fee for such license shall be set by resolution.
    - b. The clerk, as the authorized representative of the town board, may issue a provisional license to a person who is enrolled in a training course under Wis. Stats. § 125.17(6)(a). The fee for such license shall be set by resolution.
  - (3) *Temporary operator's licenses.* Temporary operator's licenses may be granted to individuals pursuant to Wis. Stats. § 125.17(4), by the town board for the purpose or allowing such individuals to dispense and serve alcohol beverages under a license issued under Wis. Stats. § 125.26(6) or 125.51(10), to a nonprofit organization. No person may hold more than one license of this kind per year. Any temporary operator's license issued under this section shall be valid for any period from one day to 14 days, and the period for which it is valid shall be on the license. The fee for such license shall be set by resolution.
- (b) *Granting of operator's license.* The town board shall grant operator's

licenses pursuant to this section as it deems fit.

(c) *Expiration date.* All operator's licenses issued under this section shall expire on June 30 of each year.  
(Ord. No. 96-5, § 2(7), 10-9-1996)

**Sec. 6-9. Restrictions on granting licenses.**

(a) *Statutory requirements.* Licenses and permits shall be issued only to those persons eligible under Wis. Stats. ch. 125. Licenses and permits granted in error shall be void.

(b) *Health and sanitation requirements.* No retail Class A or Class B alcohol beverage license shall be issued for any premises which has not been approved by the county health department.

(c) *Delinquent taxes, assessments, claims, et al.*

- (1) No initial or renewal alcohol beverage license shall be issued for any premises or property for which taxes, assessments, forfeitures or claims for the town are delinquent and unpaid.
- (2) No initial or renewal license or permit shall be issued under this chapter to any person who is:
  - a. Delinquent in the payment of any taxes, assessment, or other claims owed the town.
  - b. Delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the town.
  - c. Delinquent in the payment of any taxes to the state or county.
  - d. Who has any outstanding warrant or capias from any other municipal, state or federal court.

(d) *License quota.*

- (1) *Class "A" fermented malt beverage License.* Class "A" fermented malt beverage licenses shall be issued on the basis of the most recent estimated population received by the town as determined by the state department of administration population estimates forwarded annually to the town. Licenses shall be available for issuance based on one license per 2,500 population or fraction thereof over 2,500 within any license year, except no person licensed under a Class "A" retail fermented malt beverage license shall be deprived of a renewal license merely because of the quota.

- (2) *"Class A" retail liquor licenses.* "Class A" retail liquor licenses shall be issued on the basis of the most recent estimated population received by the town as determined by the state department of administration population estimates forwarded annually to the town. Licenses shall be available for issuance based on one license per 2,500 population or fraction thereof over 2,500 within any license year, except no person licensed under a "Class A" retail liquor license shall be deprived of a renewal license merely because of the quota.
- (3) *"Class B" retail fermented malt beverage licenses.* The number of licenses issued under law plus whichever the following is the largest:
- a. The number of "Class B" licenses lawfully issued and in effect on August 27, 1939, when the quota law went into effect plus annexations or less detachments.
  - b. One per 500 population as reported by the state department of administration population estimates forwarded annually to the town.
  - c. The number of "Class B" licenses in effect in the previous year.
- (4) *"Class B" retail liquor licenses.* The number of "Class B" retail liquor licenses issued within any license year shall be determined as provided in Wis. Stats. § 125.51(4).

(Ord. No. 96-5, § 2(8), 10-9-1996)

**Sec. 6-10. Conditions of license.**

(a) *Consent to inspection.* Every applicant obtaining a license thereby consents to the entry of the police or other, authorized representatives of the town or the state at any reasonable time for the purpose of inspection and search, and consents to the removal from such premises all things found in violation of ordinances or law and consents to the introduction of such things as evidence in any prosecution that may be brought for such offenses.

(b) *Safety and sanitation requirements.* Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used.

(c) *Sales on credit prohibited.* No retail licensee shall sell or offer to sell any alcohol beverage to any person on credit except by a hotel to a resident guest, by a restaurant to a patron, a club to a bona fide member, and by grocers and pharmacists who maintain a credit system in connection with other purchases. No licensee shall sell alcohol beverages on a passbook or store order, or receive goods, wares or merchandise

in exchange for alcohol beverages.

(d) *Orderly conduct required.* Every licensed premises shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.

(e) *Gambling prohibited.* Gambling shall not be permitted on a licensed premises, unless authorized by law. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless authorized by law.

(f) *Lewd, obscene, performances, etc., prohibited.* No licensee shall advertise, produce, perform or allow any lewd, obscene or indecent performance of any kind on the premises.

(g) *Sale to intoxicated persons prohibited.* No licensee, agent, operator or server shall sell, give, procure or otherwise furnish any alcohol beverages to an intoxicated person.

(h) *Underage persons.* No licensee shall employ any underage person to serve, sell, dispense, or give away an alcohol beverage unless authorized by law or ordinance. The current and future provisions of Wis. Stats. §§ 125.10(2) and 125.07(4)(a), (b) or (bm), 125.085(3)(b) are adopted by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this section in order to secure uniform statewide regulations of alcohol beverages in this state.

(i) *Controlled substance use prohibited.* Any licensee, partner, agent, authorized representative or employee who is convicted of the use, possession, delivery or intent to deliver, any controlled substance defined and regulated under Wis. Stats. ch. 961, may be considered grounds for the revocation or suspension of any license provided for in this chapter.

(j) *Regulation of entertainment and entertainers.* No "Class B" or Class "B" licensee shall employ or permit to perform on the premises any entertainer, except a member of a band, a vocalist, a piano or organ player or a comedian. All such entertainers shall be fully clothed in such a manner as is acceptable in all public places. No licensee shall allow any entertainment which makes an appeal to prurient interests. Dancing among patrons, but not between patron and employee, is permitted upon permit. (Ord. No. 96-5, § 2(9), 10-9-1996)

#### **Sec. 6-11. Miscellaneous general provisions.**

(a) *Transfer of licenses.*

(1) The transfer of every alcohol beverage license shall be governed by Wis. Stats. § 125.04(12).

- (2) No transfer of operator's license is permitted.
- (3) If the transfer is approved by the town board pursuant to Wis. Stats. § 125.04(12)b4, all conditions set forth under this chapter shall be complied with.
- (4) Failure to conform with the terms of license transfer shall be grounds for denial, suspension or revocation of license.

(b) *Nonrenewal of licenses.* Before renewal of any license or permit issued under this chapter is refused, the licensee or permittee shall be given written notice of any charges or violations or reasons proposed for nonrenewal, and shall have an opportunity to be heard before the town board.

(c) *Violations by agents and employees.* A violation of this chapter by an authorized agent or employee of the licensee shall constitute a violation by the licensee.

(d) *Closing hours.* Closing hours shall be as set by statute with the following applicable local options:

- (1) If a wholesale license, between 5:00 p.m. and 8:00 a.m., except on Saturday when the closing hour shall be 9:00 p.m.
- (2) If a retail class "A" fermented malt beverage license, between 9:00 p.m. and 8:00 a.m.
- (3) If a retail "Class A" intoxicating liquor license, between 9:00 p.m. and 8:00 a.m.

(e) *Local option.* The holder of a retail "Class B" liquor license shall be permitted to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises and in the original packages or containers in multiples not to exceed four liters at any one time and to be consumed off the licensed premises. Off-premises sales shall cease at midnight of each day. It is intended by this section that the packaged sales from Class "B" licensed premises will not be permitted after midnight under the option granted in this section.

(f) *Nonuse of license.* If a license or permit issued under this chapter is not used within 60 days after its issuance, or its usage is discontinued for a period of 60 days or more, such nonuse shall be grounds for denial, suspension, revocation or nonrenewal of the license or permit in accordance with the provisions of this chapter and the laws of the state.

(g) *Revocation for failure to pay fee.* If the town board or authorized person or entity approves the issuance of a license or permit under this chapter and the required fee

is not paid within 60 days after the date of approval, such failure to pay shall be grounds for denial, suspension, revocation, or nonrenewal of the approval of the license or permit in accordance with the provisions of this chapter and the laws of the state.

(Ord. No. 96-5, § 2(10), 10-9-1996; Ord. No. 2005-1, §§ 1, 2, 1-12-2005)

### **Sec. 6-12. Revocation and suspension of licenses.**

(a) *Generally.* Whenever the holder of any alcohol beverage license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under Wis. Stats. § 125.12. In addition, the town board, by its own motion by adoption of a resolution may begin proceedings for the revocation or suspension of such license.

(b) *Incompatibility with surrounding environment.* Whenever the town board or the clerk, as agent thereof, is made aware of an incompatibility in the operation of a licensed premises in relation to its surrounding or nearby environment, or a licensed premises is in violation of any condition established, or required at the issuance of the license or of this chapter, proceedings for the purpose of revoking, establishing new conditions, or continuing the license under previous conditions will be initiated under the same procedures as provided in subsection (a) of this section.

(c) *Operator's licenses.* Suspension or revocation of operator's licenses granted pursuant to this chapter shall be governed as follows:

(1) Any committee as established by the town board may revoke or suspend an operator's license following hearing held by the committee. Notice shall be mailed to the licensee not less than eight days prior to the hearing or upon personal service of notice not less than two days prior to the hearing.

(2) Appeal from the decision of the committee may be made by the licensee upon filing a petition for review by the full town board by presenting the petition and paying a fee of \$100.00 to the clerk. The town board shall schedule a hearing not more than 30 days from the date the appeal is filed.

(d) *Automatic revocation.* Any license or permit issued under this chapter may be revoked without further proceedings upon the conviction of the licensee, agent, employee or representative thereof, pursuant to Wis. Stats. § 125.11.

(e) *Additional regulations regarding restrictions, nonrenewal, cancellation, revocation and suspension of licenses.* In addition to requirements of all other rules, laws and regulations of the state and this municipality, licenses are subject to the following requirements:

(1) Any license granted or issued pursuant to ordinance shall be subject to further regulation or restriction as may be imposed by the town board, by amendment to this chapter or by the enactment of a new ordinance.

- (2) Further, the town board or any committee, if authorized by the governing body, is specifically authorized to impose reasonable conditions upon any alcohol beverage license granted or issued.
- (3) If any licensee shall fail or neglect to meet the requirements imposed by such restrictions and regulations or the conditions imposed by the municipality, or any committee, if authorized by the town board, his license may be revoked, not renewed, suspended or cancelled in accordance with this chapter.
- (4) In the case of revocation, nonrenewal, suspension or cancellation of any license for any violation of any provision of this chapter or violation of any condition imposed by the town board or any committee, if authorized by the town board, or by the court or for any reasonable cause, no refund shall be made of any part of the license fee.
- (5) The following situations may be grounds for cancellation, suspension, revocation or nonrenewal of licenses in accordance with the provisions of this section and law:
  - a. A license is not used within six months of the original issuance to an applicant;
  - b. When, at the request of the owner of the licensed premises, any licensee's usage of such premises is discontinued for 60 days or the remainder of a license period, whichever is less; or
  - c. Any licensed premises, for a period of 120 days, is being used for a purpose other than for the purpose of serving alcohol beverages.

(Ord. No. 96-5, § 2(11), 10-9-1996)