

Chapter 5.08

INTOXICATING BEVERAGES

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5.08.010 State statutes adopted.

The provisions of Chapter 125, Wis. Stats., defining and regulating the sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this section. (Prior code § 12.05(1))

5.08.020 Licenses, permits, authorization required.

A. When Required. Except as provided by Section 125.06, Wis. Stats., no person shall, within the town, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Chapter 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See Section 125.04(1), Wis. Stats.

B. Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See Section 125.04(9), Wis. Stats. (Prior code § 12.05(2))

5.08.030 Classes of licenses and fees.

The following classes and denominations of licenses may be issued by the town clerk under the authority of the town board upon compliance with law and payment of the fee herein specified, which when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced state statute. Fees for licenses shall be prorated according to the number of months or fraction thereof for which the license is issued.

A. Class A Fermented Malt Beverage Retailer's License. The fee, as stated in Section 5.04.010, is determined by the local governing body. See Section 125.25, Wis. Stats.

B. Class B Fermented Malt Beverage Retailer's License. See Section 5.04.010 and Section 125.26, Wis. Stats.

1. Six Months. A Class B license may be issued at any time for six months in any calendar year, for one-half of the applicable license fee. Such license shall not be renewable during the calendar year in which issued. See Section 125.26(5), Wis. Stats.

2. Picnic. See Section 5.04.010 and Section 125.26(6), Wis. Stats.

C. Wholesaler's Fermented Malt Beverage License. See Section 5.09.010 and Section 125.28, Wis. Stats.

D. Retail Class A Liquor License. See Section 5.04.010 and Section 125.51(2), Wis. Stats.

E. Retail Class B Liquor License. A retail Class B liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed four liters at any one time to be consumed off the licensed premises. See Section 5.04.010 and Section 125.51(3), Wis. Stats.

1. A license may be issued after July 1st in any license year which shall expire on the following June 30th. The fee for the license shall be prorated according to the number of months or fractions of months remaining until the following June 30th.

2. Licenses valid for six months may be issued at any time. The fee for the license shall be fifty (50) percent of the annual license fee. The license may not be renewed during the calendar year in which issued.

F. Pharmacists. See Section 5.04.010 and Section 125.57, Wis. Stats.

G. Operator's License. The operator's license shall be granted only upon application in writing on a form to be provided by the town clerk. At the time of the initial application the fingerprints of the applicant may be taken to assist the town police department in its investigations. See Section 5.04.010 for the fee and Section 125.17, Wis. Stats.

1. Operator's licenses may be granted to individuals by the town clerk with police department approval for the purposes of complying with Sections 125.32(2) and 125.68(2), Wis. Stats. (Ord. dated 9/23/2010).

2. Operator's licenses may be issued only on written application on forms provided by the clerk.

3. Operator's licenses shall be valid for one or two years and shall expire on June

30th of each year or on June 30th of the second year after issuance.

H. Manager's License. See Section 5.04.010 and Section 125.18, Wis. Stats.

I. Retail Class C License. The town may issue Class C licenses for the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold pursuant to the provisions of Wis. Stats. Section 125.5 1(3m). The annual fee for a Class C license shall be one hundred dollars (\$100.00). (Editorially amended during 2001 codification; prior code § 12.05(3))

5.08.040 License application.

A. Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue, and filed with the town clerk at least fifteen (15) days prior to issuance. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall.

B. Application to be Notarized. The application shall be signed and sworn to by the applicant as provided by Section 887.01, Wis. Stats.

C. Publication. Prior to issuance of a license under this section, the town clerk shall publish notice of the application in the official town newspaper.

D. Duplicate. Upon approval, a duplicate copy of each application shall be forwarded by the town clerk to the State Department of Revenue. (Prior code § 12.05(4))

5.08.050 License restrictions.

A. Statutory Requirements. Licenses shall be issued only to persons eligible therefor under Sections 125.04 and 125.33(3)(b), Wis. Stats.

B. Location.

1. No retail Class A or Class B license shall be issued for premises the main entrance of which is less than three hundred (300) feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to the premises covered by the license.

2. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred (300) feet thereof by any school, hospital or church building.

C. Violators of Liquor or Beer Laws or Ordinances. No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this section or whose license has been revoked under Section 125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

D. Health and Sanitation Requirements. No retail Class B license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Industry, Labor and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the town board.

E. License Quota. The number of persons and places that may be granted a retail Class B liquor license under this section is limited as provided in Section 125.51(4), Wis. Stats.

F. Corporations. No license shall be granted to any corporation when more than fifty (50) percent of the voting stock, legal or beneficial interest is held by any person or persons not eligible for a license under this chapter.

G. Age Requirement. No license hereunder shall be granted to any person under the legal drinking age.

H. Effect of Revocation of License. Twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

I. Delinquent Taxes, Assessments and Claims. No license shall be granted for any premises for which taxes, assessments or other claims of the town are delinquent and unpaid, or to any person delinquent in payment of such claims, including unpaid forfeiture judgments, to the town.

J. Issuance for Sales in Dwellings Prohibited. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment. (Prior code § 12.05(5))

5.08.060 Form and expiration of licenses.

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30th thereafter except as otherwise provided by law. The town clerk shall affix his or her affidavit as required by Section 125.04(4) Wis. Stats. (Prior code § 12.05(6))

5.08.070 Transfer of licenses.

A. As to Person. No license shall be transferable as to licensee except as provided by Section 125.04 (12), Wis. Stats.

B. As to Place. Licenses issued pursuant to this chapter may be transferred to another premises once during any license year as provided in Section 125.04(.2), Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be ten dollars (\$10.00). (Prior code § 12.05(7))

5.08.080 Posting and care of licenses.

Every license or permit required under this chapter shall be framed and posted and at all times displayed as provided in Section 125.04(10), Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license. (Prior code § 12.05(8))

5.08.090 Regulation of licensed premises and licensees.

A. Gambling and Disorderly Conduct Prohibited. Each licensed and permitted premises shall at all times be conducted in an orderly manner; and no disorderly or riotous or indecent conduct or gambling shall be allowed at any time on any such premises.

B. Employment of Minors. No licensee shall employ any person who is “underage,” as that term is defined by Wis Stats., to serve, sell, dispense or give away any alcohol beverage.

C. Sales by Clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

D. 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

for which used. (Editorially amended during 2001 codification; prior code § 12.05(9))

5.08.100 Closing hours.

Closing hours for all premises for which an alcohol beverage license has been issued shall be as specified in Chapter 125 Wis. Stats. as the same may be modified and amended from time to time. (Ord. dated 12/14/87: prior code § 12.05(10))

5.08.110 Conduct on class B premises.

A. Licensee Defined. The term “licensee,” as used in this section, shall mean the holder of a Class B license.

B. Prohibited. No person possessing a Class B license, personally or through his agent or employee, shall permit or engage in the following conduct on licensed premises and no entertainer or employee shall engage in the following conduct on the licensed premises:

1. The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. The actual or simulated touching, caressing or fondling on the breast, buttocks, anus, vulva or genitals;

3. The actual or simulated displaying of the areola of the breast, pubic hair, anus, vulva or genitals;

4. The showing of films or slides depicting any of the acts which are prohibited by the regulations stated above.

C. Certain Performances and Costumes Prohibited. No licensee, either personally or through his or her agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are employed by the licensee or through his or her agent or not and no entertainer or

employee shall furnish any entertainment or perform any act, stunt or dance unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises.

1. That portion of any costume to be worn by dancers, performers or entertainers covered by the provisions of this section and which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be of nontransparent and nontranslucent material.

2. The top portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola of the breast completely covered at all times.

3. The lower portion of the costume worn by a female dancer, performer or entertainer, or a female impersonator, shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this section.

4. The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organ and the cleavage of the buttocks at all times.

D. Stage Area to be Provided. No licensee, either personally or through his agent or employee, shall furnish entertainment by, or permit the performance

of any act, stunt or dance to be performed anywhere but on a stage area designated for such purpose. The use of the surface of the bar proper as a stage area is prohibited. When the stage area is located behind the bar, the nearest point of any such stage area shall be not less than six feet from the outer limits of patrons' side of the bar. When the stage area as located outside of the bar, (that is, on the patrons' side of the bar), such area shall be raised from the floor level and shall be separated by a railing or other device so as to provide a distance of at least six feet between the patrons and the performers, so as to deter patrons from participating in any act, stunt or dance.

E. Disorderly Conduct by Patrons Prohibited. No licensee, either personally or through his agent or employee, shall permit any patron to participate in any act, stunt or dance with performers who are employed by the management.

F. Solicitation Prohibited. No licensee, either personally or through his agent or employee, shall permit the solicitation by any entertainer or employee of a drink of intoxicating liquor, fermented malt beverage or other drink from any customer or patron or other person on the premises; and no entertainer or employee shall solicit any such drink from any customer, patron or other person on the premises.

G. Mingling of Employees and Patrons Prohibited. No licensee, either personally or through his agent or employee, shall permit any entertainer, waiter, waitress or other employee to sit at any table or in any booth or elsewhere on the licensed premises with any customer or patron, provided, however, that this paragraph shall not apply to a member of the immediate family of the licensee or to any person claiming under him who lives in the same household as the licensee and who has attained the legal drinking age.

H. Revocation for Noncompliance. The town board may revoke any license issued hereunder at any time for any violation of the provisions of this chapter.

I. Penalty. Any person holding a Class B retail license granted under the provisions of this chapter, or any entertainer or employee found guilty of the provisions of this section, shall be subject to a penalty as provided in Chapter 1.20 of this code. (Editorially amended during 2001 codification; Ord. dated 7/11/96; prior code § 12.05(11))

5.08.120 Underage persons and intoxicants.

Loitering by underage persons on any premises for which a license or permit for the retail sale of alcohol beverages has not been issued and where alcohol beverage is illegally dispensed.

A. No underage person shall enter, remain or loiter in any public or private place, with the exception of any premises for which a license or permit for the retail sale of alcohol beverage has been issued, where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available to underage persons, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

B. No person of legal drinking age shall suffer or permit any underage person to enter, remain or loiter in any premises, public or private where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available to underage persons, except any premises for which a license or permit for the retail sale of alcohol beverages has been issued, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

C. The provisions of this section are not intended to be restrictive but are in addition

to the prohibitions contained in Chapter 125 of the Wis. Stats. (Ord. dated 7/11/88; prior code § 12.05(15))

5.08.130 Revocation and suspension of licenses.

A. Procedure. Whenever the holder of any license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Section 125.12, Wis. Stats., and the provisions therein relating to granting a new license shall likewise be applicable.

B. Effect of Revocation. See Section 5.08.050(H) of this chapter. (Prior code § 12.05(12))

5.08.140 Nonrenewal of licenses.

Before renewal of any license issued under this chapter is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the town board. (Prior code § 12.05(13))

5.08.150 Violations by agents and employees.

A violation of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee. (Prior code § 12.05(14))

5.08.160 Provisional operator's license.

A. The town clerk is authorized pursuant to Section 125.17(5) Wis. Stats. to issue provisional operators' licenses relating to the sale of fermented malt beverages and intoxicating liquors.

B. A provisional license may be issued only to a person who has applied for an operator's license under Section 125.17(1)

Wis. Stats. as modified and amended. The provisional license provided herein may not be issued to any person who has been denied a license under Section 125.17(1), Wis. Stats., as amended by the town.

C. The applicant for an operator's permit shall pay a fifteen dollar (\$15.00) fee for such provisional license.

D. A provisional license shall expire sixty (60) days after its issuance or when a license under Section 125.17(1) Wis. Stats., as amended, is issued to the holder, whichever is sooner.

E. The town clerk may revoke the provisional license if he or she discovers that the holder of the provisional license made a false statement on the application.

F. A provisional license may be issued by the town clerk if, after a review of the applicant's criminal record, it appears there are no convictions which would prohibit holding such a license. This issuance may take place prior to approval by the town police department, but may be revoked if the police department subsequently issues a disapproval of the license.

G. The applicant for a provisional license shall, prior to the issuance of such license, submit documented proof to the town clerk that he or she has enrolled in a course of instruction relating to the responsible serving of alcoholic beverages. In the event the applicant fails to complete the course of instruction for which he or she has been enrolled within the time that it will take to complete the schooling as stated on the certificate of enrollment, then such provisional license may be revoked by the town clerk.

H. If applicant for a provisional license has proof that they have held a regular license during the last two calendar years in the state of Wisconsin, the schooling herein provided shall not be required. (Ord. dated 6/12/03; Ord. dated 6/25/93; prior code § 12.10)

5.08.170 Provisional retail licenses.

A. The town clerk is authorized pursuant to Section 125.185(1) Wis. Stats. to issue provisional retail licenses after Town Board approval.

B. A provisional retail license may be issued only to a person who has applied for a Class "A", Class "B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes. The provisional license provided herein may not be issued to any person who has been denied a license. A "Class B" license may not be issued if the Town's quota under sec. 125.51(4), Wis. Stats., prohibits the Town from issuing a "Class B" license.

C. The applicant for retail license shall pay the maximum fee allowed by sec.125.185(3), Wis.Stats., (2007), at this time a fifteen dollar (\$15.00) fee for such provisional license.

D. A provisional license shall expire sixty (60) days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued to the holder, whichever is sooner. No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

E. The Town Board may revoke the provisional license if they discover that the holder of the provisional license made a false statement on the application. (Ord. dated 6/14/07)