

Town of Winchester, Vilas County
Ordinance #2018-05

Liquor/Wine and Fermented Malt Beverages

1) State Statutes Adopted

The Provisions of Ch. 125, Wis. Stats, defining and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this chapter by reference. A violation of any such provisions shall constitute a violation of this chapter.

2) License. Permit or Authorization Required

- a) When required, except as provided by 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 Ch. 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 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 125.04(9), Wis. Stats.

3) Classes of Licenses

The following classes and denominations of licenses may be issued by the Town Clerk/ Treasurer under the authority of the Town Board, upon compliance with law and payment of the fee set by the Town Board, which, when so issued, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced state statute:

- a) Class "A" Fermented malt beverage retailer's license. See 125.25, Wis. Stats.
- b) Class "B" Fermented malt beverage retailer's license. See 125.26, Wis. Stats.
 - (1) Six-month license. A Class "B" license may be issued at any time for six months in any calendar year, for 50% of the applicable fee. Such license shall not be renewable during the calendar year in which issued. See 125.26(5), Wis. Stats.
 - (2) Special event (picnic). See 125.26(6), Wis. Stats.
- c) Class "C" Wine retailer's license. See 125.51, Wis. Stats.
- d) Wholesaler's fermented malt beverage license. The fee for this license will be determined by the Town Board. See 125.28, Wis. Stats.
- e) Retail "Class A" liquor license. See 125.51(2), Wis. Stats.
- f) 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 125.51(3), Wis. Stats.
 - (1) A license may be issued after July 1 in any license year which shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions of months remaining until the following June 30.
 - (2) Licenses valid for six months may be issued at any time. The fee for such license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued. See 125.51(9), Wis. Stats.

4. Operator's License. See 125.17, Wis. Stats.

- a) Operators' licenses may be granted to individuals by the Town Board for the purpose of complying with 125.32(2) and 125.68(2), Wis. Stats.
- b) Operators' licenses may be issued only on a written application on forms provided by the Town.
- c) Operators' licenses shall be valid for one year and shall expire on June 30 of each year.
- d) Provisional License. This subsection allows for issuance on a provisional basis of a license to those applying for an operator's (bartender) license for service or sale of alcohol beverages. A provisional license may only be issued to those persons who have not completed a beverage service course and exhibited proof of compliance with that training standard set forth in 125.17(6), Wis. Stats. A provisional license allows time to obtain training required for working without supervision of another licensed person in a Class A or B business or organization.
 - (1) Each applicant must be at least 18 years of age and have completed an application form supplied by the Town Clerk/ Treasurer in order for the Town Board to consider approval. All arrests and convictions of the applicant shall be disclosed on the application or an attached sheet. The applicant for a provisional license must present with the application proof that the applicant is enrolled in a training course under 125.17(6)(a), Wis. Stats.
 - (2) The provisional license shall be effective until a certificate or other proof of compliance with training requirements is presented to the Town Clerk/Treasurer. In no case will the provisional license be effective more than 60 days after issuance. The issuance date, final date of validity or both shall be placed on the license form when issued.
 - (3) Only those persons initially approved by the Town Board shall receive a provisional license. The Town Clerk/ Treasurer is authorized to issue such license. In the event, a person requests issuance of a provisional license extension and has had no arrests or convictions since prior Town Board approval. The Town Clerk/Treasurer is authorized to issue a further license under the standards contained herein and payment of the fee.
 - (4) The sum as set by the Town Board is required to be paid by or for the applicant prior to license issuance. This fee will not exceed \$15 unless state law and this subsection are amended.
 - (5) In the event, following issuance, it is discovered that a part of the license application was false that in the Town Clerk/ Treasurer's judgment might have affected the Town Board's decision on whether to license, including but not limited to past crimes or arrests, the Town Clerk/ Treasurer may revoke such license. Upon making such a decision, the Town Clerk/ Treasurer shall mail or have a written notice delivered to the license

holder notifying the person of the action taken, the reasons for such action and the right to have a license review hearing before the Town Board upon the applicant's written request. When a request for a hearing is made, the Town Board shall follow general procedures as set forth in 125.12, Wis. Stats., although no complaint is required. The Town Clerk/ Treasurer shall notify the licensee of the Town Board's time schedule for hearing the matter by mail or delivery.

- (6) Any mail notice in this subsection G is sufficient if mailed by first class to the last known address of the licensee in an envelope containing the return address of the Town Clerk/Treasurer. No request for a license review hearing is valid when received past the final day the provisional license would have been effective.

5. 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/ Treasurer at least 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 will be signed and sworn to by the applicant as provided by 887.01, Wis. Stats.
- c) Publication. Prior to issuance of a license under this chapter, the Town Clerk/ Treasurer 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/ Treasurer to the State Department of Revenue.

6. License Restrictions

- a) Statutory requirements. Licenses shall be issued only to persons eligible therefor under Ch. 125, Wis. Stats.
- b) Location. No retail Class A or Class B license be issued for premises the main entrance of which is less than 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.
- 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 chapter or whose license has been revoked under 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" and/or Class "C" license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Commerce pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Family 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, Class "C" Wine license under this chapter is limited as provided in 125.51(4), Wis. Stats.
- f) Corporations. No corporation organized under the laws of this state or any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of 125.04(6) Wis. Stats.
- g) Age Requirement. No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age as defined by 125.02, Wis. Stats. Operator's licenses shall only be issued to persons who have attained the age of 18.
- h) Revocation of license. Any license revoked shall not be reinstated within the 12 months following date of revocation. There shall be no refund of any license fee paid to a party whose license *is* revoked.
- i) Delinquency. As a condition of obtaining or renewing a liquor license of the type issued by the Town, all local real estate and personal property taxes, assessments, special charges, forfeitures resulting from the ordinance violations, or delinquent state taxes or assessments shall be paid prior to applying for a new liquor license or a renewal of a liquor license. Any fees unpaid within a time limit set by the Town or a court, as the case may be, place the licensee in a state of delinquency and subject to disciplinary action by the Town Board, including but not limited to reprimand, suspension for a set time period up to 90 days, or revocation.
- 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.

7. Contents and Expirations 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 30 thereafter except as otherwise provided by law. Transfer of Licenses:

- a) As to person. No license shall be transferable as to licensee, except as provided by 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 125.04(12), 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 set by the Town Board.

8. 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 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.

9. Regulation of Licensed Premises and Licensees

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

- a) Employment of underage persons. No licensee shall employ any underage person to serve, sell, dispense or give away any alcohol beverage except as provided in 125.32(2) and 125.68(2), Wis. Stats.
- b) Sales by clubs. No club shall sell intoxicating liquor or fermented malt beverages, except to members and guests invited by members.
- c) 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.

10. Closing Hours

No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

- a) If a retail Class "A" fermented malt beverage license, between 12:00 midnight and 8:00 am.
- b) If a retail Class "A" intoxicating liquor license, between 9:00 pm. and 8:00 am.
- c) If a retail Class "B" license, between 2:00 am. and 6:00 am. on weekdays and 2:30 am. and 6:00 am. on Saturdays and Sundays. On Jan. 1, premises operating under a Class "B" license are not required to close. No package, container or bottle sales may be made after 12:00 midnight.
- d) Hotels and restaurants whose principal business is furnishing of food or lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

11. Revocation and Suspension of Licenses

- a) Procedure. Upon complaint by any person or at Town Board direction and following Town Board review and approval, written notice shall be given to the licensee of the complaint basis and the date and time the Town Board will hear the matter. For non-alcohol licenses where no statutory procedure is set, service may be first-class mail to the licensee's last known address or personal service, at the Chairperson's option. For alcohol licenses, 125.12. Wis. Stats., will be followed. At present, that statute requires personal service of the hearing notice (summons and complaint) and a hearing within three to 10 days thereafter. A record of service will be kept by the Town Clerk/Treasurer.
- b) Hearing. Evidence and testimony at the hearing shall be done in open session. Pursuant to 19.85(l)(a), Wis. Stats., the Town Board may go into closed session to deliberate with regard to its decision, where this has been listed on the hearing notice. The Town Clerk/ Treasurer shall see that the hearing notice is posted or published in a format acceptable to the Town Chairperson or his designated representative.
- c) Penalty. In lieu of a hearing, the Town Board may accept license surrender and then determine the time period before another application for the same type of license will be accepted from the former licensee for review. In the event that complaint allegations are proved at hearing, the Town Board shall decide which penalty for violation is appropriate. Multiple offenses may be considered at any hearing involving the same license.
- d) Effect of revocation. See 6-h of this chapter.

12. 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.

13. 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.

14. Violations and Penalties

- a) In addition to the revocation, suspension or nonrenewal of any license issued under this chapter, any person found to be in violation of any provision of this chapter shall be subject to a penalty.
- b) Penalties: A violation of this ordinance, or any provision thereof, shall be punishable by a civil penalty of \$25.00 for each violation, plus court costs and/or any other legal expenses incurred by the Town of Winchester.

15. Severability and Liability

Should any section, clause or portion of this ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

16. Effective Date

This ordinance shall be effective upon passage and publication as provided by law.