

Chapter 4 ALCOHOL BEVERAGES

ARTICLE I. - IN GENERAL

ARTICLE II. - LICENSING

ARTICLE III. - RULES AND REGULATIONS

ARTICLE IV. - PUBLIC CONSUMPTION RESTRICTIONS

State Law reference— Alcohol beverages, Wis. Stats. ch. 125; Municipal regulation, Wis. Stats. § 125.10.

ARTICLE I. IN GENERAL

Sec. 4-1. State statutes adopted.

Sec. 4-2. Definitions.

Sec. 4-3. Authority to inspect premises.

Sec. 4-4. Administrator/clerk-treasurer to provide list of licenses to state.

Sec. 4-5. Violations by agents and employees.

Secs. 4-6—4-28. Reserved.

Sec. 4-1. State statutes adopted.

The provisions of Wis. Stats. ch. 125, including all provisions relating to underage persons, are adopted and made part of this chapter by reference. A violation of any of such provisions shall constitute a violation of this section.

Sec. 4-2. Definitions.

The following words, terms and phrases, when used herein shall have the following meanings:

“Licensed establishment” means any establishment licensed by the town board pursuant to Wis. Stats. ch. 125.

“Licensee” means the holder of a license granted by the town board.

Sec. 4-3. Authority to inspect premises.

- (a) Consent. An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the town upon the licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this chapter all things found therein in violation of this chapter or law.
- (b) Reinspections. License fees cover the costs of an initial inspection and one reinspection. Second and subsequent reinspections require a reinspection fee as set by the town board.

Sec. 4-4. Administrator/clerk-treasurer to provide list of licenses to state.

By July 15 of each year, the administrator/clerk-treasurer shall forward to the state department of revenue a list containing the name, address and trade name of each person holding a license issued under this chapter, except a picnic, manager's or operator's license, the type of license held, and if the license is issued to a corporation or limited liability company, the name of such entity's appointed agent.

Sec. 4-5. 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.

Secs. 4-6—4-28. Reserved.

ARTICLE II. LICENSING

DIVISION 1. - GENERALLY

DIVISION 2. - LIMITATIONS ON LICENSE ISSUANCE

DIVISION 3. - TYPES OF LICENSES

DIVISION 4. - APPLICATIONS FOR LICENSES

DIVISION 5. - SUSPENSION, REVOCATION, AND NONRENEWAL

DIVISION 1. GENERALLY

Sec. 4-29. Penalties.

Sec. 4-30. License required.

Sec. 4-31. Term of license.

Sec. 4-32. Contents of licenses.

Sec. 4-33. Transfer of licenses.

Sec. 4-34. Fees.

Secs. 4-35—4-56. Reserved.

Sec. 4-29. Penalties.

Any person violating any provision of this article shall be subject to penalties as set forth in section 1-17.

Sec. 4-30. License required.

The town board shall have the sole power to grant or refuse licenses to any individual, firm or corporation.

Sec. 4-31. Term of license.

All licenses issued shall take effect on July 1, and expires on the succeeding June 30, unless sooner revoked by the town board or other authority of law or surrendered by the licensee to the town.

Sec. 4-32. Contents of licenses.

All licenses shall be numbered in the order in which they are issued and shall clearly state the specific premises for which the licenses are granted, the date of issuance, the fee paid and the name of the licensee.

Sec. 4-33. Transfer of licenses.

- (a) Persons. No license shall be transferable to a different licensee, except as provided by Wis. Stats. § 125.04(12). The granting of the transferred license to the new licensee is to be reviewed in the same manner as the granting of a new license by the town board.
- (b) Places. Licenses issued pursuant to this chapter may be transferred to another premises at least once during any license year as provided in Wis. Stats. § 125.04(12). Application for such transfer shall be made on forms furnished by the state department of revenue. Proceedings for such transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be \$10.00.

Sec. 4-34. Fees.

Fees for alcohol beverage licenses shall be as established from time to time by the town board as indicated in the schedule of fees available in the office of the town administrator/clerk-treasurer.

Secs. 4-35—4-56. Reserved.

DIVISION 2. LIMITATIONS ON LICENSE ISSUANCE

Sec. 4-57. Statutory eligibility requirements.

Sec. 4-58. Limitations on licensing of violators of alcohol laws or ordinances.

Sec. 4-59. Conformity to health and sanitation standards required.

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Sec. 4-65. Delinquent taxes, assessments, and claims prohibited.

Sec. 4-66. Drive through dispensaries prohibited.

Sec. 4-67. License holder required to be actively engaged in business.

Secs. 4-68—4-92. Reserved.

Sec. 4-57. Statutory eligibility requirements.

Licenses shall be issued only to persons eligible for such licenses under Wis. Stats. § 125.04.

Sec. 4-58. Limitations on licensing of violators of alcohol laws or ordinances.

No license shall be issued to any person whose license has been revoked under Wis. Stats. § 125.12 during a period of one year prior to such application and no other license may be granted for the premises covered by the revoked license within 60 days of the date of revocation. 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 a period of one year.

Sec. 4-59. Conformity to health and sanitation standards required.

No retail class A or 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 commerce pertaining to buildings and plumbing, the rules and regulations of the state department of health applicable to restaurants and all such ordinances and regulations adopted by the town.

Sec. 4-60. Location restrictions.

No applicant may obtain a "Class B" license or permit or a "Class C" license unless the premises complies with the rules promulgated by the department of agriculture, trade and consumer protection governing sanitation in restaurants.

Sec. 4-61. Limitation on number of licenses issued.

The number of persons and places that may be granted a retail class B liquor license under this chapter is limited as provided in Wis. Stats. § 125.51(4).

Sec. 4-62. Statutory requirements for 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 Wis. Stats. § 125.04(6).

Sec. 4-63. Age of license holders restricted.

No license under this chapter, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operators' licenses may be issued only to applicants who have attained the age of 18 years.

Sec. 4-64. Limitation for issuance following revocation of license.

Whenever any license has been revoked, at least 12 months shall elapse before another license shall be granted to the person whose license was revoked.

Sec. 4-65. Delinquent taxes, assessments, and claims prohibited.

No initial alcohol license shall be granted for any premises for which taxes, charges, fees, assessments or other claims of the town are delinquent and unpaid. No initial or renewal alcohol license shall be granted to any person who is delinquent in the payment of any taxes, charges, fees, assessments, or other claims owed to the town, or who is delinquent in the payment of a forfeiture resulting from a violation of any ordinance of the town.

Sec. 4-66. Drive through dispensaries prohibited.

- (a) No license shall be issued to any person for the retail sale of any intoxicating liquor or fermented malt beverage at or from any type of drive through dispensary.
- (b) No retail establishment with a license to sell intoxicating liquor and/or fermented malt beverages shall sell either intoxicating liquors or fermented malt beverages to any member of the public by way of a drive through dispensary.

Sec. 4-67. License holder required to be actively engaged in business.

- (a) No "Class B" retail liquor license shall be held by any person who is not actively engaged in the business for which such license is issued. Failure to continuously be so engaged shall constitute an abandonment of such license and shall be cause for revocation of the license.
- (b) "Actively engaged" shall mean having the business open to the public and ready to conduct business for at least eight hours per day for at least 200 days per year for an annual license and half of these amounts for any six month license.
- (c) Failure to operate a licensed place of business at all for 60 days after issuance of the license in the case of an annual permit, or after the start of the operating date in the case of a six month permit, shall be cause for revocation of the license. If the premises designated to be licensed has not yet been constructed (any such applicant for a license being required to have a legal interest in such designated premises), the town board may, in its discretion, extend the period of inactivity for good cause shown.

Secs. 4-68—4-92. Reserved.

DIVISION 3. TYPES OF LICENSES

Sec. 4-93. Alcohol license classifications.

Sec. 4-94. Operator's license.

Sec. 4-95. Provisional licenses.

Sec. 4-96. Manager's license required.

Secs. 4-97—4-120. Reserved.

Sec. 4-93. Alcohol license classifications.

All alcohol beverage license types permitted by Wis. Stats. Ch. 125 are issued by the town.

Sec. 4-94. Operator's license.

Application for an operator's license shall be made to the town administrator/clerk-treasurer on such form as the town administrator/clerk-treasurer may provide, and shall be accompanied by the prescribed fee. Notwithstanding any other provision contained in this chapter, an operator's license may only be issued to an applicant who has attained the age of 18 years per Wis. Stats. § 125.04(5)(d). The Town Board hereby designates and authorizes the administrator/clerk-treasurer to issue operators' licenses.

Sec. 4-95. Provisional licenses.

- (a) A provisional operator's license may be issued by the town administrator/clerk-treasurer only to a person who has applied for an operator's license. A provisional operator's license may not be issued to any person who has been denied a license by the town board within the past five years. The application fee is \$15.
- (b) A provisional operator's license expires 60 days after its issuance or when a regular operator's license is issued to the holder of such license, whichever occurs first.
- (c) A provisional retail license may be issued by the town administrator/clerk-treasurer only to a person who has applied for a retail license. A provisional retail license may not be issued to any person who has been denied a license by the town board within the past five years. The application fee is \$15.
- (d) A provisional retail license expires 60 days after its issuance or when a regular retail license is issued to the holder of such license, whichever occurs first.

Sec. 4-96. Manager's license required.

No person may manage premises operating under a "Class B" license or permit, a "Class C" license or a Class "B" license or permit, unless the person is the licensee or permittee, an agent of a corporation or limited liability company appointed as required by § 125.04(6) or the holder of a manager's license. A manager's license issued in respect to a vessel under § 125.27(2) is valid outside the municipality that issues it. A person manages Class "B" premises if that person has responsibility or authority for:

- 1. Personnel management of all employees, whether or not the person is authorized to sign employment contracts;
- 2. The terms of contracts for the purchase or sale of goods or services, whether or not the person is authorized to sign the contracts; or
- 3. The daily operations of the Class "B" premises.

Secs. 4-97—4-120. Reserved.

DIVISION 4. APPLICATIONS FOR LICENSES

Sec. 4-121. License fees to accompany application; refunds.

Sec. 4-122. License application form.

Sec. 4-123. Inspection and retention of license application records.

Secs. 4-124—4-144. Reserved.

Sec. 4-121. License fees to accompany application; refunds.

- (a) Required with application. License fees imposed under this chapter shall accompany the license application.
- (b) Refunds. When the holder of an alcohol beverage license shall surrender such license, the holder shall be entitled to a prorated refund of the license fee.

Sec. 4-122. License application form.

Applications for alcoholic beverage licenses shall be made in writing on forms prescribed by the state department of revenue, and filed with the town administrator/clerk-treasurer. 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. Applications shall be signed and sworn to by the applicant, as provided by Wis. Stats. § 887.01.

Sec. 4-123. Inspection and retention of license application records.

Any person may inspect applications for alcoholic beverage licenses. The town administrator/clerk-treasurer shall retain as record custodian alcoholic beverage applications made to the town.

Secs. 4-124—4-144. Reserved.

DIVISION 5. SUSPENSION, REVOCATION, AND NONRENEWAL

Sec. 4-145. Applicability of division.

Sec. 4-146. Board may revoke license.

Sec. 4-147. Imposition of additional regulations and restrictions by the town board.

Sec. 4-148. Complaint; summons.

Sec. 4-149. Hearing procedure.

Sec. 4-150. Effect of revocation.

Sec. 4-151. Judicial review.

Sec. 4-152. Nonrenewal of license.

Secs. 4-153—4-172. Reserved.

Sec. 4-145. Applicability of division.

The following provisions shall apply to the revocation, suspension, or nonrenewal of any license issued pursuant to this chapter, notwithstanding any other provision of this Code, except provisions providing for revocation or suspension of any license by the court. The provisions in this division are in addition to any other provisions of this Code.

Sec. 4-146. Board may revoke license.

The town board shall have the power to revoke any license upon complaint or upon knowledge, information, and proof that the privileges granted under such license have been abused per Wis. Stat. § 125.12(2) or § 4-147 of this Code below.

Sec. 4-147. Imposition of additional regulations and restrictions by the town board.

Any license issued pursuant to this chapter shall be subject to such further regulations and restrictions as may be imposed by the town board at the time of its initial issuance. If any licensee shall fail or neglect to meet the requirements imposed by such additional restrictions and regulations, his license may be revoked in accordance with this chapter.

Sec. 4-148. Complaint; summons.

- (a) Upon complaint made in writing under oath by any person and filed with the town administrator/clerk-treasurer that any person or other entity licensed pursuant to this chapter has violated any provision pursuant to Wis. Stat. § 125.12(2) or § 4-147 of this Code, the town board shall issue a summons commanding the licensee complained of to appear before the town board on a day and time, and at a place named in the summons to show cause why the license should not be revoked or suspended.
- (b) Such summons shall be served not less than three, nor more than ten days before the time at which the licensee is commanded to appear and may be served pursuant to Wis. Stat. § 801.11. The complaint shall be served with the summons and shall set forth the offense allegedly committed, the date and place of such offense, and the facts constituting the alleged offense.

Sec. 4-149. Hearing procedure.

- (a) If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and, if the town board finds the allegations sufficient, the license shall be revoked. The town administrator/clerk-treasurer shall give notice of the revocation to the person whose license is revoked.
- (b) If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If the hearing is held and the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked, except that, if a complaint under Wis. Stat. § 125.12(2)(ag)4 is found to be true with respect to a license issued under Wis. Stat. § 125.51(4)(v), the license shall be revoked.
- (c) The municipal clerk shall give notice of each suspension or revocation to the person whose license is suspended or revoked.
- (d) If the town board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the town board finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. The town board may require the complainant to provide security for such costs before issuing the summons under Wis. Stat. § 125.12(2)(ar).

Sec. 4-150. Effect of revocation.

When a license is revoked under this section, the revocation shall be recorded by the town administrator/clerk-treasurer and no other license issued under this chapter shall be granted to such

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licensee or for such premises for a period of 12 months from the date of the revocation. No part of the fee paid for any license so revoked may be refunded.

Sec. 4-151. Judicial review.

The action of the town board in granting, failing to grant, suspending, or revoking any license, or the failure of the town board to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee, or resident of the town pursuant to Wis. Stat. §125.12(2)(d).

Sec. 4-152. Nonrenewal of license.

The town board may refuse to renew a license for the causes provided in Sec 4-148(a). Prior to the time for the renewal of the license, the town board shall notify the licensee in writing of the intention not to renew the license and provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended refusal. The hearing and judicial review shall be as provided for license revocations.

Secs. 4-153—4-172. Reserved.

ARTICLE III. RULES AND REGULATIONS

DIVISION 1. - GENERALLY

DIVISION 2. - MINORS

DIVISION 1. GENERALLY

Sec. 4-173. Use of area outside licensed area limited.

Sec. 4-175. Hours of operation.

Sec. 4-176. Sales to persons showing intoxication prohibited.

Sec. 4-177. Curtains, screens, blinds, etc., prohibited.

Secs. 4-178—4-207. Reserved.

Sec. 4-173. Use of area outside licensed area limited.

Alcoholic beverages are allowed only in the specific areas of the premises described on the license that is approved by the board and issued to the licensee. Any licensee seeking use of their license in either a different interior or exterior area must apply to the board in writing and will be subject to such conditions as are required by the board if approved for such a change to the description of premises on the license.

Sec. 4-175. Hours of operation.

No fermented malt beverages or intoxicating liquors shall be sold or consumed on any licensed premises, except during those hours permitted under Wis. Stats. §§ 125.32(3) and 125.68(4).

(Ord. No. 18, § 1, 7-1-1981)

Sec. 4-176. Sales to persons showing intoxication prohibited.

No alcoholic drinks shall be sold, dispensed or given to any person who is intoxicated.

Sec. 4-177. Curtains, screens, blinds, etc., prohibited.

During the hours when a licensed premises is required to be closed, any curtains or other obstructions to view, facing on the street or highway, shall be removed to such an extent that a clear view may be had of the interior of such premises. In any such premises, no curtain, door or other obstruction shall close off the view into any booth, room or other enclosure in which any alcohol beverage may or can be served.

Secs. 4-178—4-207. Reserved.

DIVISION 2. MINORS

Sec. 4-208. Presence of minors in licensed premises restricted; furnish alcohol beverages to minors prohibited.

Sec. 4-209. Violations by underage persons.

Secs. 4-210—4-226. Reserved.

Sec. 4-208. Presence of minors in licensed premises restricted; furnish alcohol beverages to minors prohibited.

- (a) No person under 21 years of age shall be allowed in any premises licensed under this chapter later than 9:30 p.m. unless accompanied by his parent, guardian, or spouse who has attained the legal drinking age.
- (b) No person may procure for, sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his spouse, parent or guardian who has attained the legal drinking age.

State Law reference — Similar provision, Wis. Stat. § 125.07.

Sec. 4-209. Violations by underage persons.

Any underage person who does any of the following is guilty of a violation:

- (1) Procures or attempts to procure alcohol beverages.
- (2) Knowingly possesses or consumes alcohol beverages not in the course of employment.
- (3) Enters or is on licensed premises in violation of Wis. Stat. § 125.07(3)(a).
- (4) Falsely represents his age for the purpose of receiving alcohol beverages from a licensee or permittee.

Secs. 4-210—4-226. Reserved.

ARTICLE IV. PUBLIC CONSUMPTION RESTRICTIONS

Sec. 4-227. Purpose.

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Sec. 4-228. Consumption on streets prohibited.

Sec. 4-229. Consumption on licensed premises.

Sec. 4-230. Consumption on public property prohibited.

Secs. 4-231—4-253. Reserved.

Sec. 4-227. Purpose.

It is the purpose of this article to restrict the consumption of any intoxicating liquor or fermented malt beverage in the town.

Sec. 4-228. Consumption on streets prohibited.

No person shall consume any intoxicating liquor or fermented malt beverage upon the public highways, streets, alleys, sidewalks, street crossings, bridges, public parking lots or upon premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned, in the town, except for municipally approved community functions or events where authorized by specific town permit.

Sec. 4-229. Consumption on licensed premises.

All purchases of intoxicating liquor or fermented malt beverage by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any public highway, street, alley, sidewalk, street crossings, bridges, public parking lots, or premises held out to the public for use of motor vehicles, whether such premises are publicly or privately owned, in the town.

Sec. 4-230. Consumption on public property prohibited.

No person shall bring upon, use, consume, sell or convey any intoxicating liquor or fermented malt beverage in or upon any property, building or other structure which is owned or under the control of the town, except in such places as may be designated by the town and in accordance with the rules and regulations as may be from time to time adopted by the town board.

Secs. 4-231—4-261. Reserved.

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