

CHAPTER 20

LICENSING SALES OF INTOXICATING LIQUORS AND FERMENTED MALT BEVERAGES¹

20.01 Intoxicating Liquor and Fermented Malt Beverages

State Statutes Adopted - The provisions of Chapter 125, Wisconsin Statutes, defining and regulating the sale, procurement, dispensing, and transfer of beverages, including provisions relating to the penalty imposed the punishment for violation of such statutes, are adopted and made a part of this section by reference. A violation of any such provisions shall constitute a violation of this Chapter.

20.02 Licenses, Permits, Authorization Required

(1) When required - no person except as provided by Section 125.06, Wisconsin Statutes, shall, within the Village of Oostburg, serve, sell, manufacturer, rectify, brew, or engage in any other activity for which this chapter or Chapter 125, Wisconsin Statutes, requires a license, permit, or other authorization without holding the appropriate license, permit, or other authorization as provided in this chapter.

(2) Separate License Required for Each Place of Sale - except for licensed public warehouses, a wholesaler, manufacturer, rectifier, brewer and retailer shall have a separate permit or license covering each location or premise from which deliveries and sales of alcoholic beverages are made

20.03 Classes of Licenses and Fees

The following classes and denominations of licenses may be issued by the Village Clerk under the authority of the Village Board after 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 Section 125.17, 125.25, 125.26, 125.28 and 125.51 Wisconsin Statutes. Except as otherwise provided in this Section, the full license fee shall be charged for the whole or any fraction of any year.

(1) Class "A" fermented malt beverages retailer's license - \$100.00 per year.

(2) Class "B" fermented malt beverages retailer's license - \$50.00 per year.

A. Six (6) months. A license may be issued at any time for a period of six (6) months in any calendar year, but for which one-half ($\frac{1}{2}$) or 50% of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued.

B. Class "B" fermented malt beverage retailer's licenses for picnics, as provided in 125.26(6), Wisconsin Statutes, shall be - \$10.00 per event.

¹Repealed and Recreated Through Ordinance 7-2011, adopted June 13, 2011. See Minutes of the Village Board, Volume 20, page 1667

(3) Temporary Class B Wine License. \$10.00 per event, however, no fee for this license shall be charged if the Temporary Wine License is obtained along with the Temporary Fermented Malt Beverage License. Temporary Class B. Wine Licenses may be issued as provided in Wis. Stat. §125.26(6).

(4) Wholesalers fermented malt beverage license - \$25.00 per year or fraction thereof.

(5) Retail "Class A" liquor license - \$300.00 per year.

(6) Retail "Class B" liquor license - \$300.00 per year.

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

B. Licenses valid for six (6) months may be issued at anytime. Fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(7) Reserve "Class B" Intoxicating Liquor Retailer's License. In addition to the annual fee as provided in Section 20.03(5) above, a one-time initial fee of \$10,000.00 is hereby established for issuance of this license in accordance with the provisions of Wis. Stat. §125.51(3)(e) 2.

A. The Village of Oostburg hereby finds that it is in the interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.

B. After the granting of any new reserve Class B license and payment of the \$10,000 initial issuance fee, the applicant may file an application for an economic development grant of \$10,000 with the Clerk. The Clerk shall determine whether the licensee is operating in compliance with the approved license. The Clerk may require the assistance of any other Village official or staff in making said determination. If the Clerk determines that the licensee is so operating, the Clerk shall authorize the approval of the \$10,000 economic development grant. If the Clerk determines that the licensee is not in compliance with the approved license, no economic development grant may be authorized and the Clerk shall make such finding in writing and cause to be delivered a copy of the findings to the licensee. If the licensee disagrees with the Clerk's determination, the licensee may file a written notice of appeal upon the Clerk within 10 (ten) calendar days of the delivery of the written notice of the Clerk's findings. Upon receiving such notice from the licensee, the Clerk shall relay said notice to the

Village Board which shall hold a hearing thereon. The Village Board may affirm or reverse the Clerk's determination. If the Clerk's determination is upheld, appeal thereof may be taken to circuit court pursuant to Section 753.04, Wis. Stats. If the Clerk's determination is reversed, the Clerk shall authorize the payment of the economic development grant.

- (8) Retail Class "C" Wine License. The annual fee for a "Class C" license shall be \$100.00.

20.04 Operator's Licenses and Fee

(1) Any person 18 or older who is serving or selling alcohol beverages in an establishment with a Class A, B, or C license must obtain an operator's license, unless the person is under the immediate supervision of one of the following:

- A. the licensee;
- B. someone holding an operator's license;
- C. the approved agent of a corporation or LLC;
- D. someone with the privilege of an operator's license under Wis. Stat. § 125.32(2) and 125.68(2);
- E. a person with a manager's license.

(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 year and shall expire on June 30 of each year.

(4) 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 State Department of Revenue, or governing body for operator's licenses and filed with the Village Clerk. The premises shall be physically described, including every room, 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 - application shall be signed and sworn to by the applicant as provided by Section 887.01 Wisconsin Statutes.

C. Duplicates - Upon approval of any application for a license or permit, a copy of said application will be forwarded by the Village Clerk to the State Department of Revenue, as required by Statute 125.04(4).

(5) Operator's licenses may be issued only to applicants meeting the qualifications under Wis. Stat. § 125.17.

20.05 License Restriction.

- (1) Statutory Requirements. Licenses shall be issued only to persons qualified under Section 125.04(5) and 125.33(7)(b), Wisconsin Statutes.
- (2) Location.
 - A. No retail "Class "A" or "Class "B" license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial, 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.
 - B. This paragraph shall not apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.
- (3) Health and Sanitations Requirements. No retail class "B" or class "C" license shall be issued for any premises which do 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 Village.
- (4) License Quota. The number of persons and places that may be granted a "Class B" liquor license under this section is limited as provided in Section 125.51(4) Wisconsin Statutes.
- (5) Corporations. No retail license shall be granted to any corporation when more than 50% of the voting stock interest, legal interest, or beneficial interest is held by any person or persons not eligible for a license under this section.
- (6) Age Requirement. No retail license hereunder shall be granted to any person under 21 years of age.
- (7) Effect of Revocation of License. Whenever any license has been revoked, at least sixty (60) days from the time of such revocation shall elapse before another license shall be granted for the same premises and twelve(12) months shall elapse before another license shall be granted to the person whose license was revoked.
- (8) Delinquent Taxes, Assessments, and Claims. No license shall be granted or renewed for any premises for which taxes, assessments, or other claims of the Village are delinquent and unpaid, or to any person delinquent in payment of such claim to the Village.
- (9) 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.

20.06 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 30 thereafter except, as otherwise provided.

20.07 Transfer of Licenses.

(1) As to Persons. No license shall be transferable as to any licensee except as provided by Section 125.04(12), Wisconsin Statutes.

(2) As to Place. Licenses issued pursuant to this Section may be transferred as provided by Sections 125.04(12), Wisconsin Statutes. 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.

20.08 Posting and Care of Licenses.

Every license or permit required under this Section shall be framed and posted and at all times displayed as provided in Section 125.04(10), Wisconsin Statutes. 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.

20.09 Regulation of Licensed Premises and Licenses.

(1) 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 anytime on any such premises.

(2) Employment of Minors. No licensee shall employ any person under 18 years of age to serve, sell dispense or give away any alcohol beverage.

(3) 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.

20.10 Carryout Sale Hours.¹

These restrictions shall apply to premises for which each type of retail alcohol beverage license has been issued:

(1) Class "A" fermented malt beverages: the premises may remain open but shall not sell fermented malt beverages between midnight and 6:00 a.m.

¹ Amended by Ordinance 12-2011, Adopted 12/20/2011, published 12/13/2011, See Minutes of the Village Board, Vol. 21, Page 1696.

(2) Class "B" fermented malt beverages: the premises may remain open pursuant to § 125.32(3), Wis. Stats., but shall not sell fermented malt beverages for off-premises consumption between midnight and 6:00 a.m.

(3) "Class A" intoxicating liquor: the premises may remain open but shall not sell intoxicating liquor between 9:00 p.m. and 8:00 a.m.

(4) "Class B" intoxicating liquor: the premises may remain open pursuant to § 125.68(4)(c), Wis. Stats., but shall not sell intoxicating liquor for off-premises consumption between 9:00 p.m. and 6:00 a.m.

20.11 Revocation and Suspension of Licenses.

(1) Procedure. Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Section 125.12, Wisconsin Statutes, and the provisions therein relating to the initial granting or renewal of a license shall likewise be applicable.

(2) Effect of Revocation. See Section 20.05(7) of this ordinance. No portion of the license fee may be recovered if revoked.

(3) Nonrenewal of Licenses. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of charges or violations for the reason proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Village Board as provided in Statute 125.12.

(4) Violations by Agents and Employees. A violation of this Section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.