

CHAPTER 4: INTOXICATING LIQUORS AND FERMENTED MALT BEVERAGES

SECTION 4.01 STATUTES ADOPTED

All provisions, requirements, and restrictions alcoholic beverages and the sale thereof, set forth in Wis. Stat. Ch. 125, except §§ 125.09(6), 125.14(4), 125.56(2), 125.57, 125.59, 125.60, 125.61, 125.62, and 125.66(3), are adopted as a portion of this code of ordinances, and a violation of any such provisions constitutes a violation of this Chapter.

SECTION 4.02 UNDERAGE ALCOHOL VIOLATIONS.

The restrictions and penalties regulating underage persons contained in Wis. Stat. §§ 125.07-125.09 are hereby adopted by reference and made a part of this section as if fully set forth herein.

SECTION 4.03 LICENSE RESTRICTIONS.

A. PREMISES.

No original liquor license shall be issued to any applicant until the clerk's office has received proof of control of the premises by either a purchase or lease agreement for the premise for which the original liquor license application has been made.

B. PERSONS.

No initial or renewal alcohol license shall be granted to any person delinquent in payment:

1. Of any taxes, assessments or other claims owed to the village.
2. Of a forfeiture resulting from a violation of any ordinance of the village.
3. To the state of any state taxes owed.

SECTION 4.04 APPLICATION FOR LICENSE.

A. INSPECTION

The clerk/adm. secretary shall notify the chief of police, health officer, chief of the fire department and building inspector of each application, and those officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and law applicable thereto, including those governing sanitation in restaurants.

B. REPORT

These officials shall each furnish to the village board in writing the information derived from such investigation, accompanied by a statement as to whether the applicant and premises meet the requirements

of the department for whom the officer is certifying. No license shall be renewed without a reinspection of the premises and report as originally required.

C. SUITABILITY

In determining the suitability of an application, consideration shall be given to:

1. The moral character and financial responsibility of the applicant.
2. The appropriateness of the location and premises proposed.
3. Generally the applicant's fitness for trust to be reposed.
4. The effect on the assessment roll.
5. The number of similar types of businesses in the village.
6. The percentage of the business related to food.
7. The necessity for this type of business and structure.
8. The terms and conditions as the board and applicant may agree upon.

SECTION 4.05 REVOCATION OR SUSPENSION OF LICENSE.

A. PROCEEDINGS.

Proceedings for revocation or suspension of any license issued hereunder may be instituted in the manner and under the procedure prescribed in Wis. Stats. § 125.12.

B. VIOLATION BY AGENT.

A violation of this chapter by duly authorized agent or employee of a licensee shall constitute a violation by the licensee.

C. GRANT OF LICENSE AFTER REVOCATION.

No license shall be granted to a person who has had his license revoked hereunder for a period of one year from the date of revocation.

SECTION 4.06 LICENSE AND AGE REQUIREMENTS.

A. MINIMUM AGE.

1. No person, other than the licensee, an agent or manager named in the license or a member of the licensee's immediate family who has attained the age of 18, shall sell or serve alcoholic

beverages in any place operated under a class A or class B license unless he/she possesses an operator's license issued by the village or is at least 18 years of age and is under the immediate supervision of the licensee or a person holding an operator's license who is on the premises at the time of service.

2. An operator's license will be issued only to those persons who have attained the age of 18.

B. CHECKOUT CLERK.

A checkout clerk in a class A licensed premises does not require an operator's license, but the checkout clerk must be at least 18 years of age and a licensed operator must be on the premises and be able to supervise the checkout of alcoholic beverages.

SECTION 4.07 PROVISIONAL OPERATOR'S LICENSES.

A. REQUIREMENTS.

The clerk/adm. secretary may grant a provisional operator's license to an individual who complies with Wis. Stats. § 125.04(5) and has also applied for a regular operator's license subject to the following restrictions:

1. The applicant for a provisional operator's license must furnish an affidavit stating that he/she has not been convicted of, nor has any charge pending, for any felony, misdemeanor or ordinance violation, the facts of which would affect the applicant's fitness to serve intoxicants or sell alcohol beverages.
2. A written statement must be provided by a sponsor for the applicant who must have an alcohol license issued under Wis. Stats. Ch. 125 indicating that the sponsor has known the applicant, that the applicant has a place to work, and that the sponsor shall reimburse the village for any expenses incurred by the village in revoking the applicant's provisional operator's license.
3. Evidence that the applicant has enrolled in a training course required by Wis. Stats. § 125.17(6). Provided, however, that the provisional operator's license shall be revoked if the applicant fails to successfully complete the course in which he or she enrolls.

B. PROVISIONAL OPERATOR LICENSE RESTRICTIONS.

1. No provisional operator's license may be issued to a person who has been denied an operator's license by the village board.
2. The operator is limited to working for the sponsor as defined in subsection (a) above until a regular operator's license is issued by the village board.
3. The provisional operator's license shall expire 60 days after its issuance or when a regular operator's license is issued to the holder, whichever is sooner.

4. The clerk/adm. secretary may revoke the provisional operator's license if he or she discovers that the holder of the license made a false statement on the application.

C. PROVISIONAL OPERATOR'S FEE.

No provisional operator's license shall be processed unless the license fee accompanies the application.

SECTION 4.08 TEMPORARY OPERATOR'S LICENSE.

A. RESTRICTIONS

The Clerk may grant a temporary operator's license to an individual who complies with Wis. Stat. § 125.17 subject to the following restrictions:

1. The applicant for a temporary operator's license must furnish an affidavit stating that he/she has not been convicted of, nor has any charge pending, for any felony, misdemeanor or ordinance violation, the facts of which would affect the applicant's fitness to serve intoxicants or sell alcohol beverages.
2. A temporary operator's license will only be issued to those persons who have attained the age of 18.
3. A temporary operator's license will only be issued to applicant's employed by, or donating their services to, nonprofit corporations.
4. No person shall hold more than one license of this kind per year.
5. The license period is only valid for any period from one day to 14 days, and the period for which this license is valid will be noted on the license.

SECTION 4.09 FEES AND TAXES TO BE PAID.

No license shall be granted for any premises upon which taxes or assessments or other claims of the village are delinquent and unpaid.

SECTION 4.10 FILING.

All applications for alcoholic beverages licenses must be filed with the clerk/adm. secretary at least 15 days prior to action by the licensing authority. The 15-day period begins the day after the application is filed. The fee for the liquor license is prorated on the basis of the number of months remaining in the licensing year.

SECTION 4.11 DEFINITIONS.

A. FOR PURPOSES OF THIS CHAPTER:

1. "Alcohol beverage" shall have the meaning established in Wis. Stats. § 125.02(1).

2. "Public space" shall include all of the following:

- a. Public streets or highways, as defined in Wis. Stats. § 340.22;
- b. Public sidewalks, as defined in Wis. Stats. § 340.58, and pathways;
- c. Any public alley as defined in Wis. Stats. § 340.01(2);
- d. Public property owned, or under control of, the Town of Baraboo or any district within the Town; and
- e. Private property held open for use by the public.

SECTION 4.12 OPEN INTOXICANTS RESTRICTED.

No person shall, in a public space, possess any open container that contains an alcohol beverage or wine provided, however, that this section shall not be deemed to prevent the otherwise legal sale or consumption of alcohol beverages purchased on licensed premises pursuant to a valid license or permit issued pursuant to Wis. Stats. Ch. 125 or this Code of Ordinances.

SECTION 4.13 NOTICE REQUIRED BY CLASS B RETAIL LICENSE HOLDERS.

All holders of class B retail licenses issued under this chapter shall post notice within the licensed premises in a conspicuous manner that no alcohol beverage may be carried in an open container beyond the licensed premises. Every retail licensee and every holder of an operator's license under this chapter shall take reasonable action under the circumstances to prevent violations of this article.

SECTION 4.14 OUTDOOR PREMISES ENFORCEMENT PLAN.

Persons applying for a class B license for premises that includes any outdoor location shall, as part of their application, provide a plan setting forth efforts that will be utilized to provide notice to patrons of the limits of the licensed premises and prevent violation of this article.

SECTION 4.15 LICENSE FEES

The annual license fee to be paid for licenses issued by the Town Board under this Chapter shall be as per Town of Baraboo Fee schedule, as approved by the Town Board by resolution and on file with the Town Clerk.

SECTION 4.16 RESTRICTIONS, SCHOOL PROXIMITY

No alcohol beverages license shall be issued for any premises which are less than three hundred (300) feet from the boundaries of the grounds of the University of Wisconsin, Baraboo, Sauk County Center. This distance shall be measured via the shortest route along the highway from the closest point of the boundary of the grounds of said educational institution to the closest entrance to such premises.

SECTION 4.17 NUDE DANCING IN LICENSED ESTABLISHMENTS RESTRICTED

A. DEFINITIONS

For the purposes of this ordinance:

1. “Licensed Establishment” means any establishment licensed by the Town Board of the Town of Baraboo to sell alcoholic beverages, pursuant to Wis. Stat. Ch. 125.
2. “Licensee” means the holder of a retail license granted by the Town Board of the Town of Baraboo, pursuant to Wis. Stat. Ch. 125.

B. PROHIBITIONS

It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer, or patron to perform or engage in any live act, demonstration, dance, or exhibition on the premises of a licensed establishment which:

1. Shows such person’s genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering;
2. Shows any portion of the female breast below a point immediately above the top of the areola;
or
3. Shows the covered male genitals in a discernably turgid state.

C. EXEMPTIONS

The provisions of this section do not apply to the following licensed establishments where live dance, ballet, music, and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to the customers of entertainment which is intended to provide sexual stimulation or sexual gratification and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude, erotic dancing:

1. Theaters
2. Performing arts centers
3. Civic centers
4. Dinner theaters

D. PENALTIES

Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$100.00 and not more than \$500.00 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes good cause and sufficient grounds for suspending, revoking, or non-renewing an alcohol beverage license under Wis. Stat. § 125.12.