

## Chapter 230

### INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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[HISTORY: Adopted by the Town Board of the Town of Washington 6-19-1986 as Ch. 8, Subch. I of the 1986 Code. Amendments noted where applicable.]

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#### § 230-1. Definitions.

The definitions contained in § 125.02, Wis. Stats., are hereby adopted and made a part of this chapter by reference.

#### § 230-2. Licenses and permits required. <sup>1</sup>

No person, except as authorized by this chapter and Ch. 125, Wis. Stats., shall within the Town of Washington serve, sell, distribute, vend, offer, or keep for sale at retail or wholesale, deal or traffic in intoxicating liquor or fermented malt beverages or engage in any other activity for which a license or permit is authorized under this chapter and Code.

#### § 230-3. License classes and fees. [Amended 5-4-1987<sup>2</sup>]

There shall be the following classes of licenses, which when issued by the Town Clerk/Treasurer under the authority of the Town Board after the payment of the appropriate fee hereinafter specified, shall permit the holder to sell, deal, or traffic in alcohol beverages as provided in Ch. 125, Wis. Stats. Fees for "Class A," Class "A," "Class B" and Class "B" licenses will be prorated as required by Ch. 125, Wis. Stats.

Class "A" fermented malt beverage license: as set by the Town Board.

- A. Retail Class "B" fermented malt beverage license: as set by the Town Board.
- B. Class "B" picnic license for fermented malt beverage license for bona fide clubs, state, county, or local fair associations or agricultural societies, lodges, or societies, etc.: as set by the Town Board.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).  
2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- a.) An opera house or theater for the performing arts operated by a nonprofit organization, as defined in statute 134.695 (1)(a,m). Notwithstanding sub. (3)(a) and (b), a "Class B" license issued under this subdivision authorizes the retail sale of intoxicating liquor only for the consumption on the premise where sold and only in connection with ticketed performances. As authorized under State Statute 125.51 (2)(v) 3. Retail Licenses and Permits<sup>3</sup>
- C. Wholesaler's fermented malt beverage license: as set by the Town Board.
- D. Special wholesaler fermented malt beverage license: as set by the Town Board.
- E. Operator's license: as set by the Town Board. The Town Clerk/Treasurer can authorize and approve a provisional operator's license.
- F. Manager's license: as set by the Town Board.
- G. Retail "Class A" intoxicating liquor license: as set by the Town Board.
- H. Retail "Class B" intoxicating liquor license: as set by the Town Board. The Town Board has elected to come under the provisions of § 125.51(3)(b), Wis. Stats., which authorizes the holder of a Retail "Class B" License to:
  - I. Sell intoxicating liquor in multiples not to exceed four liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.
  - J. Sell intoxicating liquor only for the consumption on the premise of an opera house or theater for the performing arts operated by a nonprofit organization, as defined in statute 134.695 (1)(a,m). Notwithstanding sub. (3)(a) and (b), a "Class B" license issued under this subdivision authorizes the retail sale of intoxicating liquor only for the consumption on the premise where sold and only in connection with ticketed performances.<sup>4</sup>
- K. "Class C" wine license: as set by the Town Board. A "Class C" wine license, when issued by the Town Clerk-Treasurer under the authority of the Town Board, shall entitle the holder thereof to sell wine by the glass or in an opened original container for consumption on the premises where sold. A "Class C" wine license may be granted to an applicant only if the applicant meets the qualifications set out in § 125.04(5), Wis. Stats., the license is for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts, and wine is the only intoxicating liquor sold in the barroom.

**§ 230-4. License requirements and restrictions.**

- A. Application procedure. All applications for a license authorized under this chapter and Ch. 125, Wis. Stats., shall be made in writing on forms prescribed by the State Department of Revenue, as approved by the Town Board. The application shall

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<sup>3</sup> Clerk's Note: Approved Amendment Ordinance 2013-01 at STBM 3/27/13 Section 4, Item A.

<sup>4</sup> Clerk's Note: Approved Amendment Ordinance 2013-01 at STBM 3/27/13 Section 4, Item A.

describe the physical premises, including every room and storage space, to be covered by the license. All applications shall be signed and sworn to by the applicant as provided by § 887.01, Wis. Stats.

- B. Filing of application. All applications shall be filed with the Town Clerk/Treasurer. At the time of filing, the applicant shall pay to the Town Clerk/Treasurer the cost of publication of the application and the fee for the license as established in § 230-3 of this chapter. All applications must be on file with the Town Clerk/Treasurer at least 15 days before the Town Board may grant or deny the application.
- C. Qualifications of applicants.
- (1) All individuals, partners, and all officers and directors of Wisconsin corporations applying for licenses under this chapter must meet all of the following qualifications:
    - (a) Have attained the legal drinking age, except that an applicant for an operator's license shall have attained the age of 18;<sup>5</sup>
    - (b) Be a Wisconsin resident continuously for at least one year for Class "A" beer and "Class A" liquor licenses and 90 days for Class "B" beer and "Class B" liquor licenses immediately prior to the date of filing application; and
    - (c) Does not have an arrest or conviction record subject to §§ 111.321, 111.322 and 111.335, Wis. Stats.
  - (2) All officers and directors of foreign corporations must meet the qualifications of Subsection C(1)(a) and (c) stated above.
  - (3) All corporations must designate an agent pursuant to § 125.04(6), Wis. Stats. The agent must meet the qualifications of Subsection C(1)(a) and (c) stated above and must, with respect to character, record, and reputation, be satisfactory to the Wisconsin Department of Revenue. Each corporate agent must have full written authority and control of the premises.
- D. Qualifications for renewal of licenses. All applicants for renewal of Retail Class "A," "Class A," Class "B" or "Class B" licenses shall, before such application is approved by the Town Board, furnish to the Town Board proof of operation of a business by the applicant requiring such a license. ~~The minimum period of operation of such business during a license year shall be 140 days of four hours per day~~<sup>6 7</sup>
- (1) In the situation where the applicant has held the license for a period of time less than the license year, the applicant shall be entitled to all eight-hour days

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

7 Clerk's Note: Approved Amendment Ordinance 2013-01 at STBM 3/27/13 Section 4, Item A.

of operation during the licensing year, whether such days of operation were by the applicant or predecessor in title to the applicant license.

(2) This subsection shall be effective for all renewal licenses to be issued on July 1, 1986.

- E. Inspection of application and premises. The Town Board may inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and law applicable thereto and the applicant's fitness for the trust to be improved.
- F. Health and sanitation requirements. No license shall be issued for any premises which does not conform to the sanitary, safety, and health requirements of the Wisconsin Department of Commerce pertaining to buildings and plumbing, to the rules and regulations of the Wisconsin Department of Health and Family Services applicable to restaurants and to all such ordinances and regulations adopted by the Town of Washington.
- G. Delinquent taxes, assessments and claims. No license shall be granted for any premises for which taxes (real or personal), assessments, or other claims of the Town are delinquent and unpaid, or to any person delinquent in payment of such claims to the Town. In the event of the sale of the premises or transfer of a license during the license year, the Town Board shall condition the granting of a license upon payment of real estate or personal property tax prorated to the date of sale. The Town Clerk/Treasurer shall estimate the tax rate to be used.
- H. Location/type of premises.
  - (1) No retail Class A or B fermented malt beverage license or liquor license shall hereafter be issued for premises less than 300 feet from any established public or parochial school, hospital, or church except that this prohibition may be waived by a majority vote of the Town Board. Such distance shall be measured by the shortest route along the highway from the closest point of the boundary of such school, church, or hospital to the closest entrance to such premises. The prohibition in this subsection does not apply to any of the following:<sup>8</sup>
    - (a) Premises covered by a license or permit on June 30, 1947.
    - (b) Premises covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital, or church building.
  - (2) 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, residential apartment, or other building which is not a tavern, restaurant, supper club, store, or other type of building where alcohol beverages are normally sold or consumed by the public.

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) Premises for Class "B" fermented malt beverage licenses:
- (a) No Class "B" fermented malt beverage license shall be issued to any applicant unless the applicant is the operator of a full-service restaurant located on the premises to be covered by the Class "B" fermented malt beverage license.
  - (b) A "full-service restaurant" is defined to be an establishment which complies with all of the following conditions:
    - [1] A facility which has a capacity to provide indoor seating to a minimum of 30 persons.
    - [2] A facility which has been constructed to meet all requirements of a regular restaurant license under the provisions of the Wisconsin Administrative Code.
    - [3] A facility which has received approval for operation, and complies with all requirements for a permit under the terms of the Door County Zoning Ordinance.
    - [4] If any applicant who has obtained such license after complying with all of the foregoing requirements has the aforesaid regular restaurant license revoked, suspended, or fails to renew it, then such revocation, suspension or failure to renew such restaurant license shall lead to an automatic revocation of the Class "B" fermented malt beverage license.
- I. Federal tax stamp. No license or permit to sell alcohol beverages may be issued to any person until the person has provided proof of application for a federal special tax stamp appropriate to the business covered by the license or permit. When the federal special tax stamp is obtained, the stamp or a copy thereof shall be shown to the issuing authority. If within 90 days of the issuance of the license or permit, a federal special stamp has not been shown to the issuing authority, the license or permit shall become invalid unless the holder shows cause why the federal special tax stamp has not been obtained.

**§ 230-5. Regulation of licensed premises and licenses.**

- A. Posting licenses. Licenses issued under this chapter shall be posted and displayed as provided by § 125.04(10), Wis. Stats. Failure to post a license as required therein shall be a presumption of operating without a license.
- B. Gambling and disorderly conduct prohibited. Each licensed 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 or on any premises.
- C. Employment of underage persons. No retail Class "B" 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.<sup>9</sup>

- 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.
- E. Closing hours. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:
  - (1) If a retail Class "A" license, between 9:00 p.m. and 8:00 a.m.
  - (2) If a retail Class "B" license, between 1:00 a.m. and 8:00 a.m., except as provided in this subsection: During that portion of each year for which the standard time is advanced under § 175.095, Wis. Stats., the closing hours shall be between 2:00 a.m. and 8:00 a.m.; and on January 1, the closing hours shall be between 3:00 a.m. and 8:00 a.m. Between 12:00 midnight and 8:00 a.m., no person may sell fermented malt beverages on Class "B" licensed premises in an original package, container, or bottle or for consumption away from premises.
  - (3) Hotels and restaurants whose principal business is furnishing of food and lodging to patrons, bowling alleys, and golf courses, may remain open for the conduct of their regular business but may not sell intoxicating liquors or fermented malt beverages during prohibited hours specified above.
- F. Quotas.
  - (1) "Class B" liquor licenses: The number of persons and places that may be granted a retail "Class B" liquor license under this chapter in the Town is limited as provided in § 125.51(4), Wis. Stats.
  - (2) No more than one retail "Class A" or "Class B" liquor license shall be issued to any one person.
  - (3) The number of persons and places that may be granted fermented malt beverage licenses in the Town of Washington shall be limited to: One Class "A" fermented malt license, ~~14~~<sup>10</sup> **25**<sup>14</sup> Class "B" fermented malt licenses, and one Class A combination fermented malt and intoxicating liquor license.<sup>11</sup>
- G. 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.

**§ 230-6. Form and expiration of licenses.** <sup>12</sup>

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

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9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10. Clerk's Note: Approved Amendment Ordinance 2013-01 at STBM 3/27/13 Section 4, Item A.

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

otherwise provided.

**§ 230-7. Transfer of licenses.**

- A. From place to place. Every alcohol beverage license may be transferred to another place or premises within the Town. Transfers shall be approved by the Town Board upon application on blanks furnished by the Wisconsin Department of Revenue and the payment of the fee prescribed by § 125.04(12)(a), Wis. Stats. Proceedings considering such transfer shall be conducted in the same manner and form as the original application. No retail licensee is entitled to more than one transfer during the license year.
- B. From person to person. Licenses issued under this chapter may be transferred to another person only under the terms and conditions as provided by § 125.04(12)(b), Wis. Stats.

**§ 230-8. Revocation and suspension of licenses.**

- A. Grounds for revocation, suspension, or refusal to renew. The Town Board may revoke, suspend, or refuse to renew any license issued under this chapter under the procedures described herein upon the finding of a violation of this chapter or Ch. 125, Wis. Stats.
- B. Procedure. A license may be revoked or suspended pursuant to § 125.12(2), Wis. Stats. The Town Board may refuse to renew a license pursuant to § 125.12(3), Wis. Stats.
- C. Automatic revocation. Any license issued under this chapter shall stand revoked without further proceedings upon the conviction of a licensee or employee, agent, or representative thereof for a second offense under this section or violation of Ch. 125, Wis. Stats., or any other state or federal alcohol beverage law.
- D. Effect of revocation of license. When a license is revoked under this section, the revocation shall be recorded by the Clerk/Treasurer and no other license issued under this chapter may be granted within 12 months of the date of revocation to the person whose license was revoked. No part of the fee for any license so revoked may be refunded.
- E. Repossession of license. Whenever any license under this section shall be revoked or suspended, the licensee shall surrender the license to the Town Clerk/Treasurer. The Town Clerk/Treasurer or Town law enforcement officer shall have the right to take physical possession of the suspended or revoked license wherever it may be found and file it in the Clerk/Treasurer's office.

**§ 230-9. Restaurants.** [Added 8-13-2001]

- A. Purpose.
  - (1) The State of Wisconsin has adopted revisions to Ch. 125, Wis. Stats, which allow for "Class B" liquor licenses, regardless of quota considerations, to be

issued to any of the following establishments:<sup>13</sup>

- (a) A full-service restaurant with a seating capacity of 300 or more; or
  - (b) A hotel that has 100 or more sleeping rooms and has an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.
- (2) This section defines a full-service restaurant with a seating capacity of 300 or more.
- B. Qualifications. In order to qualify as a full-service restaurant with a seating capacity of 300 or more, a restaurant must meet all of the following requirements:
- (1) Full service. The restaurant must provide table service, i.e., wait staff which takes food orders at the table and delivers food to the customer at the table. The table setting can be casual or table cloth, but must include china, baskets and flatware as opposed to plastic, Styrofoam and paper tableware.
  - (2) Seats. The restaurant must have not fewer than 300 seats for dining customers. If outside seating is also available, the restaurant must have at least 250 seats inside and no more than 50 seats outside. If the restaurant has more than 300 seats and provides inside and outside seating, then it shall have at least 85% of the seats inside and not more than 15% of the seats outside.
  - (3) Dining area. The restaurant must provide a dining area of at least 10 square feet per seat in compliance with state code requirements and to provide safe occupancy of customers and wait staff. In addition, proper ingress and egress, wait staff, areas for wait staff, aisles between tables and the like must be provided. Areas which are not accessible and usable by the public for seating in the restaurant are excluded from the calculations. These areas include, but are not limited to, such areas as wait staff areas, ingress and egress areas required by state and county code, utility areas, such as kitchen, prep/cleanup, bar, coolers, storage, rest rooms, offices and any other similar areas which are not accessible and usable by the public for seating in the restaurant.
  - (4) Health, safety and building codes. The restaurant and its seating configuration must comply with all health, safety and building codes issued by the County of Door and State of Wisconsin.

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13. Editor's Note: See § 125.51(4)(v), Wis. Stats.

14. Clerk's Note: 2016-01 Ordinance passed by Town Board 4/21/16