

STATE OF WISCONSIN
TOWN OF WASHINGTON, VILAS COUNTY

CODE OF ORDINANCES

CHAPTER 5: LIQUOR LICENSE ORDINANCE AS AMENDED MARCH 4, 2019

5.01 Title and Purpose

The title of this ordinance is the Town of Washington Liquor License Ordinance. The purpose of this ordinance is for the town to regulate specific actions at or near any alcohol beverage retail locations in the town.

5.02 Authority

The town board has the authority under its village powers under §60.22, Wis. stats., and the specific authority under §125.10, Wis. stats. to regulate the sale at retail or wholesale of alcoholic beverages at premises in the town, to the extent that town regulations are not in conflict with state statutes, specifically including the regulation of underage and intoxicated persons at alcohol beverage retail sale licensed premises in the town and the issuance, renewal, revocation, suspension, and regulation of alcohol retail sale or wholesale sale, licenses, or permits, along with the penalties for violations of this ordinance.

5.03 Definitions

Alcohol beverages means fermented malt beverages, wine, and intoxicating liquor.

Fermented malt beverage means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

License means an authorization to sell alcohol beverages at retail or wholesale issued by the town board or its agent under this ordinance.

Licensee means any person issued a license under this ordinance and chapter 125, Wis. stats., by the town.

Open for business means conducting a business publicly at least five business hours during each of 120 days the licensee is open for business during the license period.

Permit means any permit issued by the town under this ordinance.

Permittee means any person issued a permit by the town under this ordinance.

Person means a natural person, sole proprietorship, partnership, limited liability, company, corporation, association, or the owner of a single-owner entity that is disregarded as a separate entity under chapter 71, Wis. stats.

Premises means the area described in a license or permit.

Soft drink means any liquid capable of being used for beverage purposes containing any degree of alcohol less than one-half of one percent by volume.

Tavern means any premises at which fermented malt beverages or intoxicating liquor are sold for consumption upon said premises.

Under the influence means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition that is the result of indulging to any degree in alcohol beverages and that tends to deprive a person of the clearness of intellect and control of himself or herself that he or she would otherwise possess.

Underage person means a person who has not attained the legal drinking age.

Wis. stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

Wholesale means the sale, other than by a brewer, manufacturer, or rectifier, of alcohol beverages to a licensed retailer in the town or to another person who holds a permit or license to sell alcohol beverages in the town at wholesale.

Wine means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits, or other agricultural products, imitation wine, and compounds sold as wine, vermouth, cider, perry, mead, and sake, if such products contain 0.5% or more of alcohol by volume.

5.04 Issuance of License

- A. No license for the sale of alcoholic beverages shall be issued under this section or under this ordinance or under any statute to any person or entity, corporation or otherwise, who is delinquent in the payment of any sum to the town or to any division of the town including, without limitations, personal property taxes, real estate taxes, special assessments or accommodation tax payments.
- B. No retail Class A or Class B license shall be issued for any premises if a license covering such premises has been revoked within six months prior to application. No license of any kind shall be issued to any person who has had a license revoked within 12 months prior to the application.

5.05 Discipline and Hearing Process

- A. In the event any alcohol beverage retail or wholesale sale licensee or permittee violates this ordinance or chapter 125, Wis. stats., the town board may take disciplinary action, including permit or license suspension for not less than 10 nor more than 90 days, or permit or license revocation or nonrenewal. Any license or permit that has been revoked shall not be reinstated within the following 12 months. Any disciplinary action taken by the town board shall follow notice to the licensee or permittee prior to a hearing in accordance with subsection B. The hearing notice shall include the reason for the hearing. The hearing decision of the town board shall be sent by first class mail to the licensee's last known address, or personally served, at the town chairperson's option.
- B. In the event disciplinary action is taken against an alcohol beverage retail or wholesale sale licensee or permittee, the procedure mandated under §125.12, Wis. stats., or its successor, will be followed. At present, said procedure requires personal service of the hearing, notice, (summons), and complaint, and a hearing within three (3) to ten (10) days from the date of issuance.
- C. Fee for late filing of renewal: Annual renewal applications shall be considered for approval at the Regular Meeting of the Town Board in June as convened on the first Monday. All licensees shall file with the Town Clerk a properly completed renewal

application with fee paid in advance no later than fourteen (14) days prior to and not including the first Monday (the "Deadline Date") this being the time required for all license renewals to reside in the Town Office prior to consideration for approval. In accordance with Wis. Stats. 125.10 the Town Board may impose a fee not to exceed Two Hundred Fifty Dollars (\$250.00) upon any licensee a) whose annual renewal application is not filed by the Deadline Date and b) in the event the licensee requests a Special Meeting of the Town Board to consider license renewal approval after the second Regular Meeting has been held and before July 1st, that being the expiration day of the current license. No fee shall be imposed upon any licensee who submits a renewal application after the Deadline Date and has affirmed in writing with the Town Clerk that licensee will wait until after the first Regular Meeting of the Town Board that first Monday in July for consideration of renewal, with the understanding that from July 1 through issuance of renewal license the licensee's establishment may not serve or sell alcohol per its license classification.

- D. There shall be no refund of any alcohol beverage retail or wholesale sale license or permit fee paid to a party whose license is revoked or suspended under this ordinance.
- E. In lieu of a hearing, the board may accept surrender of the alcohol beverage retail or wholesale sale license or permit, and the board shall then determine the time period before another application for the same type of license or permit will be accepted from the former licensee or permittee.
- F. Evidence and testimony at the hearing shall be given in open session. Pursuant to 19.85 (1) (a), Wisconsin Statutes, the board may go into closed session to deliberate with regard to its decision, where the possibility has been listed on the hearing notice posted or published. The town clerk shall post or arrange to post the hearing notice or publish in a format acceptable to the town chairperson.

5.06 Compliance Conditions

- A. It is unlawful for any person to sell or keep for sale at wholesale or retail or permit to be sold or kept for sale at wholesale or retail, within the town any alcohol beverage or soft drink, except in strict accordance with the provisions of this ordinance and state law. The issuance of any license or permit to any person under this ordinance and chapter 125, Wis. stats., is contingent upon full compliance with this ordinance and chapter 125, Wis. stats., by the licensee or permittee. Any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without a valid permit or license issued under this ordinance or chapter 125 or 139, Wis. stats., or where persons are permitted to drink alcohol beverages in violation of this ordinance and chapter 125, Wis. stats., is a public nuisance and may be closed until the activity in violation of this ordinance is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- B. It is unlawful for any person, including any owner, tenant, employee, operator, or manager of a tavern, who has engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct in a town tavern premises under circumstances in which that conduct tended to cause or provoke a disturbance and who has been ordered by the town board or a law enforcement officer not to enter or to remain in a tavern or other licensed or permitted establishment to so enter or remain during any period after having been ordered not to enter or remain by a law enforcement officer. An order prohibiting entry under this subsection may prohibit entry for a period up to 6 months.

C. As a condition of maintaining and keeping an alcohol beverage retail sale license for a tavern in the town, any licensee of a tavern premise must stay open for business as defined in §5.03 of this chapter. Issuance or retention of a license by a party not open for business and not demonstrating business continuation is declared by this ordinance to be against public policy of the town. A determination by the town board that a person is not demonstrating business continuation establishes grounds for suspension or revocation of the alcohol beverage retail sale license. The town board shall issue a summons and set a hearing to determine whether the license shall be suspended or revoked under this subsection. The hearing shall be held not later than 30 days after it is issued. The town board may elect to make its decision effective on a later date. The procedure for the hearing shall be in accordance with §125.12, Wis. stats. Testimony of any party, any eviction notice, court documentation, or other valid evidence of such actions may be presented. All testimony shall be under oath. A person who was licensed or permitted for the tavern premises for an alcohol beverage retail tavern is not demonstrating business continuation if the definition of "Open For Business" under §5.03 of this chapter is not satisfied, with the following exemptions:

1. A lending institution having control of the real estate and license of a licensed business, while in the process of mortgage foreclosure of said business, is exempt from the requirement to stay open for business as defined in §5.03 of this chapter.
2. In the event a licensee cannot comply with §5.06(C) of this chapter due to a catastrophe or disaster, including but not limited to fire damage or storm damage, which catastrophe or disaster destroys in part or in whole the premises for which a license is issued, the town board may waive provision §5.06(C) of this chapter for a period of time determined necessary by the town board to allow the licensee to rebuild or repair said premises.

D. A license or permit shall not be denied on the grounds that the applicant lacks good moral character, unless there is evidence that the applicant would, if granted an initial or renewed license or permit, pose a threat to the safety or welfare of patrons of the licensed or permitted establishment in which he or she would be employed. The following will be considered grounds for a determination that an applicant lacks good moral character:

1. Suspension or revocation of a Class A, Class B, Operator's, or Manager's License under chapter 125, Wis. stats., or this ordinance, or dismissal from a bartending job if all of the following apply:
 - a. There is a relationship between the reasons for the suspension, revocation, or dismissal and the applicant's ability to competently tend bar without endangering the safety or welfare of the patrons of the premises where the applicant will tend bar under the authority of the applied-for license or permit.
 - b. The suspension, revocation, or dismissal occurred within a year of the date of the application, or there has been more than one such suspension, revocation, or dismissal within 3 years of the date of the application.
2. Conduct exhibiting the use, within 3 years of the date of the application, of alcoholic beverages or controlled substances, to an extent or in a manner dangerous to any other person, or to an extent that such use would impair the applicant's ability to competently tend the tavern business.
 - a. The applicant has habitually been a law offender or has been convicted of a felony and the circumstances of the crime or crimes substantially relate to the circumstances of the permitted or licensed activity, unless the person has been legally pardoned.

- b. The applicant is subject to a pending criminal charge and the circumstances of the charge substantially relate to the circumstances of the permitted or licensed activity.
 - c. The applicant has been convicted of one or more of the following:
 - i. Manufacturing, distributing, or delivering a controlled substance or controlled substance analog under §961.41(1), Wis. stats.
 - ii. Possessing, with intent to manufacture, distribute, or deliver, a controlled substance or controlled substance analog under §961.41(1m), Wis. Stats
 - iii. Possessing, with intent to manufacture, distribute, or deliver, or manufacturing, distributing, or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to §961.41(1) or (1m), Wis. stats.
 - iv. Possessing, with intent to manufacture, distribute, or deliver, or manufacturing, distributing, or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to §961.41 (1) or (1m), Wis. stats.
3. If any town committee, or local law enforcement, recommends to the town board denial of an Operator's License or Manager License or other license or permit on the basis provided under this ordinance, the applicant shall be given the opportunity to present evidence of rehabilitation. Such evidence may include, but is not limited to, letters of recommendation, evidence of family stability or educational advancement, satisfactory work performed, professional counseling, and participation in community activities.
 4. If a license or permit is denied by the town board, the applicant shall have the right to file an appeal with the town clerk within 30 days of the date of the decision, and to appear and be represented by legal counsel before the town board, to be heard, to present evidence in favor of the granting of the license or permit, and to rebut the evidence presented in opposition to the granting of the license or permit. The hearing on the appeal shall be held within 40 days of the filing of the appeal. Notice of the time and place of the hearing on the appeal shall be mailed by the town clerk to the applicant by certified mail at least 10 days before the date of the hearing. The town board shall, after the hearing, comply with chapter 125, Wis. stats. by providing in writing the reasons for its decision to grant or not grant a license or permit. The town board shall comply with s. 125.12, Wis. stats., in the denial, revocation, suspension, or nonrenewal of a license or permit.
- E. It is a condition of any license or permit issued under this ordinance that the Town may inspect the licensed premises at any time during normal business hours-
- F. No licenses or permits may be granted under this ordinance or under chapter 125, Wis. stats., unless the town board, by a vote of the majority of the members-elect of the town board, authorizes the issuance of the license or permit. The town board shall meet not later than May 15 of each year and be in session from day to day thereafter, so long as it may be necessary for the purpose of action upon applications for licenses and permits as may be presented to them on or before April 15, and all applications for licenses so filed shall be granted or denied not later than June 15 for the ensuing license year.

- G. Past due Personal Property Taxes to the Town by the permit applicant shall be grounds for the Town to not issue or renew any alcohol license.

5.07 Underage and Intoxicated Persons/Disorderly House/After Hours

A. Sale of Alcohol Beverages to Underage Persons:

1. No person may procure for or sell, dispense, or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
2. No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.
3. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This paragraph does not apply to alcohol beverages used exclusively as part of a religious service.

B. Sale of Alcohol Beverages to Intoxicated Persons:

1. No person may procure for or sell, dispense, or give away alcohol beverages to an intoxicated person.
2. No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with an intoxicated person.
3. No licensee or permittee may permit an intoxicated person to be on a licensed or permitted premise.

- C. Disorderly House: No licensee or permittee in charge and control of a licensed or permitted premises shall keep or maintain a disorderly or riotous, indecent, or improper tavern or licensed or permitted establishment.

- D. After hours: No licensee or permittee shall permit any person to be present on the premises operated under a Class "A," "Class A," or "Class C" license or under a Class "B" or "Class B" license or permit during hours when the premises are not open for business unless these persons are performing job-related activities.

- E. Unsanitary or Unsafe Conduct: No licensee or permittee in charge and control of a tavern shall fail to keep or maintain a tavern or other licensed or permitted premise in a sanitary and safe condition after written notice by the State of Wisconsin, Department of Health and Family Services or the town board.

5.08 Consumption of Alcohol on Town Property

- A. The Town is exempt from civil liability for any damage to any person or property caused by the consumption of alcoholic beverages by any person if the Town has issued a license or permit to sell, dispense, or give away alcoholic beverages on property owned or leased by the Town.

- B. The Town cannot issue a Temporary/Picnic license to any group or individual for the sale of intoxicating liquor. The Town may issue Temporary/Picnic Class B licenses for the sale of fermented malt beverages and/or wine to certain groups, but not to individuals. Such a license is necessary for a group to charge, directly or indirectly, for alcohol. Qualifying groups under this chapter include bona fide clubs, churches and societies that have been in existence for at least six months prior to application, and posts of veterans' organizations. The Town Clerk shall require a list of the officers of the applying organization and a copy of the bylaws, to be included with the application.

- C. There is no limit to the number of Temporary/Picnic Class B fermented malt beverages licenses that may be issued to a qualified organization, but not more

than two Temporary/Picnic Class B wine licenses may be issued to any group in any 12-month period. A group may apply for both licenses for the same fee.

- D. No group holding a Town issued Temporary/Picnic Class B license may allow the consumption of intoxicating liquor on Town property. Each licensed group shall be responsible for enforcement of this prohibition.
- E. A person with an operator's license, commonly known as a bartender's license, must immediately supervise those serving or selling the alcoholic beverages. The Town may issue a temporary operator's license to persons donating their services to nonprofit corporations.
- F. Private gatherings by invitation which are held on Town property do not require a license if the event is closed to the public and there is no charge, direct or indirect, for the alcohol. The Town shall be exempt from liability for alcohol consumed at private gatherings.
- G. A copy of this chapter shall be issued to any group or individual reserving the use of Town property, and the responsible party shall sign for receipt of the copy.
- H. In addition to the provisions of §5.09 of this chapter, any group or individual violating this chapter shall forfeit its right to serve or sell alcoholic beverages, any existing permit will be null and void, and no further permits shall be issued to the group or individual for period of one year. Subsequent violations by that group or individual shall require Town Board review prior to granting any further licenses. Any deposit paid for the use of Town facilities shall be forfeited.

5.09 License Fees

License fees are determined and set by the town board and placed in the fee schedule which may be revised from time to time by the board.

5.10 Penalties

- A. A person who commits a violation of this ordinance may be subject to a forfeiture of:
 - 1. \$50 plus court costs if the person has not committed a previous violation within 30 months of the violation.
 - 2. \$100 plus court costs if the person has committed one previous violation within 30 months of the violation.
 - 3. \$200 plus court costs if the person has committed 2 previous violations within 30 months of the violation.
 - 4. \$400 plus court costs if the person has committed 3 or more previous violations within 30 months of the violation.
- B. For purposes of determining whether a previous violation has occurred, if more than one violation occurs at the same time, all those violations shall be counted as one violation.
- C. Any person that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

5.11 Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

5.12 Effective Date


This ordinance is effective on publication or posting and repeals and replaces all former ordinances of the Town of Washington pertaining to the license and regulation of the sale of intoxicating liquors and fermented malt beverages.

The Town Clerk shall properly post or publish this ordinance as required under §60.80, Wis. stats.

Adopted this 4th day of March, 2019.


Jim Egan, Town Chairman

Attest:


Michele Sanborn, Clerk

Effective Date: 3/14/19

Publication Date: 3/13/19