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CHAPTER XXIII

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

SECTION 23.00 Purpose. The purpose of this Chapter is to provide for and allow the holders of certain retail Class "A" Fermented Malt Beverage Licenses and retail Class "B" intoxicating liquor and fermented malt beverage licenses to sell, deal and traffic in intoxicating liquors and fermented malt beverages as the case may be, in Chapter 125 of the Wisconsin Statutes.

SECTION 23.10 Provisions of State Law Adopted by Reference. The provisions of Chapter 125, Wis. Stats., defining and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including the provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this Chapter by reference. A violation of any such provisions shall constitute a violation of this Chapter.

SECTION 23.20 General Provisions.

23.21 Except as provided by § 125.06, Wis. Stats., no person shall, within the Town, serve, sell, manufacture, rectify, brew or engage in any other activity for which this Chapter or Chapter 125, Wis. Stats., requires a license, permit or other authorization as provided in this Chapter.

23.22 Separate License Required for Each Place of Sale. A license shall be required for each location or premises which is in direct communication with each other where alcohol beverages are stored, sold or offered for sale.

23.23. Special Event/Wedding Barns & Venues Licensing. For purposes of this section, alcohol licensing shall be required for existing or new buildings or structures, including agricultural, rustic or similar structures, and the use of surrounding grounds for organized meetings and/or receptions as a public gathering place for weddings, parties and corporate events (the "premises") where the premises is rented. The sale and consumption of alcohol beverages on the premises are subject to Town and State licensing requirements. A license is required for events where alcohol beverages are either sold or brought to the premises and offered either for sale or on a complementary basis to the public. The serving area for alcohol beverages shall be described with particularity in the license application.

SECTION 23.30 Classes of Licenses and Fees. The following classes and denominations of licenses may be issued by the Clerk under the authority of the Town Board after payment of the fee as set by the Town Board, which, when so issued, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in §§125.25, 125.26 and 125.51, Wis. Stats. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

(a) Class "A" fermented malt beverage retailer's license. See §125.25, Wis. Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof which the license is issued.

(b) Class “B” fermented malt beverage retailer’s license. See §125.26, Wis. Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

(c) Retail “Class A” liquor license. A retail “Class A” liquor license shall permit its holder to sell liquor in original packages or containers to be consumed off the licensed premises.

(d) Retail “Class B” liquor license. A retail “Class B” liquor license shall permit its holder to sell liquor on the premises for consumption on the premises where sold by the glass and not in the original package or container. In addition, wine and liquor may be sold in the original package or container to be consumed off the premises where sold.

SECTION 23.40 License Application.

23.400 Inactive Licenses Prohibited. Within one hundred twenty (120) days from the issuance of a “Class A” intoxicating liquor license, “Class B” intoxicating liquor license, Class “A” fermented malt beverage license, Class “B” fermented malt beverage license or a Class “C” license, the licensee shall be open for business with adequate stock and equipment. For purposes of this section, the term “open for business” shall mean that the business is open to serve the public for a minimum of forty-eight (48) hours per calendar month. In addition, a licensed premises shall be considered inactive if the business ceases to be open for business for ninety (90) or more consecutive days. In the event of a licensee’s failure to commence business within the time prescribed, or upon failure to be open for business, as defined herein, the license shall be subject to revocation by the Town Board after a public hearing pursuant to Chapter 125, Wis. Stats. The Town Board may, upon application of the licensee and for good cause shown by the licensee, extend the time for the initial opening or reopening of the business. For purposes of this section, “good cause” shall include damages to the licensed premises due to fire, natural disaster, or other extenuating circumstances such as significant health care issues involving a person or persons who are critical to the continued operation of the business on a daily basis.

23.41 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 Wisconsin Department of Revenue, or governing body for operator’s licenses, and filed with the Town Board. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connected entrances or not separated by a solid wall.

23.42 Application to be Notarized. The application shall be signed and sworn to by the applicant as provided by §887.01, Wis. Stats.

23.43 List of Licensees. The Clerk shall forward such information regarding licensees to the state as may be required by statute or rule.

23.44 Investigation. Submission of an application shall constitute consent to a background investigation by the Town. All applicants shall be investigated by the Town Board, and results of said investigation shall be forwarded to the Clerk.

23.45. Licenses Required.

(a) Premises. No person except as provided in §125.06, Wis. Stats., shall, distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in or for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license as provided in this ordinance, nor without complying with all the provisions of this ordinance and all statutes, ordinances and regulations of the State and Town applicable thereto (See including, but not limited to, §125.04, Wis. Stats.)

(b) Operator's License. No premises operated under a Class "A", Class "B" or Class "C" License may be opened for business unless there is upon the premises, either the licensee, the agent named in the license if the licensee is a limited liability company or corporation, or some person who has an Operator's License and is responsible for the acts of all persons selling or serving any fermented malt beverages, intoxicating liquors or wine to customers. For the purpose of this section, any member of the licensee's immediate family, if the licensee is an individual, who has attained the age of eighteen (18) years, shall be considered the holder of an Operator's License. No person, including the licensee's immediate family, other than the licensee or agent, may serve or sell alcohol beverages in any place operated under a Class "A" or Class "B" License, or under a Class "C" License or permit, unless said person has an Operator's License or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, or agent, or a person holding an Operator's License, who is on the premises at the time of the service. No person may permit another to use his or her license or permit to sell alcohol beverages. The training course requirements of §125.17(6), Wis. Stats., shall be applicable to all license applicants.

(1) All annual Operator's Licenses shall expire on June 30th.

(2) Provisional and Temporary Licenses are subject to §11.02(N)(2) and (3).

(c) License Application.

(1) 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 and filed with the Town Clerk. The fee prescribed for such license shall accompany the application. 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 §887.01, Wis. Stats. Upon approval, a duplicate copy of each application shall be forwarded by the Town Clerk to the State Department of Revenue.

(2) Subsequent Changes. If any fact given in an application subsequently changes, the licensee shall, within ten (10) days, file a notice in writing of such change with the Clerk.

(d) License Investigation. Each application for license whether an initial application or renewal thereof, shall be subject to investigation by the Sheriff, Town Constable or other law enforcement agency, who shall render such report to the Town Board, and, if for a premises, to inspection of the premises by the Building Inspector and the Fire Chief.

(1) Inspection officials shall, when requested by the Board, furnish in writing the information derived from such investigation accompanied by a recommendation as to whether the license should be granted or refused. No license for a premises shall be renewed without a re-inspection of the premises and report as originally required. In determining the suitability of an application, consideration should be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and the premises, and the general fitness of the applicant.

(2) Inspections required by this section for either initial or renewal applications shall be made by the appropriate officials as soon possible after applications or complaints are filed with the Clerk. In the event that applications for renewal which are not timely made or applications for licenses which shall become effective during the licensing year, but after July 1st may be granted by the Board, but not issued by the Clerk until the required inspections have been made and favorable reports filed with the board. If such reports shall be satisfactory, the Board shall instruct the Clerk to issue the license.

(3) The results of the investigation by the Sheriff, Town Constable or other law enforcement agency, together with the results of the inspections performed by the Building Inspector and Fire Chief, if for a premises, shall be reviewed by the Town Board for compliance with §125.04, Wis. Stats., of these ordinances.

(4) No license application shall be considered for action by the Town Board unless all investigations and inspections have been completed and the results of the same received by the Town Board.

(e) Provisional Licenses. The Town Clerk, upon payment of the fee of Fifteen (\$15.00) Dollars, may issue a provisional operator's license to any person who has applied for an operator's license as stated above. A provisional license shall expire the sooner of sixty (60) days after issuance or when a regular operator's license is issued to the holder as provided for herein. The Town Clerk, following issuance of a provisional operator's license, may revoke the license if the Clerk discovers that the holder of the license made a false statement on the application.

SECTION 23.50 License Restrictions.

23.51 Statutory Requirements. Licenses shall be issued only to persons eligible therefor under §125.04, Wis. Stats.

23.52 Violators of Liquor or Beer Laws or Ordinances. No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this Chapter, or whose license has been revoked under §125.12, Wis. Stats., during one year prior to such application, 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 one year.

23.53 License Quota. The number of persons and places that may be granted a retail “Class B” liquor license under this Chapter is limited as provided in §125.51(4), Wis. Stats.

23.54 Corporations. No corporation organized under the laws of this state, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of §125.04(6), Wis. Stats.

23.55 Age Requirement. No license hereunder, except an operator’s license, shall be granted to any person who has not attained the legal drinking age. Operators’ licenses may be issued according to the provisions of Chapter XXXV of the Code of Ordinances.

23.56 Effect of Revocation of License. Whenever any license has been revoked, at least six months from the time of such revocation shall elapse before another license shall be granted for the same premises, and 12 months shall elapse before another license shall be granted to the person whose license was revoked.

23.57 Delinquent Taxes, Assessments and Claims. No license shall be granted or renewed for any premises for which any real or personal property taxes, assessments, forfeitures, fines or other claims of the Town that are delinquent and unpaid, or to any person delinquent in payment of such claims, including unpaid forfeiture judgments to the Town or outstanding municipal court fines.

SECTION 23.60 Transfer of Licenses.

23.61 As to Person. No license shall be transferable as to licensee except as provided by §125.04(12), Wis. Stats.

23.61 As to Place. Licenses issued pursuant to this Chapter may be transferred to another premises once during any license year as provided in §125.04(12), Wis. Stats. 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.

SECTION 23.70 Posting and Care of Licenses. Every license or permit required under this Chapter shall be framed and posted and at all times displayed as provided in §125.04(10), Wis. Stats. 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.

SECTION 23.80 Underage Persons. The provisions of §§125.07(1) and (4)(a), (b) and (bm), 125.085 (3)(b) and 125.09(2), Wis. Stats., regulating underage persons, are adopted in their entirety, inclusive of the penalties provided therein. In addition to those provisions:

23.81 No underage person shall enter, remain or loiter in any public or private place, with the exception of any premises for which a license or permit for the retail sale of alcohol beverages has been issued, where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available to underage persons, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

23.82 No person of legal drinking age shall suffer or permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available to underage persons, except any premises for which a license or permit for the retail sale of alcohol beverages has been issued, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

SECTION 23.90 Closing Hours. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

23.91. If a retail "Class A" Fermented Malt Beverage License between 12:00 a.m. and 6:00 a.m. or a retail "Class A" Intoxicating Liquor License between 9:00 p.m. and 6:00 a.m. If, however, the retail establishment is permitted by the Town to be open during the hours listed herein for the sale of other items, the establishment shall close its alcohol beverage section and shall not make any sale of alcohol beverages during these hours. Further, during all such times the fermented malt beverages and intoxicating liquors to be sold under this chapter shall be kept as follows:

(a) In area of the premises to sufficiently isolate said area from the remainder of the premises so as to allow the licensee to prevent access to said fermented malt beverages and intoxicating liquors during such hours.

(b) The licensee must provide adequate locking mechanisms to further prevent its customers from accessing the intoxicating and fermented malt beverages during hours prohibiting the sale of the same.

23.92 If a retail "Class B" or Class "B", between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a Class "B" or "Class B" license are not required to close. No package, container or bottle sales contemplated under §125.51(3)(b), Wis. Stats. may be made after 12:00 midnight.

23.93 Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

SECTION 23.100 Revocation and Suspension of Licenses. Proceedings for revocations and suspensions of licenses shall be governed by the provisions of §125.12, Wis. Stats.

SECTION 23.200 Nonrenewal of Licenses. Before renewal of any license under this Chapter is refused, the licensee shall be given a written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Town Board.

SECTION 23.300 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.