



W I S C O N S I N

**PO BOX 920, 9 S. Broad Street, Elkhorn, WI 53121
(262)723-2219 ~ www.cityofelkhorn.org**

From: City of Elkhorn Clerk

To: Potential Alcoholic Beverage License Holder

Dear Potential License Holder:

In this packet you will find alcohol beverage license application information. *Please contact me to determine if an alcohol license is available in the City and what the cost will be prior to applying.*

Fill forms out completely. Incomplete forms will be returned for completion- please fill them out completely and pay attention to completing the premises information as directed (4)(c).

Please use the "List of Forms You Need" sheet to determine which forms you need to fill out. Underneath each form is a link to an online fillable form. Your application form will need to be notarized- this can be done at City Hall when you turn in your forms.

If you plan to sell tobacco products, please fill out and return the tobacco application with your other forms.

If you will have coin-operated amusement devices at your location, a link to its application form is also provided and can be returned with all your forms.

You may pay for the licenses when you turn your forms in or you will be billed for your license(s) after approval by the Common Council. Thank you for your cooperation, and please don't hesitate to contact me at 262-723-2219 if there is any way in which I can help.

Sincerely,

Cairie L. Virrueta

Cairie L. Virrueta
City Clerk



ALCOHOL LICENSES: WHICH FORMS DO YOU NEED?

- Individual:**
1. Original Application (needs to be notarized)
<https://www.revenue.wi.gov/forms/alcohol/at-106.pdf>
 2. Auxiliary Questionnaire (to be completed by owner)
<https://www.revenue.wi.gov/forms/alcohol/at-103.pdf>
- Partnership:**
1. Original Application (needs to be notarized)
<https://www.revenue.wi.gov/forms/alcohol/at-106.pdf>
 2. Auxiliary Questionnaire (one must be completed for each partner)
<https://www.revenue.wi.gov/forms/alcohol/at-103.pdf>
 3. Agent Schedule
<https://www.revenue.wi.gov/forms/alcohol/at-104.pdf>
- LLC or Corporation:**
1. Original Application (needs to be notarized)
<https://www.revenue.wi.gov/forms/alcohol/at-106.pdf>
 2. Auxiliary Questionnaire (one must be completed for each officer and the agent)
<https://www.revenue.wi.gov/forms/alcohol/at-103.pdf>
 3. Agent Schedule
<https://www.revenue.wi.gov/forms/alcohol/at-104.pdf>

Other Forms You May Need:

Operator's License Application (for Bartenders- cost is \$50.00 for two years)
<http://www.cityofelkhorn.org/CityServices/CityClerk/OperatorApplication2015-2017.pdf>

Tobacco Application (needs to be notarized)
<https://www.revenue.wi.gov/forms/alcohol/ctp-200f.pdf>

Coin Operated Amusement Devices Application
www.cityofelkhorn.org/cityservices/cityclerk/amusementappl.pdf

Please check each form for completeness before returning to the City Clerk's office. Incomplete forms will not be accepted. If you have any questions about how to complete the necessary forms, please call the City Clerk's office at 262-723-2219 or e-mail at info@cityofelkhorn.org.



CITY OF ELKHORN ALCOHOL APPLICATION SUPPLEMENTAL FORM

1. Applicant Information

Applicant Name: _____

Trade Name (dba), if any: _____

Best person to contact regarding this application: _____

Best phone number: _____

Email: _____

(Alcohol licensing information, including renewal packets, will be sent to this email)

This supplemental form is for a:

New Application

Renewal Application with updated information

2. Business Plan

Describe the business; provide a copy of business plan (business plan is for office use only)

Describe your management experience

Hours of Operation

Number and type of employees expected to work at establishment

Anticipate Opening Date: _____

3. Explain your security plan, including presence and type of security surveillance, including recording and store of surveillance video

4. Do you have a policy to train employees in the sale of alcohol? Yes No
If yes, how often is the policy reviewed by management and employees?

5. Explain your process for age verification of customers purchasing/drinking alcohol.

6. Premises Description:

Describe the area where alcohol is to be stored and indicate on site plan:

Describe area where alcohol is to be sold and indicate on site plan:

Describe the locations where alcohol will be displayed and type of structure that will be used for display (i.e. permanent shelving, rolling shelf, pallet, etc.)

7. Attach a detailed site plan depicting the licensed premises, parking, garbage storage area, entrances/exits, alcohol storage areas, coolers, external lighting, signage, etc.

8. Is there currently a license at this location (new applicants only?) Yes No
(If yes, please obtain and complete Surrender of License Form)

9. Is there any other business conducted on the premise? Yes No

10. Describe goods and services to be sold at this location, along with the estimated percentage of sales devoted to alcohol, food, other products and services.

11. The following must be included with the application:

Federal Identification Number

Wisconsin Sellers Permit Registration Certificate (copy)

Articles of Incorporation (Corporation/LLC only)

Deed, Lease or Offer to Purchase Agreement

Form for Surrender of License form (if applicable)

Responsible Beverage Service Training Course Certificate (for agent or owner)

Signature

Date

Common Questions on Alcohol Licensing

What are the Premises? Applicant must “particularly describe the premises” where alcohol will be stored, served, sold and consumed. In addition anywhere records for the business will be kept.

Does the agent always have to be at the premises? No, however there must be one or more licensed operators in charge of the premises. While not all bartenders must hold an operators license, there must be an operator supervising and directing unlicensed persons who may be selling/serving.

When can officers and agents inspect? The law says they can inspect “at all reasonable hours.” This means the hours when you are open for business or other hours if the place is open, operating, or occupied.

What records must I keep and for how long? You must keep your current licenses and invoices from beer, liquor, cigarette, and other tobacco products for two years. You cannot keep them at home or the bookkeeper’s office, or anywhere other than the licensed premises. You must also keep invoices from beer wholesalers or brewers, indicating the value of the signs that they sell or give you. If an agent or officer finds beer, wine, or liquor (or tobacco products) for which you cannot show a purchase invoice, the agent or officer can and will confiscate those items and you may be charged with a crime.

If you have more questions, please refer to the City of Elkhorn Ordinances, available at the City’s website, www.cityofelkhorn.org. You can also refer to Wisconsin Statutes Section 125. Wisconsin Department of Revenue’s Publication 302, “Wisconsin Alcohol Beverage and Tobacco Laws for Retailers” is a readable publication. Find it at <http://www.dor.state.wi.us/pubs/pb302.pdf>.

Forms can also be found on the City’s website.

Giving Out Samples:

Class “A” Licenses (fermented malt beverage): may provide up to two free samples of not more than three fluid ounces not in the original package/container for on premise consumption between 11 a.m. and 7 p.m.

“Class A” Licenses (wine, liquor): two free wine taste samples per person of not more than 3 ounces for consumption on premises between 11 a.m. and 7 p.m.; one liquor sample of not more than 1/2 ounce per person per day for consumption on premises between 11 a.m. and 7 p.m.

Elkhorn City Clerk’s Office

cvirrueta@cityofelkhorn.org

262-723-2219

9 S. Broad Street

Elkhorn, WI 53121

Licensing Hours:

8:00 a.m.—4:30 p.m.

These forms can be found at:

www.cityofelkhorn.org

The Clerk's Office cannot provide legal advice.

Obtaining a Liquor/Beer License in the City of Elkhorn



Directions for Obtaining your Liquor/Beer License

Contact the City Clerk First

Wisconsin Statutes limit the number of “Class A” and “Class B” licenses allowed in municipalities; check with the City Clerk to see if the license you need is available.

If a license is available complete the necessary forms.

- An applicant for a Class A license must submit with the application a *Zoning Certificate* from the Zoning Administrator certifying that the proposed use of the establishment meets the requirements of the City Zoning Code. The Common Council may ask for review and recommendation by the Plan Commission of any location proposed for a Class A license.
- Complete application legibly and completely. Illegible or incomplete forms will be returned and may delay your application.
- Application must be notarized. Signatures can be notarized in the Clerk’s office.

- Provide WI Seller’s Permit certificate and Federal Employer Identification number.
- Answer to question 9 will be printed on your license as your “licensed premises.” Your licensed premises cannot be expanded or changed without the approval of the Common Council.
- Class B applicants must estimate percentage of gross sales from alcohol and food.

Appointment of Liquor/Beer Agent Form (filed by Corporations or LLCs)

- Agent discloses percentage of business he or she owns. Percentage must be a number, not a job title.
- Signatures must be notarized.
- A photocopy of picture identification must accompany this form.

After You File the Application

- Applications are forwarded to the Elkhorn Police Department, Building Inspector and Fire Department for review.
- Applications will go to the Legislative & Regulatory Committee for review and recommendation of approval or denial.
- The City Clerk’s office will publish a legal notice of your license application.

- Your application will go to the Elkhorn Common Council for approval.

After Approval

- You will be billed for the amount for your liquor/beer license if you did not pay at the time of submitting your application. If you have other licenses (bartenders, cigarette, and amusement) you will be billed for them at the same time.
- You will not receive your license until the fees have been paid. Other outstanding bills (personal property, utility) must be current to receive your license.

Your License

- The City Clerk’s office will provide your license with the official seal to post onsite, providing notice of your approved license.

Licensed Operator Required on Premises

There shall be upon premises at all times, the licensee and/or a licensed operator (bartender) and who shall supervise and be responsible for the acts of all persons serving/selling.



12.03 - Alcohol beverages.

- (1) State Statutes Adopted. The provisions of Chapter 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation of alcohol beverage control.
- (2) Definitions.
 - (a) Unless otherwise herein provided, the definitions found in Section 125.02, Wis. Stats., shall apply to the provisions of this chapter.
 - (b) The definition of "fermented malt beverage" shall be construed to include "light wines," i.e., wines containing less than 0.5% of alcohol by volume.
 - (c) The definition of "intoxicating liquor" shall be construed to include "wine," as statutorily defined, and references to "applications for" or "holders of licenses" or "premises licensed for sale of intoxicating liquors" shall be deemed to generally apply to applicants for or holders of "Class C" licenses unless excepted specifically or recognizable as excepted by the specificity of the subject matter relating thereto.
- (3) Licenses, Permits, Authorization Required.
 - (a) When Required. Except as provided by Section 125.06, Wis. Stats., no person shall, within the City, serve, sell, manufacture, rectify or engage in any other activity for which this chapter or Chapter 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or authorization as provided in this chapter. See Section 125.04(1), Wis. Stats.
 - (b) Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, or from which deliveries or sales of alcohol beverages are made. See Section 125.04(9), Wis. Stats.
 - (c) Classes of Licenses. The following classes of licenses may be issued by the City Clerk under the authority of the Common Council upon compliance with law and 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 the referenced State Statute:
 1. Class "A" Fermented Malt Beverage Retailer's License. Retail Class "A" licensees may sell beer to consumers in original packages or containers for off-premises consumption only.
 2. "Class A" Intoxicating Liquor License. A retail "Class A" intoxicating liquor license shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
 3. Class "B" Fermented Malt Beverage Retailer's License.
 - a. License. A Class "B" fermented malt beverage retailer's license, when issued by the City Clerk under the authority of the Common Council, shall entitle the holder thereof

to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 1/2 of a percent of alcohol by volume, without obtaining a special license to sell such beverages.

- b. Application. Class "B" licenses may be issued to any person qualified under Section 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least 6 months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this chapter. Except as provided in Section 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.
4. "Class B" Intoxicating. A retail "Class B" intoxicating liquor license shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
5. Temporary Class "B" Fermented Malt Beverage and/or Wine License.
 - a. A temporary Class "B" (picnic) beer and/or wine license may be issued to "bona fide" clubs, fair associations or agricultural societies, churches, lodges or societies that have been in existence for at least 6 months, and to veterans' organizations. A "club" is defined as a group of people organized for a common purpose, especially a group that meets regularly.
6. Wholesaler's License. A wholesaler's fermented malt beverage license shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.
7. Retail "Class C" Licenses.
 - a. "Barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.
 - b. A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
 - c. A "Class C" license may be issued to a person qualified under Section 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom if the City's quota prohibits the City from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.
 - d. General requirements in this chapter relative to intoxicating liquors, licenses and/or licensed premises therefore, shall be deemed to apply to "Class C" licenses and premises as well, unless specifically excepted or generally recognizable as excepted by the specificity of the subject matter relating thereto.
- (4) License Fees. There shall be the following classes of licenses which, when issued by the City Clerk under the authority of the Common Council after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 12.02(4) of this Municipal Code and Chapter 125, Wis. Stats. All such fees are payable after approval of the application by the Common Council and prior to the release of the license being delivered to the licensee, with the exception of Special Class B Temporary Licenses, for which the fee shall be paid at the time application is submitted.

- (a) Class "A" Fermented Malt Beverages Retailer's License. The annual fee for this license shall be \$100.00. The fee for the license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (b) Class "B" Fermented Malt Beverages Retailer's License. The annual fee for this license shall be \$100.00. This license may be issued at any time for 6 months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for the 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) Temporary Class "B" Fermented Malt Beverage and/or Wine License. The fee for this license shall be \$10.00 per event.
 - (d) Fermented Malt Beverage Wholesalers' License. The annual fee for this license shall be \$25.00.
 - (e) "Class A" Intoxicating Liquor Retailer's License. The annual fee for this license shall be \$500.00.
 - (f) "Class B" Intoxicating Liquor Retailer's License. The annual fee for this license shall be \$500.00. This license may be issued at any time for 6 months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for the license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (g) Reserve "Class B" Liquor Licenses. Fee for initial issuance \$10,000.00 plus \$500.00 per year. See Section 125.51(3)(e)2, Wis. Stats. This license may be issued at any time for 6 months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for the license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (h) "Class C" Wine License. The annual fee for this license shall be \$100.00.
- (5) License Application.
- (a) Form. Application for a license to sell or deal in alcohol beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue, and filed with the City Clerk at least 15 days prior to issuance.
 - (b) 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. The application shall be accompanied by a complete written description of the licensed area and a scale drawing (1" = 40') depicting the licensed area. Use of any area other than that described in the license as approved by the Common Council shall be reason for revocation of the license by the City.
 - (c) Application to be Notarized. The application shall be signed and sworn to by the applicant as provided by Section 887.01, Wis. Stats.
 - (d) Renewal of Licenses. All applications for renewal of licenses shall be made to the City Clerk by April 15th. A liquor license inspection must be scheduled with the City of Elkhorn Building Inspector and Fire Inspector by April 15th per Section 12.03(8)(c).
 - (e) Publication. The City Clerk shall publish each application for a Class "A," Class "B," "Class A," "Class B," or "Class C" license pursuant to Section 125.04(3)(g), Wis. Stats. There is no publication requirement for temporary Class "B" picnic beer and/or wine licenses under Section 125.51(10), Wis. Stats. The application shall be published once in the official City newspaper.
 - (f) Class "A" or Class "B" fermented malt beverage, "Class A" or "Class B" intoxicating liquor or "Class C" wine license applications; bartender operator's license applications; review denial, nonrenewal, revocation or suspension of licenses shall be reviewed by the Legislative and

Regulatory Standing Committee of the Common Council and shall present its findings in writing to the Common Council for action.

- (g) Amending Application. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within 10 days after the occurrence thereof.
- (6) Qualifications of Applicants and Premises.
- (a) Statutory Requirements. A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" licenses shall be granted only to persons who are citizens of the United States and who have been residents of the state of Wisconsin continuously for at least 90 days prior to the date of the application. See Sections 125.04 and 125.33(5), Wis. Stats.
 - (b) Applicant to have Malt Beverage License. No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
 - (c) Right to Premises. No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
 - (d) Age of Applicant. Licenses related to alcohol beverages shall only be granted to persons as allowed by Wisconsin law.
 - (e) Corporate Restrictions.
 - 1. No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sections 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Section 125.04(6), Wis. Stats., and the officers and directors of the corporation meet the qualifications of Sections 125.04(a)1 and 3 and (b), Wis. Stats., and unless the agent of the corporation appointed under Section 125.04(6), Wis. Stats., meets the qualifications under Section 125.04(3)(a)2, Wis. Stats. The requirement that the corporation meet the qualifications under Sections 125.04(a)1 and (b), Wis. Stats., does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - 2. No license shall be granted to any corporation when more than 50% of the voting shares of stock, or legal or beneficial interest therein is held by any person or persons not eligible for a license under this section and under the procedure established in Section 125.12, Wis. Stats.
 - 3. Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the City Clerk a statement of transfers of stock within 48 hours after such transfer of stock.
 - (f) Sales Tax Qualification. All applicants for retail licenses shall provide proof, as required by Section 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
 - (g) Connecting Premises. Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both license or permits are issued simultaneously, both are void.
 - (h) 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.

- (i) Licensed Premises. All sales of intoxicating liquor and fermented malt beverages within the City of Elkhorn shall be limited to and shall be made upon the premises described within the license granted by the Common Council.
 - (j) License Quota. The number of persons and places that may be granted a "Class B" intoxicating liquor license under this section is limited as provided in Section 125.51(4), Wis. Stats.
 - (k) Delinquent Taxes, Assessments and Claims. No license shall be granted for any premises for which taxes, assessments or other claims of the City are delinquent and unpaid, or to any person delinquent in payment of such claims, including unpaid forfeiture judgments, to the City.
 - (l) Visibility. No premises licensed for the sale or consumption of alcoholic beverages shall during the times they are required to close or during the hours in which the sale of liquor or malt beverages is prohibited, obstruct by the use of curtains, blinds, screens or any other manner, a full and complete view of the interior from the outside. The premises shall be properly and adequately lighted during the hours in which the sale of alcohol beverages is permitted.
- (7) Investigation.
- (a) The City Clerk, on behalf of the Common Council's Legislative and Regulatory Committee, shall notify the Chief of Police, Fire Inspector and Building Inspector of each new and renewal application, and these 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 laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Police Department shall conduct an investigation of the applicant, including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. These officials shall furnish to the City Clerk in writing, who shall forward to the Legislative and Regulatory Committee, the information derived from such investigation. The Legislative and Regulatory Committee will make a recommendation as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.
 - (b) If the Legislative and Regulatory Committee recommends the denial of the application, the applicant shall be notified by the City Clerk at not less than 3 nor more than 10 days prior to the Council meeting at which the application is to be considered. The notice shall set forth the basis for such recommendation and inform the applicant of the opportunity to appear before the Common Council.
 - (c) In determining whether to grant such license, consideration shall be given to the arrest and conviction record of the applicant, subject to Sections 125.12(3) and 125.12(3m), Wis. Stats.
- (8) Approval of Application.
- (a) Consideration for granting or denial of a license will be based on:
 - 1. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322 and 111.335, Wis. Stats.;
 - 2. The financial responsibility of the applicant;
 - 3. The appropriateness of the location and the premises where the licensed businesses to be conducted; and
 - 4. Generally, the applicant's fitness for the trust to be reposed.
 - (b) 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 State Department of Industry, Labor and Human Relations pertaining to the buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the Common Council.

- (c) Inspections. Prior to the expiration and renewal of any beer and/or alcohol beverage license, the City of Elkhorn Building Inspector and Fire Inspector shall cause to be inspected the entire premises for any health or safety violations. The owner or lessee of the establishment has the obligation to notify the inspection department in a timely manner for the required inspection. If any violations are found during the inspection, it is the responsibility of the owner or lessee to have the violations corrected and call for a reinspection. Failure to call for a liquor license inspection by April 15th or failure to correct any violation(s) may result in a denial or suspension of an alcohol beverage license.
 - (d) Restrictions on Location. No Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be issued for premises the main entrance of which is less than 300' from the main entrance of any established public school, parochial school, hospital or church as stated in Section 125.68(3), Wis. Stats.
- (9) Conditions of License.
- (a) Consent to Entry. Every applicant procuring a Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license thereby consents to the entry of police or other duly authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal, from said premises, of all things and articles in violation of City ordinances or State laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - (b) Employment of Minors. No retail "Class B" or Class "B" licenses shall employ any persons under the age of 18 years of age, but shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
 - (c) Disorderly Conduct Prohibited. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
 - (d) Licensed Operator on Premises. There shall be upon premises operated under a "Class A," "Class B," or "Class C" license, at all times, the licensee, members of the licensee's immediate family who are at least 18 years of age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters or, in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class A," "Class B," or "Class C" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
 - (e) Improper Exhibitions. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - 1. Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - 2. Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - 3. Exposes any portion of the female breast at or below the areola thereof; or
 - 4. Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.
 - (f) Health and Sanitation Regulations. The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

- (g) Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- (h) Gambling Prohibited. Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this chapter or the laws of the State of Wisconsin.
- (i) Licensee or Permittee Responsible for Acts of Employees. A violation of this chapter by a duly authorized agent or employee of a licensee or permittee under this chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this chapter shall violate any portion of this chapter, proceeding for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this chapter.
- (j) Consumption on Premises. All purchase of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed there from to any thoroughfare, street, alley or sidewalk unless authorized by the Common Council.
- (k) Required Period Open for Business.
 1. Any establishment for which a Class "A" or Class "B" fermented malt beverage, "Class A" or "Class B" intoxicating liquor or "Class C" wine license has been granted shall be opened for business within 180 days of the granting of such license.
 2. The closing of any licensed premises for a continuous period of 90 days shall be deemed abandonment of the license, and such license shall be forfeited upon notice in writing by registered mail to the licensee by the City Clerk. If the premises are damaged by fire or other cause, the Common Council may extend the closing to allow for reconstruction.
 3. Upon a proper showing that any one or more of the following situations or conditions exist, the Common Council may grant to any licensee a variance from the terms of this subsection with or without appropriate conditions subsequent or precedent:
 - a. In the event of damage or destruction of the licensed premises;
 - b. In the event of death of the licensee;
 - c. In the event of physical or mental disability of the licensee incapacitating him from carrying on his business;
 - d. In the event of remodeling or rebuilding of the licensed premises in such a manner as to make it impossible to serve the public;
 - e. A violation of this section may be considered by the Common Council as prima facie grounds for nonrenewal of the licenses it affects.

(10) Guidelines for "Class A" Licenses.

- (a) The City hereby establishes the following regulations for the purpose of providing guidelines for applicants for "Class A" alcohol beverage licenses, establishing criteria on which to base decisions for the issuance of licenses, and promoting the public health, safety, morals and general welfare.
 1. A "Class A" licensed establishment must be in a permanently walled building either freestanding or, if at a shopping center, the store must be walled off (floor to ceiling) by solid walls constructed in accordance with local and State building codes. Public access shall be limited to a separate outside entrance.
 2. No "Class A" license may be issued for premises the main entrance of which is less than 300' from the main entrance of any school, hospital, day care center or church. The Common Council by majority vote may waive this prohibition. If any school, hospital, day care center or church is within 500' of any proposed "Class A" licensed establishment, then a scale drawing (1" = 40') of the area around the establishment showing all details of the

streets, buildings, parking, ingress/egress and surrounding uses within that 500' perimeter shall be submitted with the application. The Common Council shall make a specific finding that it has noted the location of the proposed licensed establishment with respect to the school, hospital, day-care center or church in granting or denying the license.

3. A "Class A" licensed establishment may have rear or side entries for the purpose of allowing deliveries of goods or as emergency exits or for use by employees. These entries shall not permit public access and shall be marked accordingly. The license application shall include plans for the building showing these entries.
4. A "Class A" license shall not be allowed in a gasoline station, in a drive-up food or beverage establishment or in a convenience store.
5. An applicant for a "Class A" license shall submit with the license application a Zoning Certificate from the City Zoning Officer certifying that the proposed use of the establishment meets the requirements of the City Zoning Code. The Common Council may ask for review and recommendation by the Plan Commission of any location proposed for a "Class A" license.
6. An application for a "Class A" license shall be accompanied by a complete written description of the licensed area and a scale drawing (1" = 40') depicting the licensed area. Use of any area other than that described in the license as approved by the Common Council shall be reason for revocation of the license by the City.
7. Not more than one "Class A" license may be issued for each 2,000 population of the City or fraction thereof according to the number of inhabitants in the previous year determined by the Wisconsin Department of Administration under Section 16.96(2), Wis. Stats., for the purposes of revenue sharing distribution.
8. A license existing at the time of approval of the ordinance codified in this subsection shall continue until the business ceases and the license is relinquished or until revocation by the City following due process. Such an existing license may be reissued to new ownership following the procedures required by State law and local ordinances. A "Class A" intoxicating liquor license referenced in existing annexation agreements and other contracts which were approved by the City prior to approval of the ordinance codified in this subsection shall also be honored.

(11) Form and Expiration of Licenses.

- (a) 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 30th thereafter except as otherwise provided by law.

(12) Transfer of Licenses.

- (a) As to Person. No alcohol beverage license shall be transferable as to licensee except as provided by Section 125.04(12)(b), Wis. Stats.
- (b) As to Place. An alcohol beverage license may be transferred to another premises once during any license year as provided in Section 125.04(12)(a), Wis. Stats. Application for such transfer shall be made on a form furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

(13) Posting and Care of Licenses.

- (a) 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), Wis. Stats. No person shall post such license nor permit any other person to post it upon premises other than those described in the application, nor knowingly deface or destroy such license.

(14) Closing Hours.

- (a) Premises for which an alcohol beverage license has been issued either are prohibited from selling alcohol or cannot be open for business during the hours specified in Sections 125.32(3) and 125.68(4), Wis. Stats.
- (15) Restriction on Temporary Fermented Malt Beverage or Wine Licenses.
- (a) When issuing a temporary license for the sale of fermented malt beverages (e.g., wine coolers with a fermented malt beverage base) and/or wine, a specific area shall be designated where the licensee can serve and such area shall be controlled with a fence, such as a snow fence, with one entrance not exceeding 10' in width. When a fence is not feasible, the licensee shall be restricted to a specific unenclosed area.
 - (b) A person or persons with a bartender operator's license or a temporary operator's license (see Section 12.03(18)(c)) must be on the premises at all times during the event.
 - (c) The Common Council may require the applicant, when it deems necessary because of number of persons or nature of the function, to pay for the services of an off-duty police officer(s) approved by the City at rate established by determining real costs. Such police officer shall be present at such place and assure that the laws of the City are not violated.
 - (d) Applications for a license to serve alcohol beverages on public property shall be applied for in the City Clerk's office 30 days before the license date requested.
 - (e) The applicant shall have a certificate of insurance and shall name the City as an insured party as its interest may appear. The City Clerk shall be furnished with a copy of the certificate of insurance before the license is approved. Such coverage shall be primary and non-contributing with any insurance carried by the City.
 - (f) An application for closing a street or use of a municipal parking lot for special events must accompany the application for temporary fermented malt beverage and/or wine license. The applicant must present a site plan to the Operations Manager, Building Inspector and Police Chief for review and approval.
- (16) Nonrenewal of Licenses. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of the City's intention not to renew and the reasons proposed for nonrenewal and shall have an opportunity to be heard before the Common Council as provided in Section 125.12, Wis. Stats.
- (17) Nonalcohol Events for Underage Persons on Licensed Premises. The presence of underage persons on a licensed premises as provided under Section 125.07(3)(a)10., Wis. Stats., shall be subject to the following:
- (a) The licensee or agent of a corporate licensee shall notify the Police Department at least 48 hours in advance of the date of any event at which underage persons will be present on the licensed premises. Each such nonalcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to midnight, Monday through Friday) and shall be given on forms prescribed by the Department. After a nonalcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed canceled no later than the date of expiration or revocation of the applicable retail Class "B" or "Class B" license.
 - (b) During the period of any nonalcohol event a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises during the event. Such notice cards shall be made available by the Department to a requesting licensee.
 - (c) Once a nonalcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.

- (d) During the period of any nonalcohol event all alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispenser of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

(18) Operator's License.

- (a) Operator's License. The City Clerk may issue an operator license, which shall be granted only upon application in writing. Such license shall be issued only to persons who have reached the age of 18, who do not have an arrest or conviction record subject to Sections 111.321, 111.322 and 111.335, Wis. Stats., who are not habitual law offenders or have been convicted of a felony unless the person has been duly pardoned, have submitted the proper fee, and in the case of a new applicants have successfully completed a beverage trainer course as provided in Section 125.17(6), Wis. Stats. The license fee shall be \$50.00 for a 2-year term or fraction thereof and shall expire on June 30th of the second year.
- (b) Use by Another Prohibited.
 - 1. No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
 - 2. The license or permit of a person who violates subsection 12.03(18)(b)1., above, shall be revoked.
- (c) Procedure Upon Application.
 - 1. The City Clerk may issue an operator's license which shall be granted only upon application in writing. Such license shall be issued only to those applicants who are qualified to hold said license and have submitted the proper fee. Operator's licenses shall be operative only within the limits of the City. The fee shall be payable at the time of application.
 - 2. All applications are subject to an investigation by the Chief of Police to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the City Clerk approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation to the Legislative and Regulatory Committee.
 - 3. Training Course.
 - a. Except as provided in subsection 12.03(18)(f)3.b., below, the City Clerk may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course as provided in Section 125.17(6) Wis. Stats., or unless the applicant fulfills one of the following requirements:
 - (i) The person is renewing an operator's license;
 - (ii) Within the past 2 years, the person held a Class "A" or Class "B" fermented malt beverage, "Class A" or "Class B" intoxicating liquor license or permit or a manager's or operator's license;
 - (iii) Within the past 2 years, the person has completed such a training course.
 - b. The City Clerk may issue a provisional operator's license to a person who is enrolled in a training course as described above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.

- (d) Duration. Operator's licenses issued under the provisions of this section shall be valid for a period of 2 years and shall expire on June 30 of the second year.
- (e) Temporary Licenses. The City Clerk may issue temporary licenses under the terms of subsection (a) of this section except that:
 - 1. This license may be issued only to operators employed by, or donating their services to, nonprofit corporations;
 - 2. No person may hold more than one license of this kind per license year (i.e., July 1st through the following June 30th);
 - 3. This license is valid for any period from one to 14 days, and the period for which it is valid shall be stated on the license;
 - 4. The license fee shall be \$10.00.
- (f) Provisional Licenses.
 - 1. Issuing Agent. The City Clerk is empowered to issue a provisional operator's license at any time on or after 3 working days (excluding Saturday and Sunday) from the filing of a written application for a regular operator's license.
 - 2. Term. A provisional operator's license shall be valid for a period of time not to exceed the earlier of 60 days from the date issued or to the date of issuance of a regular operator's license.
 - 3. Eligibility.
 - a. The Clerk shall not issue a provisional operator's license until notified by the Chief of Police that the applicant meets those qualifications set forth in Sections 125.04(a), (b) and (d), Wis. Stats., relating to criminal records.
 - b. The applicant need not have completed the beverage trainer course as provided in Section 125.17(6), Wis. Stats., but, must show that he has enrolled in said course.
 - c. Application for a provisional license may be made only one time.
 - d. Revocation. The Clerk may revoke a provisional operator's license, without notice, upon discovery that the holder made a false statement on the application and if the applicant fails to complete the course in which he or she enrolls, the license shall be revoked.
 - e. The license fee shall be \$10.00.
- (g) Issuance or Denial of Operator's Licenses.
 - 1. After the approval of an operator's license, the City Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
 - 2. If the applicant is denied, the City Clerk shall, in writing, inform the applicant of the denial, the reasons therefor, and of the opportunity to request a reconsideration of the application by the Legislative and Regulatory Committee.
 - a. Any applicant denied an operator's license by the City Clerk shall have the right to appeal the denial to the Legislative and Regulatory Committee. Such appeal shall be in writing and given to the City Clerk within 30 days of the denial. The City Clerk shall promptly place the matter on the soonest available Committee agenda. The Legislative and Regulatory Committee shall independently review the applicant's request for an operator's license under this section.
 - b. If, upon reconsideration, the Legislative and Regulatory Committee again denies the application, the City Clerk shall notify the applicant in writing of the reasons therefor.

An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Section 125.12(2)(d), Wis. Stats., for review.

3. Consideration for the granting or denial of a license will be based on Section 125.04(5), Wis. Stats.
4. If a licensee is convicted of an offense substantially related to the licensed activity, the Legislative and Regulatory Committee may act to revoke or suspend the license.
5. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least 2 offenses which are substantially related to the licensed activity within the 5 years immediately preceding the license application. Because the license is a privilege, the issuance of which is a right granted solely to the Legislative and Regulatory Committee, the Legislative and Regulatory Committee reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant or deny an original license.

(19) Revocation, Suspension or Nonrenewal of License.

- (a) Procedure. Except as herein after provided, the provisions of Chapter 125, Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this section. Revocation or suspension proceedings may be instituted by the Legislative and Regulatory Committee, as duly authorized Committee of the Common Council.
- (b) Demerit Point System. In addition to the regulations of Chapter 125, Wis. Stats., and this section of the City of Elkhorn Ordinances, this point system is established to provide a guide for the Legislative and Regulatory Committee in the suspension, revocation, or nonrenewal of alcohol/liquor licenses. The system is intended to identify habitually troublesome liquor license holders who repeatedly violate Wisconsin State Statutes and/or City Ordinances and to assist the Legislative and Regulatory Committee in taking consistent action in its determinations of whether or not to suspend or revoke such licenses.

1. Violations and Points: The following is a list of demerit points for each type of violation.

Types of Violations	Demerit Points
Owner/Employee selling/possessing with intent to sell a controlled substance (Wis. Stats. Ch. 961)	225
Nude/Semi-nude entertainer/employee on premises	225
Any unlawful sexual activity on the premises (Wis. Stats. Chs. 944, 948)	225
Exceeding posted occupancy capacity by more than 30%	175
Refusal to allow authorized entry on premises/obstruct police investigation	125
Illegal drug paraphernalia on premises—Observed (Wis. Stats. § 961.573(1))	125

Unauthorized transfer/use of license or failure to have license (Wis. Stats. § 125.04(1), (12))	100
False statement on license application (Wis. Stats. § 125.04(3))	100
Sale to intoxicated person (Wis. Stats. § 125.07(2))	75
No license bartender on premises or intoxicated bartender (Wis. Stats. § 125.32(2))	75
Sale to person under 21 (Wis. Stats. § 125.07(1))	75
Conducting business in violation of any other violation of Wis. Stats. Ch. 125 or Elkhorn Municipal Code Section 12.03	75
Open after hours/carry outs or consumption after hours (Wis. Stats. § 125.32(3))	50
Other ordinance violations including but limited to: disorderly conduct, failure to maintain order, noise complaints, exceeding capacity, etc.	50
Failure to display license (Wis. Stats. § 125.04(10))	25
Penalty enhancer for severe offenses: Enhanced penalty for conduct which results in great bodily harm to any individual; creates a substantial risk of death or bodily harm; involved the use of a firearm or other dangerous weapon; or demonstrates an ongoing disregard for the requirements of state law or municipal ordinances	100

2. Calculating Violations: In determining the accumulated demerit points, the date of the violation is used as the basis for assigning demerit points per incident. In addition, the violation must occur on the licensed premises or be directly related to the use of the licensed premises.
 - a. Points Assessed Upon Court Conviction: Demerit points may be assessed after entry of a judgment of conviction in a federal, state or municipal court for violation of any statute or the City of Elkhorn Municipal Code provision listed under the types of violations above. Regardless of the assessment of points as the result of a court conviction, the Legislative and Regulatory Committee must determine the number of points to be assessed against the license holder as provided in subsection (b)5., below.
 - b. Points Assessed by Legislative and Regulatory Committee: As an alternative to the method set forth in subsection 2.a., above, demerit points may be assessed by the Legislative and Regulatory Committee upon proof of a violation or violations set forth in subsection 1., above, at a hearing pursuant to subsection 4., below. At such a hearing the Chief of Police or his/her designee shall have the burden of proving any

violation by clear, satisfactory and convincing evidence (burden of proof in Municipal Court).

3. Police Notification to Legislative and Regulatory Committee: Except as otherwise provided herein the Chief of Police or his/her designee will notify the Legislative and Regulatory Committee of any convictions in any federal, state or municipal courts that result in the assessment of demerit points against any licensee. In addition, the Chief of Police or his/her designee may notify the Legislative and Regulatory Committee of any conduct that is described in the list of violations listed above. In cases where multiple violations occur on the same date, the Chief of Police has the option of reporting only the violation with the highest demerit point value.

If the license holder made a reasonable effort to report the incident at the onset of the violation occurrence, indicating that the license holder was attempting to remain in compliance with this ordinance by trying to avoid the accumulation of demerit points, then the Chief of Police may withhold notification to the Legislative and Regulatory Committee. However, after 3 incidents in any 18-month period, whether the business reported the incident or not, all violations with a value of 75 points or higher will be reported to the Legislative and Regulatory Committee.

When the police department makes a notification regarding demerit points to the Legislative and Regulatory Committee, the license holder shall also be notified in writing of the demerit points reported or the conduct and the potential demerit points listed for that conduct as set forth in the point system listed above. Such notification shall be served in person or by certified mail.

4. Legislative and Regulatory Committee Determination of Demerit Points and Suspension and/or Revocation of License: Following the notification, or the filing of a complaint pursuant to Section 125.12, Wis. Stats., the Legislative and Regulatory Committee shall hold a hearing as required by law, and may take the following action(s) in subsections a. through d., below, after determining as provided in subsections e. and f., below, the number of demerit points assessed against the licensee:
 - a. For demerit points of 174 or less in any 12-month period, a written warning will be issued to the licensee with the consequences of additional violations.
 - b. For demerit points totaling 175—224 in any 12-month period, suspension of the license for a period of not less than 10 days.
 - c. For demerit points totaling 225—274 in any 18-month period, suspension of the license for a period of not less than 10 days nor more than 90 days. (Section 125.12(2)(b), Wis. Stats., allows suspension of up to 90 days).
 - d. For demerit points totaling 275 or more in any 24-month period, revocation of license.
 - e. If the demerit points were reported to the Legislative and Regulatory Committee on the basis of entry of a judgment of convictions pursuant to subsection 2., above, the Legislative and Regulatory Committee shall determine whether there has been a judgment of conviction for each violation for which demerit points have been assessed and whether the procedures set forth in this demerit system ordinance have been complied with. The Legislative and Regulatory Committee shall allow the license holder the opportunity to be heard and present relevant evidence regarding any convictions for which demerit points have been assessed and reported to the Legislative and Regulatory Committee. If the Legislative and Regulatory Committee is satisfied that a judgment of conviction has been entered then the Legislative and Regulatory Committee may, in its discretion find that the demerit points assessed for the violation or violations are correct without the need for any further evidence to establish the violation.

- f. If the Chief of Police or his/her designee has reported conduct that is listed as a violation in subsection 1., above, for which there has not been a judgment of conviction, then demerit points may only be assessed by the Legislative and Regulatory Committee upon finding that the violations have been committed and that the demerit points may be assessed against the license holder. The Legislative and Regulatory Committee shall allow the license holder the opportunity to be heard and present relevant evidence regarding the violations for which demerit points can be assessed. Any hearing required under subsection f. shall be governed by the provisions of Section 125.12, Wis. Stats.
5. Transfer/Sale of Licensed Business: Upon transfer or sale of the licensed business, all accumulated demerit points shall be cancelled unless any of the following apply:
- a. The new licensee is related to the former licensee by blood, adoption, marriage or is their domestic partner;
 - b. The new licensee held an ownership interest in the previous licensed business, real estate or equipment; or
 - c. The former licensee retains an ownership interest in the business, real estate or equipment used by the business.

For the purpose of this subsection 5., an "ownership interest" is defined to mean that a person, partnership, corporation, limited liability company, or other legal entity either owns all or part of or controls directly or indirectly the licensed business. This is not intended to include a security interest or a vendor's interest under a land contract unless otherwise maintaining an ownership interest. It is presumed that control of or ownership of any part of a legal entity that has an ownership interest in a business is an "ownership interest" under this subsection.

If any of the [provisions of subsections] a. through c. applies, the new licensee will inherit the demerit points previously assessed and be subject to all of the applicable provisions of this section.

- (c) Scope of Ordinance. Nothing in this section shall be construed to conflict with, abridge or modify the rights or procedures established for the suspension or revocation of licenses in Section 125.12, Wis. Stats., and does not restrict the City or any other party from seeking revocations, suspension or nonrenewal of a license regardless of whether there are any demerit points assessed against a licensee.]

(20) Revocation and Suspension of Licenses.

- (a) Procedure. Except as hereinafter provided, the provisions of Chapter 125, Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this chapter. Revocation or suspension proceedings may be instituted by the Legislative and Regulatory Committee, as duly authorized Committee of the Common Council.
- (b) Suspension of Licenses. The Chief of Police, upon obtaining reasonable information that any licensee has violated any provision of this chapter or any state or federal liquor or fermented malt beverage law or committed any felony, may suspend the license or permit of such person for a period not to exceed 10 days pending hearing by the Legislative and Regulatory Committee pursuant to subsection 12.03(20)(a).
- (c) Automatic Revocation. Any license or permit issued under the provisions of this chapter shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent or representative of a second offense under this chapter or Chapter 125, Wis. Stats., or any other state or federal liquor or fermented malt beverage law or any felony.
- (d) Repossession of License or Permit. Whenever any license or permit under this chapter shall be revoked or suspended by the City Council, Legislative and Regulatory Committee, Chief of Police or action of any court or subsection 12.03(20)(c), it shall be the duty of the City Clerk to

notify the licensee or permittee of such suspension or revocation and to notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the City Clerk's office.

- (21) Violations and Penalties. The penalty for violation of any of the provisions of this chapter shall be a penalty as provided in Chapter 25.04 of this Municipal Code, provided that no penalty imposed shall exceed the maximum allowed by Chapter 125, Wis. Stats. A separate offense shall be deemed committed on each day in which a violation occurs or continues. (Ord. No. 14-03, § 1, 3-17-2014; Ord. No. 14-02, § 5, 4-21-2014; Ord. No. 12-07, 2012; Ord. No. 09-09, 2009; Ord. No. 08-07, § 1, 2008; Ord. No. 07-11, 2007; Ord. No. 06-26, § 1, 2006; Ord. No. 03-40, § 7(a), 2003; Ord. No. 02-23, § 1, 2002; Ord. 1039, § 1, 1998; Ord. No. 1038, §§ 1, 2, 1998; Ord. No. 1014, § 1, 1997; Ord. No. 1009, § 1, 1997.)

Wisconsin Alcohol Beverage and Tobacco Laws for Retailers

Table of Contents

	Page
I. INTRODUCTION	3
II. DEFINITIONS.....	3
III. ALCOHOL BEVERAGE LAW	5
A. Closing Hours	5
B. Daylight Saving Time	5
C. Training Requirements For Completion Of The Responsible Beverage Server Training Course (Required As A Condition Of Licensing)	5
IV. LICENSING	6
V. SALE OF ALCOHOL BEVERAGES	6
VI. SELLER’S PERMIT.....	6
VII. FEDERAL TAX STAMP.....	6
VIII. LICENSES FRAMED AND POSTED.....	7
IX. REQUIRED ONSITE SUPERVISION OF LICENSED PREMISES.....	7
X. SALE TO INTOXICATED PERSONS	7
XI. REFILLED LIQUOR BOTTLES.....	7
XII. IDENTIFICATION REGISTER.....	7
XIII. PRESERVATION OF RECORDS	8
XIV. TRANSFER OF ALCOHOL BEVERAGE STOCK.....	8
XV. "WINE OR BEER WALKS"	8
XVI. CORKAGE FEES.....	9
XVII. CREDIT LAWS	9
XVIII. INSPECTION OF LICENSED PREMISES.....	9
XIX. UNDERAGE PERSONS ENTERING LICENSED PREMISES	10
XX. SALES AND SERVICE OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS	11
XXI. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS	11
XXII. NONALCOHOL “BEER”	11
XXIII. EMPLOYMENT OF MINORS	11
XXIV. OTHER LAWS RELATING TO UNDERAGE PERSONS.....	12
XXV. PENALTIES FOR VIOLATIONS.....	12
XXVI. FALSE ID CARDS - PENALTIES.....	13
XXVII. ID/DL CHECKING GUIDE.....	13
A. False ID/DL Checking Guide	13
B. Things to look for:	13
XXVIII. CIVIL LIABILITY FOR RETAINING ID.....	14
XXIX. CIGARETTE/TOBACCO PRODUCTS LAWS	14
XXX. VIDEO GAMBLING	16

IMPORTANT CHANGES

2015 Act 55 (effective July 14, 2015) provides that municipalities shall issue a "Class A" (cider only) liquor license if the license applicant also holds a Class "A" (beer) license for the same premises, and limits its sale of intoxicating liquor to cider only. The municipality may not charge an initial issuance fee for a "Class A" (cider only) license. See the definition of cider on page 3.

2015 Act 62 (effective October 23, 2015) authorizes a municipality to issue temporary Class "B" (beer) licenses and temporary "Class B" (wine only) licenses to a qualified organization, including a chamber of commerce or similar civic or trade organization organized under chapter 181 of the Wisconsin statutes to promote economic growth and opportunity within a local geographical area. New guidance regarding wine or beer walks is provided in section XV on page 8.

I. INTRODUCTION

This publication provides information about state alcohol beverage and tobacco laws that affect you as a retailer.

Most of the laws outlined in this publication are found in Chapter 125 and sections 134.65 and 134.66 of the Wisconsin Statutes.

Municipalities also may enact additional regulations affecting your business. You should contact your local municipal clerk if you have questions about local ordinances.

For more information on state alcohol beverage and tobacco laws, write to the Wisconsin Department of Revenue, Alcohol & Tobacco Enforcement, P.O. Box 8933, Madison, WI 53708 or call (608) 266-2776.

CAUTION

- The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin legislature as of December 1, 2015. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.
- The examples and type of sales and purchases provided in this publication are not all-inclusive. They merely set forth common examples.

II. DEFINITIONS

Adult – A person who is 18 years of age or older.

Minor – A person who is under 18 years of age.

Legal Drinking Age – 21 years of age.

Underage Person – A person who is not of legal drinking age.

Beer – A fermented malt beverage containing .5% or more of alcohol by volume.

Cider - an alcohol beverage that is obtained by the fermentation of the juice of apples or pears and that contains not less than 0.5 percent alcohol by volume and not more than 7.0 percent alcohol by volume. "Cider" includes flavored, sparkling, and carbonated cider. (Effective January 1, 2016)

Intoxicating Liquor (Or Liquor) – All alcohol beverages (other than beer) containing .5% or more alcohol by volume, and all wines.

Alcohol Beverages – A statutory term which includes beer, wine, and liquor.

Provisional Retail License

1. A municipal governing body that issues licenses shall issue provisional retail licenses. The governing body may by ordinance establish standards under which the licenses shall be issued and shall by ordinance designate the municipal official having the authority to issue the provisional license.

2. The provisional retail license may be issued only to a person applying for a Class “A” beer, Class “B” beer, “Class A” liquor, “Class B” liquor or “Class C” wine.
3. The fee shall be determined locally but may not exceed \$15.
4. The license will expire 60 days after issuance or when the person has been issued a license as listed under 2. The official who issued the provisional retail license may revoke the license if he or she discovers the holder made a false statement on the application.
5. A municipality may not issue a provisional “Class B” liquor license if the municipality’s quota is filled.
6. No person may hold more than one provisional retail license for each type of license applied for by the holder per year.

Class “A” Fermented Malt Beverage License – Authorizes the retail sale of beer and beer-based coolers, in the original sealed container, for consumption off the licensed premises.

1. No sales to other licensees for resale;
2. May sell in any quantity to the public;
3. No beer sales between 12 midnight and 6:00 a.m.
4. Local ordinances may further restrict these hours.
5. May furnish customers with two 3 fluid ounce taste samples of beer between 11:00 a.m. – 7:00 p.m.

“Class A” Liquor License – Authorizes the retail sale of liquor and wine, in the original sealed container, for consumption off the licensed premises. A "Class A"(cider only) license authorizes the retail sale of cider, and shall be issued to a license applicant holding a Class "A" (beer) license for the same premise. The sale of intoxicating liquor is limited to cider only. Municipalities may not charge an initial issuance fee for a "Class A" (cider only) license, but publication of the "Class A" (cider only) license application is required and the license applicant shall pay the cost of publication of the license application.

1. No sales to other licensees for resale;
2. May sell in any quantity to the public;
3. May not sell intoxicating liquor and wine between 9:00 p.m. - 6:00 a.m.
4. Local ordinances may further restrict these hours.
5. May furnish customers with two 3 fluid ounce taste samples of wine between 11:00 a.m. – 7:00 p.m.

Class “B” Fermented Malt Beverage License – Authorizes the retail sale of beer and beer-based coolers for consumption on the licensed premises and for consumption off the licensed premises.

1. No sales to other licensees for resale;
2. May sell in any quantity to the public;
3. Must be closed between the following hours:
 - a) Monday - Friday – 2:00 a.m. - 6:00 a.m.
 - b) Saturday - Sunday – 2:30 a.m. - 6:00 a.m.
 - c) Second Sunday in March – 3:30 a.m. – 6:00 a.m.
 - d) New Year’s Eve – No closing required.
 - e) Local municipalities may NOT further restrict the closing hours.
4. No off-premises sales between 12:00 midnight - 6:00 a.m. Local ordinances may further restrict these sales hours.

“Class B” Liquor License – Authorizes the retail sale of liquor by the drink for consumption on the licensed premises and (if allowed by local ordinance) in the original sealed container for off-premises consumption.

A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise.

1. No sales to other licensees for resale;
2. Off-premises sales of liquor, when permitted by local ordinance, limited to 4 liters or less;

3. Wine may be sold in the original package, in any quantity, for on and off-premises consumption.
4. Closing hours the same as Class “B” License, above.
5. A winery that has a “Class B” (wine only) license issued under s. 125.51(3)(am) must close between 9:00 p.m. and 8:00 a.m.

“Class C” Wine License – Authorizes the retail sale of wine by the glass or in an opened original container for consumption on premises only.

A single, open bottle of wine may be taken off premise if ordered with a meal and re-corked prior to being taken off premise.

1. No sales to other licensees for resale.
2. Closing hours the same as Class “B” License, above.

Notice - With limited exceptions, all retailers of alcohol beverages may only sell to consumers who are physically at the licensed premises.

For example:

- (1) A customer phones in an order to a local pizza parlor (that holds a Class B beer license) to have a pizza and a six pack of beer delivered to his home – this sale is prohibited, as the sale was not made face-to-face to the consumer at the licensed premises
- (2) A group of college students call their local liquor store and ask that 6 half barrels of beer be delivered to their house for a party – this sale is prohibited, as the sale was not made face-to-face to the consumers at the licensed premises.

III. ALCOHOL BEVERAGE LAW

A. Closing Hours

1. Customers must leave the premises by the closing hour; internal business operations (counting cash, cleaning, repairs, etc.) may be done after hours but licensees must be able to prove that

anyone on the premises after hours is there for these purposes.

2. Hotels and restaurants whose “principal business” is furnishing lodging and food to customers, bowling centers, indoor horseshoe pitching facilities, golf courses, and curling clubs may remain open after hours to conduct their regular business. They may not permit consumption of or sell alcohol beverages after hours.

“Principal business” means the primary activity as determined by analyzing the amount of capital, labor, time, attention, and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance, and advertising of the entity may also be taken into consideration if they are given less weight.

B. Daylight Saving Time

Section 175.095(2), Wis. Stats., states that daylight saving time begins at 2:00 a.m. the second Sunday in March and ends at 2:00 a.m. the first Sunday in November.

As such, clocks are set ahead one hour at 2:00 a.m. the second Sunday in March. Thus taverns would close at 3:30 a.m. daylight saving time on this date.

On the first Sunday in November, the clocks are set back an hour at 2:00 a.m.; bars gain an extra hour and must close at 2:30 a.m. regular Central Standard Time.

C. Training Requirements For Completion Of The Responsible Beverage Server Training Course (Required As A Condition Of Licensing)

Applicants must successfully complete an approved training course, such as courses offered by the Wisconsin Technical College System, or similar approved courses (see “Training” on the department’s web side at revenue.wi.gov) unless:

1. The person is renewing a retail or an operator’s (bartender’s/sales clerk’s) license.

2. The person was the agent (within the last two years) for a corporation that held a Class “A” beer, Class “B” beer, “Class A” liquor, “Class B” liquor or “Class C” wine license.
3. The person held a retail license or an operator’s or manager’s license during the past two years.
4. The person completed such a course within the past two years.

IV. LICENSING

A license is a **privilege** granted by local authorities to a particular person, partnership, or corporation to run a particular place for the time period specified. Just as one’s driver’s license can’t be used by another, an alcohol beverage license can’t be used by someone other than the licensee to sell alcohol beverages. The license or permit of a person who violates this shall be revoked. The governing body of every city, village, and town may, **but is not required to**, issue local retail liquor and beer licenses. The municipality may refuse to issue licenses as long as it uses good judgment and does not discriminate between applicants.

V. SALE OF ALCOHOL BEVERAGES

The term “sale,” “sold,” or “sell” includes the transfer, gift, barter, trade, exchange, or any shift, device, scheme, or transaction whatever, whereby alcohol beverages may be obtained. Giving away alcohol beverages or using any other device to evade the law relating to its sale is an unlawful sale.

The following are some examples of illegal transactions at **unlicensed** premises:

1. A “free” drink with a meal;
2. A cover charge, whereby mix is furnished at a price, with “no charge” for liquor;
3. A “free” bottle of liquor tied into the sale of some other item.

Penalty: Fine of not more than \$10,000 or imprisonment for not more than nine months, or both.

VI. SELLER’S PERMIT

- A. Every individual, partnership, corporation, or other organization selling tangible personal property in Wisconsin must have a seller’s permit.
- B. The alcohol beverage license and seller's permit must be in the same legal name (see exception below). If the alcohol beverage license is issued to a partnership or corporation, the seller's permit must be too; not to the agent, officer, or individual. When dealing with a limited liability company (LLC) always issue the alcohol beverage license in the legal name of the LLC (not trade name or owner's name).

Exception: Some alcohol beverage licenses are issued to an LLC where the business operates as a sole proprietor or single member for sales tax purposes. In such cases the LLC's seller's permit may be issued in the name of the sole proprietor or single member of the LLC. If an LLC applies for an alcohol beverage license and furnishes a seller's permit that is not in the legal name of the LLC, call the department at (608) 266-2776 to verify whether the seller's permit is valid for the LLC.

Write... Wisconsin Department of Revenue
Mail Stop 5-77
PO Box 8949
Madison, WI 53708-8949

Phone... (608) 266-2776

Email... DORSalesandUse@revenue.wi.gov

Visit our website: revenue.wi.gov

VII. FEDERAL TAX STAMP

Before beginning business every retail licensee must file an Alcohol Dealer Registration with the federal Department of Treasury Alcohol and Tobacco Tax and Trade Bureau (TTB). Use TTB Form 5630.5d. This form is available from the TTB website at: ttb.gov/forms/f56305d.pdf or by calling the National Revenue Center at 1-800-937-8864. Once you have registered your business, any change in your business operation must be reported before the subsequent July 1, using the same form.

VIII. LICENSES FRAMED AND POSTED

All liquor and beer licenses must be framed and posted in the room where the business is carried on. Everyone visiting the business must be able to easily see the licenses in that room. Any related permits and licenses should be posted with the alcohol beverage license.

IX. REQUIRED ONSITE SUPERVISION OF LICENSED PREMISES

- A. Except in Class “A” beer premises between midnight and 6:00 a.m. (or any time when the sale of fermented malt beverages is prohibited by municipal ordinance), one of the following must be present on all licensed premises during all business hours:
1. The licensee, or;
 2. An adult member of licensee’s immediate family (actually living in the licensee’s household), or;
 3. The corporation agent, (the agent’s immediate family members must have an operators’ license, if they supervise the premises in the agent’s absence), or;
 4. The holder of a provisional operator’s license (issued to persons enrolled in the responsible beverage server training course pending approval of an operator’s license by the municipal governing body), or;
 5. The holder of an operator’s or manager’s license.
- B. An adult working under the immediate supervision of any of the above does not need an operator’s license. **NOTE:** “Immediate supervision” means that the licensed person must be able to watch and supervise each unlicensed person’s actions. This means that the licensed person must be in the same room or area as the unlicensed person, near enough to see and talk to him or her, and to be able to actually supervise the unlicensed person.
- C. An operator’s license is good in any premises in the municipality where it has been issued, but it may be used only in that municipality. Licensees may be

prosecuted for not having the required supervision on their premises.

X. SALE TO INTOXICATED PERSONS

It is illegal to furnish alcohol beverages to an intoxicated person. The penalty for this violation is \$100-\$500 fine, imprisonment for not more than 60 days, or both.

XI. REFILLED LIQUOR BOTTLES

- A. It is illegal to refill any liquor bottle; you may not pour any substance into a liquor bottle, even the same brand of liquor.
- B. When a bottle is empty, deface its label and break the bottle. If the bottle has a Wisconsin tax stamp, deface this, too.
- C. You don’t have to break bottles saved for recycling; however, the labels must be defaced. Bottles saved for recycling must be placed in boxes marked “For Recycling Only.”
- D. You do not have to break empty ceramic decanters, but you must deface the tax stamp, if any.

XII. IDENTIFICATION REGISTER

- A. The Department of Revenue recommends that every licensee keep an identification register book. The ID register may be used to record the identity of a person who alleges he or she is of legal drinking age. The book may also be used to record the identity of a person who alleges that he or she is an underage person’s parent, guardian, or spouse and that he or she has attained the legal drinking age. Record the date of purchase, the type of identification used, and the address of the purchaser, then have the purchaser sign the register. Check the signature in the book against the signature on the ID to see that they match.
- B. The “Proof of Age Register” or “Identification Register Book” may be purchased, at a small fee, from:
1. Tavern League of Wisconsin, 2817 Fish Hatchery Road, Fitchburg, WI, 53713-5005, phone: (608) 270-8591, email: info@tlw.org.

2. Wisconsin Grocers Assn., One S. Pinckney, Ste. 504, Madison, WI, 53703, phone: (608) 244-7150, email: sdecorah@wisconsinagrocers.com.

ganized under chapter 181 of the Wisconsin statutes to promote economic growth and opportunity within a local geographical area.

XIII. PRESERVATION OF RECORDS

Alcohol beverage (and cigarette and tobacco products) retailers must purchase these products only from **Wisconsin wholesalers**. They may not be transferred between retail accounts, except that alcohol beverages may be transferred as specified in "Transfer of Alcohol Beverage Stock," below.

Keep invoices for all purchases of liquor, beer, (and cigarettes and tobacco products) on the licensed premises for 2 years from the date of the invoice. Keep them in sequence and in chronological order. They must be available for inspection during business hours.

XIV. TRANSFER OF ALCOHOL BEVERAGE STOCK

If you sell your business, you may transfer your sealed liquor, wine and beer stock to another retail licensee in this state. List your entire sealed stock on an inventory Form AT-900 available at the Department of Revenue's website at revenue.wi.gov. Complete this form in duplicate, sign it, and have it signed by the buyer. Give one copy to the buyer, to be kept as an invoice on the licensed premises, and keep one copy for your own records. Cigarettes and tobacco products may not be transferred.

XV. "WINE OR BEER WALKS"

- A. A "wine or beer walk" is a single-day event at which customers are served a glass of beer or wine at multiple locations (e.g., jewelry stores, art galleries, clothing boutiques, salons, furniture stores, etc.) during their shopping visits.
- B. Effective October 23, 2015, Wisconsin law (2015 Wisconsin Act 62) authorizes a municipality to issue Temporary Class "B" (beer) licenses and Temporary "Class B" (wine only) licenses to a qualified organization, including a chamber of commerce or similar civic or trade organization or-

C. Single-Day, Multiple-Location Event

1. **WINE EVENT:** A municipality may issue to a qualified organization up to 20 Temporary "Class B" (wine only) licenses for a single-day, multiple-location event (commonly referred to as a "wine walk") on a specific date and time.
 - a. The Temporary "Class B" (wine only) licenses must be issued to the same qualified organization, who is the licensee and sponsor of the single-day, multiple-location event
 - b. The Temporary "Class B" (wine only) licenses must be issued for the same date and time
 - c. An admission fee must be charged for participation in the event and no additional fee can be charged for the wine
 - d. A municipality may authorize the licensee to permit unaccompanied underage persons to be on the licensee's premise only if the underage person is acting as a designated driver and has been provided a means of identification, such as a wristband, by the licensee
 - e. No person may serve wine after 9:00 p.m. on premises for which Temporary "Class B" (wine only) licenses are issued for a single-day, multiple-location event
 - f. A qualified organization may receive Temporary "Class B" (wine only) licenses for up to two events during a 12-month period, and a municipality may issue Temporary "Class B" (wine only) licenses for a total of up to two events during a 12-month period
2. **BEER EVENT:** A municipality may issue to a qualified organization Temporary Class "B" (beer) licenses for a single-day, multiple-location event (commonly referred to as a "beer walk") on a specific date and time.

- a. The Temporary Class "B" (beer) licenses must be issued to the same qualified organization, who is the licensee and sponsor of the single-day, multiple-location event
 - b. The Temporary Class "B" (beer) licenses must be issued for the same date and time
 - c. An admission fee must be charged for participation in the event and no additional fee can be charged for service of the beer
 - d. Municipalities may authorize a Temporary Class "B" (beer) licensee to permit underage persons on the premises for which a beer license is issued
 - e. There is no limit to the number of Temporary Class "B" (beer) licenses a municipality may issue to a qualified organization
3. A municipality is authorized to charge a fee not exceeding \$10 for each Temporary Class "B" (beer) or Temporary "Class B" (wine only) license issued for the single-day, multiple-location event.
 4. Requirements applying to other alcohol beverage licensees also apply to Temporary "Class B" (wine only) and Temporary Class "B" (beer) licensees. Some of these requirements include:
 - a. The presence of licensed operators to serve the wine or beer and/or supervise the service of wine or beer. Licensed operators are persons holding an "operator's license", often called a "bartender's license". Temporary operator's licenses may be issued to persons employed by or donating services to the qualified organization for the event. A person may hold two temporary operator licenses per year.
 - b. Licensees must purchase all wine or beer from liquor or beer wholesalers or breweries/brewpubs authorized to self-distribute to retail licensees.

- D. Applications for Temporary Class "B" (beer) or Temporary "Class B" (wine only) licenses to hold a single-day, multiple-location event should be submitted to the municipality by the qualified organization using the *Application for Temporary Class "B" / "Class B" Retailer's License* (Form AT-315). The qualified organization should list each of the participating locations, describing the premises, or submit a separate application for each of the multiple locations participating in the single-day, multiple-location event. Either method of submitting license applications is acceptable.

XVI. CORKAGE FEES

Corkage Fees: Wisconsin alcohol beverage law does not allow "corkage fees" – fees charged by restaurant owners to allow patrons to carry in their own alcohol beverages to be consumed on the premises.

If the restaurant does have an alcohol beverage license, the only alcohol beverages allowed on the premises are those which the retailer has purchased from a licensed Wisconsin wholesaler; the retailer is required to have invoices from the wholesaler showing what product the retailer has purchased from the wholesaler.

If the restaurant does not have an alcohol beverage license, allowing consumption of alcohol beverages is prohibited and the restaurant owner can be charged for allowing its illegal consumption.

XVII. CREDIT LAWS

A licensee may only buy liquor or beer for cash or on credit terms for a period not to exceed 30 days (liquor) or 15 days (beer). Licensees may not buy liquor if they are in debt to any liquor wholesaler for more than 30 days, or beer if they are in debt to any beer wholesaler for more than 15 days. A person may not be issued a license if he or she exceeds these limits.

XVIII. INSPECTION OF LICENSED PREMISES

- A. Licensed premises may be inspected by law enforcement officers during all reasonable hours, including all business hours. All rooms connected

to the barroom, sales room, or storage area may be inspected as part of the licensed premise. Refusing to permit an inspection is grounds for revocation or suspension of the license.

- B. Liquor, beer, cigarettes, and personal property kept in violation of the statutes may be seized.

XIX. UNDERAGE PERSONS ENTERING LICENSED PREMISES

- A. An underage person accompanied by his or her parent, guardian, or spouse of legal drinking age may be on any licensed premises.
- B. An unaccompanied underage person may enter a Class A alcohol beverage licensed premises to buy items other than alcohol beverages. The underage person may not stay on the premises after the purchase.
- C. An unaccompanied underage person may also enter a licensed premises if:
 - 1. He or she is an employee, resident, lodger, or boarder on the premises, or;
 - 2. He or she enters to do business other than amusement or the purchase or consumption of food and beverages (see exception B above), or;
 - 3. He or she enters to buy food in a restaurant whose "principal business" is serving food, or;
 - 4. The premises is a hotel, drug store, grocery, bowling center, service station, indoor golf simulator facility, vessel, private tennis or soccer club, ski chalet, golf course or clubhouse, racetrack licensed under ch. 562, indoor or outdoor volleyball court, curling club, billiards center having 12 or more billiards tables, privately owned fishing business that is open to the public for a fee, car operated on a railroad, a regularly established athletic field or a county or municipally owned public facility as defined in sec. 125.51(5)(b), Wis. Stats., of the statutes, or a center for visual or performing arts, or;
 - 5. The premises is in a state park or forest or a park owned by an agricultural society receiving state aid.

- 6. The premises has a Class "B" beer or "Class B" liquor license and the underage person is there to do business at an auction or flea market. In this case, the underage person may not enter any room where alcohol beverages are sold, furnished or possessed.
- 7. The premises has a Class "B" beer or "Class B" liquor license and the underage person is in a room where no alcohol beverages are sold, furnished, served, or consumed by anyone when the underage person is present. This applies only if the municipality adopts an ordinance allowing it. The local law enforcement agency must authorize, in writing, the presence of underage persons on the date of the authorization. A separate authorization is necessary for each date on which underage persons will be on the premises. (Sec. 125.07(3)(a)(8), Wis. Stats.)
- 8. The underage person is on Class "B" or "Class B" licensed premises, on a date specified by the license, when no alcohol beverages are consumed, sold, or given away. The licensee, the agent named on the license (if a corporation), or a person with an operator's license must be on the premises unless all alcohol beverages are in locked storage. The licensee must notify the local law enforcement agency, in advance, of when underage persons will be on the premises. (Sec. 125.07(3)(a)(10), Wis. Stats.)
- 9. The underage person enters and remains in a dance hall, or banquet or hospitality room attached to a Class B licensed premises, for the purpose of attending a banquet, reception, dance or other similar event.
- 10. The underage person is at least 18 years old, and is working under a contract with a licensee, permittee, or corporate agent to provide entertainment for customers on the premises.
- 11. The premises is issued a temporary Class "B" (picnic) beer license and the licensee is authorized to permit underage persons on the premises by the official or body of the municipality that issued the license, or, the premises is licensed as a temporary "Class B" (wine only) license and the licensee is authorized to permit unaccompanied underage persons, acting as

designated drivers, who are provided a means of identification by the licensee, such as a wristband to be on the licensee's premise.

Note: When the purpose of the above exemptions (that is, bowling, dining, recreation, etc.) can be accomplished without the underage person being in the barroom or other areas where alcohol beverages are sold or consumed, the underage person may not enter or remain in such areas (State vs. Ludwig Lanes, 31 Wis. 2nd 690).

- D. No retail licensee may permit an underage person, not accompanied by a parent, guardian, or spouse of legal drinking age, to enter any part of the licensed premises for any purpose except those stated on pages 10 and 11.
- E. You should demand proof of age of anyone entering the premises who appears to be under the legal drinking age. Wisconsin residents may prove age with either a valid Wisconsin identification card or a pictured Wisconsin driver's license. You or your employee should require anyone who has shown proof of legal drinking age to sign an ID register book, if the person's age is in question. Record the date of purchase, the identification used, the address, and the signature of the purchaser in the book. The book should be kept on the premises and available for inspection by any peace officer. (Sec. 125.07(7), Wis. Stats.)

XX. SALES AND SERVICE OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS

An underage person accompanied by a parent, guardian, or spouse of legal drinking age may be sold or served alcohol beverages in any licensed premises. (Sec. 125.07(1), Wis. Stats.)

XXI. POSSESSION OF ALCOHOL BEVERAGES BY UNDERAGE PERSONS

An underage person may not possess alcohol beverages anywhere unless accompanied by a parent, guardian, or spouse of legal drinking age (sec. 125.07(4)(b)). This does not apply to underage persons employed by the

following types of licensees or permittees, in the course of this employment: (sec. 125.07(4)(bm), Wis. Stats.)

- A. Brewers
- B. Beer wholesalers
- C. Liquor wholesalers
- D. Facilities for the production of alcohol fuel
- E. Retail licensees or permittees, under the provisions of secs. 125.32(2) and 125.68(2), Wis. Stats., (laws covering operator's licenses), or for delivery of unopened containers to the home or vehicle of a customer.
- F. Campuses, if the underage person is at least 18 years of age and is under the immediate supervision of a person of legal drinking age.

XXII. NONALCOHOL "BEER"

Section 125.02, Wis. Stats., classifies "alcohol beverages" as those beverages containing 0.5% or more alcohol by volume. Beverages that contain less than 0.5% alcohol by volume are not classified as "alcohol beverages". Thus, these "nonalcohol" beverages are not regulated by Chapter 125; they are to be treated the same as other noncarbonated waters and sodas, and may be sold to anyone, regardless of age.

These beverages should not be confused with those labeled "low alcohol" (L.A.), which generally contain 3.2% alcohol, and are regulated by Chapter 125 as being alcohol beverages.

XXIII. EMPLOYMENT OF MINORS

- A. Minors under 14 years of age may not be employed where alcohol beverages are sold except that minors as young as 12 may be employed at such establishments if their parents own the business.
- B. Minors 14 and older may be employed where alcohol beverages are stored, sold, or served if they are not serving, selling, dispensing, or giving away alcohol beverages. This applies to all places licensed to sell alcohol beverages, including stores, service stations, bars, and restaurants.

C. Minors may not be employed or appear as musicians, singers, performers, or dancers at roadhouses, dance halls, night clubs, taverns, or similar places, except:

1. Minors 16 or 17 years of age may be employed or appear as musicians in a hall on Friday, Saturday, or any other day not followed by a school day, or before midnight on Sunday, if the hall was rented to celebrate a special event such as a wedding, holiday, birthday, or anniversary.
2. Minors may be so employed or appear at dances held solely for minors, conducted by private clubs or civic organizations, where admission is limited to the club membership or by club invitation, and the general public is excluded. (Sec. 103.78, Wis. Stats.).

(Sec. 103.78(1)(d), Wis. Stats., and Wis. Adm. Code DWD 270.)

XXIV. OTHER LAWS RELATING TO UNDERAGE PERSONS

- A. No one may falsely represent that he or she is of legal drinking age to ask for or obtain alcohol beverages in any licensed premises. (Sec. 125.07(4), Wis. Stats.)
- B. No one may possess or consume alcohol beverages in a public, parochial, or private school, through 12th grade, or in a vehicle owned by, rented, or consigned to a school or while participating in a school activity, without the express, written permission of the school administrator (sec. 125.09(2), Wis. Stats.) Permission may not be given to underage persons.
- C. A licensed alcohol beverage retailer may bring a civil action against a person who violates the state's underage drinking law, if the following conditions are met:
 - The conduct must occur on the retailer's premises
 - The retailer must mail notice of the intent to bring action to the underage person or the

underage person's parent, as applicable at least 15 days prior to filing the action

- The retailer must not have been convicted of, received a citation for, or been charged with a violation of the underage drinking law
- The retailer must have reported the suspected conduct to law enforcement at or near the time when the conduct was first discovered

This provision does not apply if the underage person was employed by or assisting a law enforcement agency in carrying out enforcement to determine compliance with, or investigating potential violations of the prohibition on underage persons in licensed premises. A retailer prevailing in the civil action shall be awarded \$1,000 in damages and the costs of bringing the civil action. (Sec. 125.07(4)(f), Wis. Stats.)

XXV. PENALTIES FOR VIOLATIONS

- A. Alcohol beverage licensees permitting unaccompanied underage persons to unlawfully enter the premises are subject to a forfeiture of not more than \$500. (Sec. 125.07(3), Wis. Stats.)
- B. An unaccompanied underage person unlawfully entering a licensed premises is subject to a forfeiture of not less than \$250 nor more than \$500, suspension of his or her motor vehicle operating privilege as provided under sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program, or a combination of these penalties.
- C. A person selling or furnishing alcohol beverages to an unaccompanied underage person is subject to a forfeiture of not more than \$500 if the person has not committed a previous violation within 30 months of the violation nor more than \$500 or imprisoned not more than 30 days or both for a subsequent offense within 30 months of the violation. (Sec. 125.07(1), Wis. Stats.)
- D. An underage person misrepresenting his or her age to obtain alcohol beverages is subject to the same penalties described in B. above.

- E. Anyone unlawfully possessing or consuming alcohol beverages on a school premises, in a school vehicle, or while participating in a school activity is subject to a forfeiture of not more than \$200 (sec. 125.09(2)(d), Wis. Stats.) except that disposition in the proceedings against an underage person shall be as provided by ss. 48.344 and 125.07(4)(c) and (d), Wis. Stats..
- F. The alcohol beverage license of any person committing a violation of sec. 125.07(1), Wis. Stats. shall be suspended for:
1. Not more than 3 days if a second violation is committed within 12 months of a previous violation.
 2. Not less than 3 days nor more than 10 days if a third violation is committed within 12 months of two previous violations.
 3. Not less than 15 days nor more than 30 days if a fourth violation is committed within 12 months after committing three other violations.
2. Makes, alters, or duplicates an official ID card.
 3. Gives false information in applying for an official ID card.
 4. Intentionally carries an ID card or other documentation showing that he or she is of legal drinking age, knowing that the documentation is false.
 5. Provides to another underage person an official ID card or other documentation claiming that the other underage person is of legal drinking age, knowing that the documentation is false.
- C. Any person who violates “A,” above, for money or other consideration is guilty of a Class I felony.

XXVI. FALSE ID CARDS - PENALTIES

- A. Anyone other than a person authorized by sec. 25.085, Wis. Stats., or sec. 343.50, Wis. Stats., who makes, alters, or duplicates an official identification (“ID”) card, provides an official ID card to an underage person, or knowingly provides other documentation to an underage person claiming that the underage person is of legal drinking age may be fined not less than \$300 nor more than \$1,250 or imprisoned not less than ten days nor more than thirty days, or both.
- B. Any underage person who does any of the following may be penalized. For a first violation, a forfeiture of \$300 - \$1,250, suspension of the person’s driving privilege, participation in a supervised work program, or any combination of these penalties.
1. Intentionally carries an official ID card not legally issued to him or her, an official ID card obtained under false pretenses, or an official ID card which has been duplicated to give false information.

XXVII. ID/DL CHECKING GUIDE

A. False ID/DL Checking Guide

- Ask pertinent questions about the ID presented. For example, if an ID card is presented as proof of age, ask how the driving was on the way to the establishment. If the person was driving, ask to see his DL.
- Check the card’s expiration date. If the DL has expired, maybe it really does not belong to the holder, but to an older sibling who has already got a replacement for it. How did he/she get to the establishment - drive, using an expired DL?
- Watch for stamp of “duplicate” on the card. If they have a duplicate, maybe someone else has the original, and one of them is lying.
- People with false IDs rarely carry backup documentation, whereas most people have several forms. When confronted with a possible false ID, ask for further documentation.
- Question the carrier as to some basic information on the card, such as address, exact birth date, middle initial, or spelling of last name. If they don’t answer to your satisfaction, refuse service and request that they immediately leave.

B. Things to look for:

- Glue lines.

- Bumpy surfaces by the picture or birth date. Any surface area inconsistent with the rest of the ID usually indicates tampering.
- Overlay of reprinted numbers (and a shadowy or cloudy image). ID card may have been opened to alter numbers.
- Missing spots on the state logo. ID alterers often forget to pay attention to one of the most obvious clues on the card.
- Comparison to legitimate DL or ID. Letters and numbers; size of lettering; format of the card. How may digits for expiration and date of birth?
- Use a blacklight and magnifying glass to check for security features such as ultraviolet/micro-printing on the DL or ID.
- Check reverse side lettering. Oftentimes counterfeiters will spend great amounts of time on reproducing an authentic-looking photoboard, but will merely photocopy the reverse side. These are often blurred, a sure sign of photocopying.
- Bend the card, feel it. How does it feel compared to the authentic card?
- What is the color of card?
- Check the size of the DL. How does it compare to a genuine one?
- Check the color/thickness and clarity of lettering.
- Check thickness of the card.
- Check the corners of the card. Are they well-rounded and smooth or uneven and jagged? This is one of the best methods for detecting counterfeit cards.
- Is there shading or glare on the picture or redness in eyes? Most driver licensing stations have their cameras set to avoid these problems.
- Use an ID Checking Guide, especially in areas where there is a heavy out-of-state population (colleges, tourist communities). There are several commercial companies that publish these guides, which picture all of the states' driver's licenses.

- Consistency with the numbers. These are often targets for alteration experts. Look closely, because they may really be altered.
- Always check the reverse side.
- Compare questionable document to the "standard", your own driver's license. Check letters and numbers, both for size and consistency against the authentic card.
- Check the laminate. How does it compare to the authentic? Is it clear or cloudy?

XXVIII. CIVIL LIABILITY FOR RETAINING ID

Civil Liability for retaining proofs of age. (Sec. 125.039, Wis. Stats.).

No person who holds a license or permit and no employee of such a person is civilly liable for retaining a document presented as proof of age for a reasonable length of time in a good faith effort to determine whether the person who presented the document is an underage person or to notify law enforcement of a suspected violation of carrying a false ID.

XXIX. CIGARETTE/TOBACCO PRODUCTS LAWS

A. Definitions:

- Cigarette - any roll of tobacco wrapped in paper or any substance other than tobacco.
- Nicotine Product – means a product that contains nicotine and is not any of the following:
 1. A tobacco product.
 2. A cigarette.
 3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

- Tobacco products means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but "tobacco products" does not include cigarettes, as defined under s. 139.30 (1m).
 - Adult - a person who is 18 years of age or older.
 - Minor - a person who is under 18 years of age.
- B. License Required - You may not in any manner or upon any pretense or by any device, directly or indirectly sell, expose for sale, possess with intent to sell or give away any cigarettes or tobacco products to any person not holding a license or permit under sec. 139.30-139.41 or 139.79, Wis. Stats., without first obtaining a license from the municipality where you are doing business.
- C. Purchases/Preservation of Records - No retailer may possess cigarettes or tobacco products purchased from anyone other than a manufacturer, distributor or jobber who holds a valid permit from the Wisconsin Department of Revenue. If a retailer purchases tobacco products from an out-of-state company that does not have a permit from the Wisconsin Department of Revenue, the retailer must obtain the permit from the Wisconsin Department of Revenue. Retailers must keep invoices for all purchases of cigarettes/tobacco products on the licensed premises for 2 years from the date of invoice. Keep them in sequence and in a chronological order. They must be available for inspection at all reasonable hours, including all business hours.
- D. Inspection of Licensed Premises/Confiscation Authority - Licensed premises may be inspected by law enforcement officers during all reasonable hours, including all business hours. All cigarettes or tobacco products kept in violation of the laws and all personal property used in connection is subject to seizure. Any refusal to permit the inspection is punishable by fine, imprisonment or both.
- E. Sales to Minors/Sales of Individual Cigarettes - No retailer may sell or give away cigarettes, tobacco products, or nicotine products (including electronic cigarettes containing nicotine) to minors; no retailer may sell individual cigarettes.
- F. Possession of Cigarettes/Tobacco Products/Nicotine Products by Children - A child may possess cigarettes/tobacco products/nicotine products for the sole purpose of resale in the course of employment during his/her working hours if employed by a retailer licensed under sec. 134.65, Wis. Stats.
- G. Training Requirement - Retailers are required to provide training to employees whose duties include the sale of cigarettes/tobacco products/nicotine products. The training program must be an approved program by the Department of Health and Family Services.
- H. As of March 1, 2004, only those cigarettes and Roll-Your-Own (RYO) tobacco products listed on the Wisconsin Department of Justice's (DOJ) website listing labeled **Directory of Certified Tobacco Manufacturers and Brands** may be sold to Wisconsin consumers. (DOJ's website: <https://www.doj.state.wi.us/dls/tobacco-directory>.) Product that is not listed cannot be sold or possessed for sale after the date shown on the website listing. Wholesalers **and** retailers who possess this product for sale or sell this product in violation are subject to confiscation of that product and/or fines, forfeitures and revocation of their permits.
- I. Minimum Markup on Cigarettes and Tobacco at Retail. The unfair Sales Act Sec. 100.30, Wis. Stats., commonly referred to as the Minimum Markup Law", applies to the sale of cigarettes and tobacco products and is regulated by the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP). For questions on cigarette and tobacco products pricing/markup, please contact DATCP at the following numbers: (608) 224-4992 or (608) 224-4989.
- Alcohol or tobacco products may not be sold at less than cost by either wholesalers or retailers. Cost includes a presumptive 3% markup by wholesalers and presumptive 6% markup by retailers.

XXX. VIDEO GAMBLING

Effective July 26, 2003, the video gambling statutes were amended to provide that only a Special Agent of the Department of Revenue that is certified as a law enforcement officer may investigate or enforce video gambling violations on Class B alcohol beverages licensed premise, if the Class B premises has *no more than five video gambling machines*.

The penalties for having five or fewer video gambling machines on a Class B premises include seizure of the machines, seizure of money in the machines, and a penalty of \$500 per machine per incident. A municipality may also enact ordinances regulating these machines.

It is a felony for a Class B establishment to have more than five video gambling machines on premises; it is also a felony for a Class A licensee to have any video gambling machines on premises. In these instances, the licensee may be arrested either by a Special Agent of the Department of Revenue or a law enforcement officer in the jurisdiction where the arrest is made.

The Department of Revenue conducts tax audits of both machine operators and Class B establishments. The gross receipts from these illegal machines is also subject to Wisconsin sales tax, the net income is subject to Wisconsin income or franchise tax, and the purchase of the machines is subject to Wisconsin sales and use tax.