

Chapter 194

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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[HISTORY: Adopted by the Village Board of the Village of Pleasant Prairie 8-2-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Adult-oriented uses and establishments — See Ch. 108.

§ 194-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats, defining, describing and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to underage persons, are adopted and made a part of this chapter by reference. Violation of any such provisions shall constitute a violation of this chapter. Penalties for violations by or relating to sale, procurement, dispensing or transfer to underage persons shall strictly conform to the penalties imposed for violations of identical offenses defined and described in Ch. 125, Wis. Stats.

§ 194-2. Licenses required. [Amended 5-18-2015 by Ord. No. 15-17]

- A. No person, except as provided by § 125.06, Wis. Stats., shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done, without having procured a license as provided in this chapter, nor without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the state and Village applicable thereto.
- (1) In accordance with § 125.06(6), no license or permit is required for officers or employees of the Village to sell fermented malt beverages at the RecPlex or Prairie Springs Park for Village-sponsored events.
- B. A license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to each other where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

§ 194-3. Classes of licenses and fees. [Amended 5-19-2003 by Ord. No. 03-26; 3-7-2005 by Ord. No. 05-11; 7-20-2009 by Ord. No. 09-41; 5-18-2015 by Ord. No. 15-17]

There shall be the following classes and denominations of licenses which, when issued by the Clerk under the authority of the Village Board, after payment of the fee herein specified, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages in Ch. 125, Wis. Stats. The fee for Class "A," "Class A," Class "B," "Class B," Reserve "Class B" and "Class C" licenses obtained under this section during the year shall be prorated according to the number of months or fraction thereof for which the license is issued; all other licenses shall not be prorated.

- A. Class "A" fermented malt beverage retailer's license: \$250 per year.
- B. Class "B" fermented malt beverage retailer's license: \$100 per year.
- C. Wholesaler's fermented malt beverage license: \$25 per year.
- D. Retail "Class A" liquor license: \$500 per year.
- E. Retail "Class B" liquor license: \$500 per year.
- F. Retail "Class B" liquor license issued to a full-service restaurant or hotel pursuant to § 125.51(4)(v), Wis. Stats.: \$500 per year.
- G. Retail reserve "Class B" liquor license: \$500 per year.
- H. Initial reserve "Class B" liquor license: \$10,000 upon approval of initial retail reserve "Class B" liquor license application, to be paid in addition to the annual fee due under Subsection G above, and any other fee required under this section.
- I. Retail "Class C" wine license: \$100 per year. See § 125.51(3m), Wis. Stats. Issued to persons enumerated in § 125.51(3m)(c), Wis. Stats., to permit the retail sale of wine by the glass or in an opened original container for consumption on the premises if all of the following conditions are met:
 - (1) The premises is a restaurant in which the sale of alcoholic beverages accounts for less than 50% of gross receipts.
 - (2) The premises does not have a "barroom," defined herein as a room that is primarily used for the sale or consumption of alcohol beverages.
 - (3) The Village's quota under § 125.51(4), Wis. Stats., prohibits it from issuing a "Class B" or reserve "Class B" license.
- J. Operator's license. License fee of \$65, which includes fee for police check. (Duplicate License \$10)
 - (1) The Village Clerk, upon recommendation of the Police Chief, may issue an Operator's License to individuals for the purpose of complying with §§ 125.32(2) and 125.68(2), Wis. Stats.
 - (2) Operators' licenses may be issued only on written application on forms provided by the Village Clerk.

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- (3) Operators' licenses shall be valid for two years and shall expire on June 30 of the second year of the licensing term.
 - (4) Applicants must complete a responsible beverage training course prior to issuance of a license. Applicants are exempt from the training course requirement if they are renewing an existing operator's license, have completed the training course within the last two years, or have held a retail license, manager's or operator's license anywhere in the state within the last two years.
 - (5) There is no statutory residency requirement.
 - (6) Consideration of granting or denial of an operator's license will be based upon the conviction record of the applicant subject to the limitations set forth in § 194-5 of this chapter.
 - (7) If the Police Chief recommends denial, the Chief shall provide the reason(s) for such recommendation. The Village Clerk shall in writing inform the applicant of the denial, the reason(s) therefor and of the opportunity to request a reconsideration of the application by the Village Board. Such notice must be sent by mail to or served upon the applicant at least 10 days prior to the Village Board's reconsideration of the matter.
- K. Provisional operator's license: \$15 (valid for 60 days).
- (1) The Village Clerk, upon the recommendation of the Police Chief, may issue a provisional operator's license to a person who has applied for an operator's license. Only one sixty-day provisional license period is valid.
 - (2) No such license shall be issued unless the applicant is enrolled in a responsible beverage server training course as provided in Subsection J(4) above.
 - (3) A provisional license may be revoked by the Village Clerk upon discovery of false statements by the applicant on his or her application.
- L. Temporary operator's license: \$20, which includes the fee for police check (valid for one to 14 days).
- (1) The Village Clerk, upon the recommendation of the Police Chief, may issue a temporary operator's license to a person who has applied for said license.
 - (2) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations which have been granted a temporary Class "B" or "Class B" license under Subsection B above.
 - (3) No person may hold more than one license of this kind per year.
 - (4) This license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.
- M. Provisional retail licenses.

- (1) A provisional retail license may be issued by the Village Clerk to a person who has applied for a Class "A," Class "B," "Class A," "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes, provided that the applicant meets all the requirements for receiving such a license.
 - (2) The fee for a provisional retail license shall be \$15, and the license shall expire 60 days after its issuance or when the Class "A," Class "B," "Class A," "Class B" or "Class C" license is issued to the holder, whichever is sooner. The Village Clerk may revoke the provisional retail license if he or she discovers that the holder of the license made a false statement on the application.
 - (3) The Village Clerk may not issue a provisional "Class B" license if the municipality's quota under § 125.51(4) prohibits the municipality from issuing a "Class B" license.
 - (4) No person may hold more than one provisional retail license for each type of license applied for by the holder per year.
- N. Temporary Class "B" Beer and temporary "Class B" wine licenses. Under §§ 125.26(6) and 125-51(10), Wis. Stats., \$10 per event (plus police investigation fee of \$7), except that no additional fee shall be charged if a temporary beer and temporary wine license are issued simultaneously.
- (1) The Village Clerk, upon the recommendation of the Police Chief, may issue a temporary Class "B" beer or temporary "Class B" wine license for only the activities that the type of retail license applied for authorizes, provided that the applicant meets all the requirements for receiving such a license.
 - (2) A temporary Class "B" license (picnic license, beer) may be issued to organizations enumerated in § 125.26(6), Wis. Stats., to sell or serve fermented malt beverages at a picnic, meeting or gathering; provided, however, that the total fees paid during any licensing year by any one application shall not exceed the fees provided for a Class "B" fermented malt beverage retailer's license, as stated in Subsection B above. The total maximum number of days per licensing year for which a license may be issued shall not exceed 25 days per applicant.
 - (3) Temporary "Class B" license (picnic license, wine) may be issued to organizations enumerated in § 125.51(10), Wis. Stats., to sell or serve wine containing not more than six-percent alcohol by volume at a picnic, meeting or gathering; however, not more than two temporary "Class B" wine licenses may be issued to an organization under this subsection in any twelve-month period.
 - (4) Application for such license shall be signed by the president or corresponding officer of the society making such application and shall be filed with the Village Clerk, together with the appropriate license fee, at least 30 days before the event. The application is subject to and shall include the following:

- (a) A single event is limited to three consecutive days.
 - (b) Alcoholic beverages can only be sold or served between the hours of 11:00 a.m. and 9:00 p.m.
 - (c) Licenses will not be granted for youth events.
 - (d) A security and public health and safety plan must be submitted and approved by the Police and Fire & Rescue Departments. If the event takes place in Prairie Spring Park, the Parks Director must also approve the application.
 - (e) The applicant must sign a hold harmless agreement and provide the Village with a certificate of insurance written by a company licensed by the State of Wisconsin covering any and all liability or obligations which may result from the applicant's employees, agents, contractors or subcontractors. The certificate shall name the Village of Pleasant Prairie as an additional insured and shall be in the minimum amounts:
 - [1] Per person/injury: \$500,000.
 - [2] Per occurrence/injury: \$500,000.
 - [3] Property damage: \$500,000.
 - [4] Public liability and property damage and excess liability umbrella policy: \$1,000,000.
- O. Late penalty fee. The Village Clerk shall charge a late penalty fee of \$100 for each liquor license renewal application that arrives past the deadline date, as set forth in the renewal notice letter sent each year.

§ 194-4. License application.

Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the State Department of Revenue and filed with the Clerk 15 days prior to the granting of such license.

§ 194-5. Qualifications for licenses. [Amended 7-21-2008 by Ord. No. 08-40; 5-18-2015 by Ord. No. 15-17]

- A. Natural persons. Licenses related to alcohol beverages issued to natural persons under this chapter may be issued only to persons who:
- (1) Do not have an arrest or conviction record subject to §§ 111.321, 111.322 and 111.335, Wis. Stats. Licenses will not be granted if the applicant's record indicates the following:
 - (a) More than two criminal or civil ordinance convictions in the past five years wherein any of the following apply:

- [1] Weapons of any kind were used, displayed or threatened.
 - [2] Physical violence was used or threatened.
 - [3] The incident resulting in the conviction occurred on a licensed premises.
 - [4] The incident resulting in the conviction involved consumption of intoxicating beverages.
 - [5] Possession of drugs or controlled substances.
- (b) Any conviction for the manufacture, sale or distribution of drugs or controlled substances or possession with intent to deliver such substances.
 - (c) A conviction of a second offense or greater operating while intoxicated (OWI) in the past five years.
- (2) Have been residents of this state continuously for at least 90 days prior to the date of filing the application for license.
 - (3) Have attained the legal drinking age, except that operator's licenses may be issued to persons who have attained the age of 18.
 - (4) Have submitted proof of having a seller's permit under § 77.61(11), Wis. Stats.
 - (5) Have successfully completed within the two years prior to the date of application a responsible beverage server training course as provided in § 125.04(5)(a)5, Wis. Stats., unless the applicant held, within the past two years, a Class "A," "Class A" or "Class C" license or a Class "B" or "Class B" license or permit or a manager's or operator's license.
- B. (Reserved)
- C. Corporations. No license or permit may be issued to any corporation unless the agent of the corporation appointed under § 125.04(6), Wis. Stats., and the officers and directors of the corporation meet the qualifications of Subsections A and B above, except that Subsection A(2) does not apply to operator's license applicants or the officers and directors of corporations or the members or managers of limited liability companies.
- D. Operator's licenses. Subsection A(2) and (4) above do not apply to applicants for operator's licenses.
- E. The Village Board may, in its discretion, approve a license if in its findings while determining the applicability of Subsection A(1) approval is warranted.

§ 194-6. License conditions and restrictions.

In addition to the requirements imposed by provisions of the Wisconsin Statutes adopted by reference in this chapter, the following conditions and restrictions shall apply to the issuance of licenses or permits pursuant to this chapter:

- A. Review prior to approval. No license or permit shall be issued to any person or officer or director of a corporation unless the application therefor shall first have been reviewed and a recommendation received from the Police Department. **[Amended 5-18-2015 by Ord. No. 15-17]**
- B. Tax delinquencies and claims. **[Amended 5-18-2015 by Ord. No. 15-17]**
- (1) Premises. No initial or renewal alcohol beverage license shall be granted for operation on any premises upon which property taxes, personal property taxes, assessments, special assessments, utility payments, or invoices are delinquent or other financial claims of the Village are unpaid.
- (2) Person. No initial or renewal license shall be granted to any person:
- (a) Delinquent in payment of any property taxes, personal property taxes, assessments, special assessments, utility payments or invoices or other claims owed to the Village.
- (b) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.
- C. Sanitary, health and safety requirements. No license shall be issued unless the premises to be licensed conforms to the sanitary, safety and health requirements of the State Building Code, the State Plumbing Code, the rules and regulations of the State Board of Health applicable to restaurants and the Building and Zoning Codes of the Village.¹
- D. Inspection of application and premises. The Village Clerk shall notify the Fire & Rescue Department, the Building Inspection Department and the Community Development Department of all license and permit applications, which departments shall inspect, or cause to be inspected, each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations and ordinances thereto and shall furnish to the Village Clerk, in writing, the information derived from such inspection. **[Amended 5-18-2015 by Ord. No. 15-17]**
- E. License quotas. "Class B" intoxicating liquor license and reserve "Class B" intoxicating liquor license quotas. The number of persons and places that may be issued "Class B" intoxicating liquor licenses and reserve "Class B" intoxicating liquor licenses under this chapter is limited as provided in § 125.51(4), Wis. Stats.
- F. Closing hours. **[Amended 3-16-2009 by Ord. No. 09-18; 2-6-2012 by Ord. No. 12-09; 5-18-2015 by Ord. No. 15-17]**
- (1) Premises for which a retail liquor and/or fermented malt beverage license has been issued either are prohibited from selling alcohol or cannot be open for business during the following hours in accordance with §§ 125.32(3) and 125.68(4), Wis. Stats.:

1. Editor's Note: See Ch. 370, Building and Mechanical Code, and Ch. 420, Zoning.

| License | Off-Premises (Carry-Outs) | On-Premises Consumption |
|------------------|--------------------------------------|--|
| Class "A" beer | 12:00 midnight to *8:00 a.m. | Not permitted |
| Class "B" beer | 12:00 midnight to 6:00 a.m. | Monday to Friday, 2:00 a.m. to 6:00 a.m. Saturday to Sunday, 2:30 a.m. to 6:00 a.m. |
| "Class A" liquor | 9:00 p.m. to *8:00 a.m. | Not permitted |
| "Class B" liquor | 12:00 midnight to 6:00 a.m. | Monday to Friday, 2:00 a.m. to 6:00 a.m. Saturday to Sunday, 2:30 a.m. to 6:00 a.m. |
| "Class C" wine | Not permitted | Monday to Friday, 2:00 a.m. to 6:00 a.m. Saturday to Sunday, 2:30 a.m. to 6:00 a.m. |

NOTES:

At 1:00 a.m. on the second Sunday in March, daylight saving time begins and the standard of time which licensed establishments must operate under is advanced ahead one hour. Daylight saving ends at 2:00 a.m. on the first Sunday in November. At that time, the clocks are moved back one hour.

* In accordance with 2011 Act 97 effective 12-21-2011, the allowable morning opening hours for retail beer and liquor stores may be changed to 6:00 a.m., but a municipality may impose more restrictive hours by ordinance. The morning opening hours for Class A retail beer and liquor stores in the Village will continue to be 8:00 a.m.

- (2) Hotels and restaurants whose principal business is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.
- G. Posting licenses required. Licenses or permits issued under this chapter shall be posted and displayed as provided in § 125.04(10), Wis. Stats., and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.
- H. Search of licensed premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer or other authorized officer of the Village without any warrant, and the application

for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this chapter.

- I. Time limit to open and continue operation under license.
- (1) Within 90 days from the issuance of a "Class A" liquor license, Class "A" fermented malt beverage license, "Class B" intoxicating liquor license, reserve "Class B" intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with stock and equipment. In the event of his failure to do business within such time, his license shall be subject to revocation by the Village Board after a public hearing. The Village Board may, for good cause shown, extend said ninety-day period.
- (a) The above requirement to be open for business within 90 days may be extended to 180 days by the Village Board at the time the license or licenses are granted if all of the following conditions have been met:
- [1] At the time of application, the real property sought to be licensed does not have a permanent structure on it; and
 - [2] At the time of application, the real property sought to be licensed is either owned by the applicant, or is under lease to the applicant for a period greater than one year from the date of application, or is subject to an accepted offer to purchase, not conditioned on a future event. The deed, lease or offer to purchase must be presented to the Village Board for review; and
 - [3] At the time of application, the applicant submits a floor plan for the structure intended to be constructed on the real property, said floor plan specifying that portion of the structure which is to be licensed; and
 - [4] The applicant agrees in writing, as part of the application, to submit to the Village Board within 90 days of granting of the license or licenses a copy of the building permit and, if the applicant is not the owner or lessee of the property at the time of the application, a copy of the deed showing present ownership of the real property by the applicant; and
 - [5] The applicant agrees in writing, as part of the application to be diligent in all efforts to get the structure built and stocked within 180 days of the granting of the license.
- (b) The Village Board may extend the period of 180 days by a period of time to be determined by the Board in its sound discretion where the following conditions have been met:
- [1] The licensee has complied with Subsection I(1)(a)[1] through [5]; and
 - [2] The applicant shows a need for the extension that did not arise out of a lack of diligence to satisfy any requirements contained in this chapter.

- (c) If, at any review hearing, the Village Board is satisfied that any of the conditions in Subsection I(1)(a) and (b) of this section have not been met, the Board may commence a revocation hearing pursuant to the procedures contained within this chapter.
- (2) If any licensee shall suspend or cease doing business for a period of 90 consecutive days or more, his "Class A" liquor license, Class "A" fermented malt beverage license, "Class B" intoxicating liquor license, reserve "Class B" intoxicating liquor license or Class "B" fermented malt beverage license shall be subject to revocation by the Village Board after a public hearing.
- J. Disorderly conduct and gambling prohibited. Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licenses premises. It shall be unlawful for a licensee, his agent or employee, to permit the following conduct on licensed premises:
- (1) The performance of acts, or simulated acts, or "sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law."
- (2) The actual or simulated "touching, caressing or fondling of the breast, buttocks, anus, or genitals."
- (3) The actual or simulated "displaying of the pubic hair, anus, vulva or genitals."
- (4) The permitting by a licensee, his agent or employee, or "any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus."
- (5) The displaying of films, pictures or video tapes depicting acts of a live performance of which was prohibited by the regulations quoted above.²
- K. Sales to underage persons restricted. No alcohol beverage shall be sold, dispensed, given away or furnished to any underage person unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- L. Sales by clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
- M. Violation by agents or employees. A violation of this section by a duly authorized agent or employee of a licensee shall constitute a violation of the licensee.
- N. Transfer of license. No license shall be transferable from person to person, except as provided by § 125.04(12)(b), Wis. Stats., or from place to place, as provided in § 125.04(12)(a), Wis. Stats.
- O. Form and expiration of licenses. 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

2. Editor's Note: See Ch. 108, Adult-Oriented Uses and Establishments.

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issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter, except as otherwise provided.

- P. Alcoholic beverages to be stored, sold, consumed or served only in authorized parts of premises. No alcoholic beverage may be stored, sold, consumed or served under a Class B license in any portion of the building or premises not authorized in said license or outside of the building on the premises or within any temporary shelter or tent on the premises. The licensee must file a written request with the Village Clerk to amend the premises description during the license year. It is within the discretion of the Village Board to approve or disapprove of the change. Decisions to grant an amendment to any licensed premises will have no precedential effects. **[Added 5-18-2015 by Ord. No. 15-17]**
- Q. Limitations on other businesses; "Class A" intoxicating liquor license. **[Added 8-17-2009 by Ord. No. 09-48; 8-3-2015 by Ord. No. 15-27]**
- (1) No "Class A" intoxicating liquor license or permit may be granted for any premises where any other business is conducted in connection with the premises and shall apply to the following:
 - (a) Convenience stores.
 - (b) Other stores where commodities are sold, such as gasoline, pharmaceuticals, cosmetics, and other nonfood products.
 - (c) Drug stores and pharmacies.
 - (2) Exception.
 - (a) This restriction does not apply if the premises for which the license or permit is requested is connected to a retail grocer or similar facility limited to the general sale of food products or to any commercial retail establishment over 100,000 square feet in size.
 - (b) In accordance with § 125.51(2)(e)2, an establishment issued a Class "A" fermented malt beverage license shall, upon application, be granted a "Class A" intoxicating liquor cider only license.

§ 194-7. Revocation, suspension and refusal to renew licenses.

A violation of this chapter by an authorized agent or employee of a licensee or a permit holder shall constitute a violation by the licensee or permit holder. Whenever the holder of any license or permit under this chapter violates any portion of this chapter or any regulation adopted pursuant thereto, any applicable provisions of Ch. 125, Wis. Stats., or keeps or maintains a disorderly or riotous, indecent or improper house, or has sold or given away any intoxication liquor to any underage person or to any person intoxicated or bordering upon intoxication, or to any known habitual drunkard, proceedings for the revocation or suspension of such license or permit may be instituted.

- A. Procedure. The provisions of § 125.12(2) and (3), Wis. Stats., shall be applicable to proceedings for the revocation, suspension and refusal to renew all licenses granted under this chapter.
- B. Repossession of license. Whenever any license under this chapter shall be revoked or suspended pursuant to this section, it shall be the duty of the Village Clerk to notify the licensee of such suspension or revocation and to notify the Police Chief, who shall take physical possession of the license wherever it may be found and file it in the Village Clerk's office.
- C. Effect of revocation of license. Whenever any license shall be revoked, at least 12 months from the time of such revocation shall elapse before another license shall be granted for the same premises, and 12 months shall elapse before any other license shall be granted to the person whose license was revoked.
- D. No refund of fees. No license or permit fee shall be refunded if a license or permit is surrendered, suspended or revoked for cause.

§ 194-8. Violations and penalties.

- A. Any person violating any provision of this chapter or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty of not more than \$500, unless a greater maximum penalty is specifically provided for in this chapter, except that where a lower maximum penalty shall be provided by Ch. 125, Wis. Stats., for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this chapter.
- B. Nothing in this section shall in any way diminish the authority of the Village Board to suspend, revoke or nonrenew any license issued pursuant to this chapter for any violation of this chapter or other Village ordinance or state law.