

Chapter 234

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

[HISTORY: Adopted by the Village Board of the Village of Forestville as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Licenses and permits — See Ch. 256.

Nonintoxicating and soda water beverages — See Ch. 281.

ARTICLE I

Licensing

[Adopted 1-8-1990 by Ord. No. 1-90 as §§ 12.03 and 12.15 of the 1990 Code]

§ 234-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing, transfer and consumption of alcohol beverages, including provisions relating to underage persons, are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this article.

§ 234-2. Licenses, permits, authorization required.

- A. When required. Except as provided by § 125.06, Wis. Stats., no person shall, within the Village, serve, sell, manufacture, rectify, brew or engage in any other activity for which this article or Ch. 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this article. See § 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, sold or offered for sale. See § 125.04(9), Wis. Stats.

§ 234-3. Classes of licenses and fees.

There shall be the following classes and denominations of licenses which, when issued by the Clerk under the authority of the Village Board, shall authorize the licensee to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in the referenced state statute. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

- A. Class "A" fermented malt beverage retailer's license. See § 125.25, Wis. Stats.
- B. Class "B" fermented malt beverage retailer's license. See § 125.26, Wis. Stats.
 - (1) Six months. A Class "B" license may be issued at any time for six months in any calendar year for 3/4 of the applicable license fee. Such license shall not

be renewable during the calendar year in which issued. See § 125.26(5), Wis. Stats.

(2) Picnic. See § 125.26(6), Wis. Stats.

C. Wholesaler's fermented malt beverage license. See § 125.28, Wis. Stats.

D. Retail "Class A" liquor license. See § 125.51(2), Wis. Stats.

E. Retail "Class B" liquor license. A retail "Class B" liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed four liters at any one time to be consumed off the licensed premises. See § 125.51(3), Wis. Stats.

(1) A license may be issued after July 1 in any license year which shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions of months remaining until the following June 30.

(2) The fee for such license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued. See § 125.51(9), Wis. Stats.¹

F. Operator's license. See § 125.17, Wis. Stats.

(1) Operators' licenses may be granted to individuals by the Village Board for the purposes 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 Clerk.

§ 234-4. License application.

A. Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the State Department of Revenue and filed with the Clerk. The premises shall be physically described, including every room and storage space to be covered by the license and all rooms joined by connecting entrances or not separated by a solid wall.

B. Application to be notarized. Applications shall be signed and sworn to by the applicant as provided by § 887.01, Wis. Stats.

C. Duplicate. Upon approval, a duplicate copy of each application shall be forwarded by the Clerk to the State Department of Revenue.

§ 234-5. License restrictions.

A. Statutory requirements. Class B licenses shall be issued only to persons eligible therefor under § 125.04, Wis. Stats.

¹ Editor's Note: Original Subsection (f), Pharmacists's license, which followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. Location.
- (1) No retail Class B license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.
 - (2) This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.
- C. Violators of liquor or beer laws or ordinances. No retail Class B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this article or whose license has been revoked under § 125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.
- D. Health and sanitation requirements. No retail Class B license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the Department of Safety and Professional Services pertaining to buildings and plumbing, to the rules and regulations Department of Safety and Professional Services applicable to restaurants and to all such ordinances and regulations adopted by the Village.
- E. License quota. The number of persons and places that may be granted a retail "Class B" liquor license under this article is limited as provided in § 125.51(4), Wis. Stats.
- F. Corporations and limited-liability companies. No corporation or limited-liability company organized under the laws of this state, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation or limited-liability company meets the requirements of § 125.04(6), Wis. Stats.²
- G. Age requirement. No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.
- H. Effect of revocation of license. Whenever any license has been revoked, at least 12 months shall elapse before another license shall be granted to the person whose license was revoked.
- I. Delinquent taxes, assessments and claims. No license shall be granted or renewed for any premises for which taxes, assessments or other claims of the Village are delinquent and unpaid, or to any person delinquent in payment of such claims to the

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

Village.

- J. Class B licensed premises to be on street level. A retail Class B license shall be issued only for that portion of a premises located on the street level. This restriction shall not apply to a bona fide club, society or lodge in existence not less than six months prior to application nor prohibit any hotel holding a state permit from supplying beverages in original containers to bona fide patrons in rooms rented by such patrons.
- K. 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 intoxicating liquor or fermented malt beverages in any dwelling house, flat or residential apartment.

§ 234-6. Form and expiration of licenses. ³

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided.

§ 234-7. Transfer of licenses.

- A. As to person. No license shall be transferable as to licensee except as provided by § 125.04(12), Wis. Stats.
- B. As to place. Licenses issued pursuant to this article may be transferred to another premises once during any license year as provided in § 125.04(12), Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application. There shall be no fee charged for such transfer.⁴

§ 234-8. Posting and care of licenses.

Every license or permit required under this article shall be framed and posted and at all times displayed as provided in § 125.04(10), Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

§ 234-9. Regulation of licensed premises and licensees.

- A. Gambling and disorderly conduct prohibited. Each licensed premises shall at all times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any licensed premises.
- B. Employment of underage persons. No licensee shall employ any underage person

³. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

⁴. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

who does not have a valid operator's license to sell, serve, dispense or give away any alcohol beverage.

- C. Sales by clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
- D. Safety and sanitation requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

§ 234-10. Closing hours.

No premises for which a wholesale or retail liquor or fermented malt beverage license has been issued shall remain open for the sale of liquor:

- A. If a wholesale license, between 5:00 p.m. and 6:00 a.m., except on Saturday when the closing hour shall be 9:00 p.m.⁵
- B. If a retail Class A license, premises may remain open for the conduct of their regular business, but may not sell intoxicating liquor between 9:00 p.m. and 8:00 a.m. and may not sell fermented malt beverages between 12:00 midnight and 6:00 a.m.⁶
- C. If a retail Class B license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a Class B license are not required to close. No package, container or bottle sales may be made after midnight.
- D. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

§ 234-11. Revocation and suspension of licenses.

- A. Procedure. Whenever the holder of any license under this article violates any portion of this article, proceedings for the revocation or suspension of such license may be instituted under the procedure established by § 125.12, Wis. Stats., and the provisions therein relating to granting a new license shall likewise be applicable.
- B. Effect of revocation. See § 234-5H of this article.
- C. Revocation for nonuse.
 - (1) Within 60 days from the issuance of a "Class A" retail liquor license or a "Class B" intoxicating liquor license or a Class "B" fermented malt beverage license, the licensee shall be open for business with adequate stock and equipment. In the event of the licensee's failure to do business within such

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

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

time, such license shall be subject to revocation by the Village Board after a public hearing. The Board may for good cause shown extend the 60 day period.

- (2) If any licensee shall suspend or cease doing business for a period of 60 consecutive days or more, that "Class A" retail liquor license or that "Class B" intoxicating liquor license, or that Class "B" fermented malt beverage license shall be subject to revocation by the Village Board after public hearing.

- D. Repossession of license or permit. Whenever any license or permit under this article shall be revoked or suspended by the Village Board or action of any court, the Clerk shall notify the licensee or permittee of such suspension or revocation and notify an appropriate enforcement officer, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.

§ 234-12. Nonrenewal of licenses.

Before renewal of any license issued under this article is refused, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Village Board.

§ 234-13. Violations by agents and employees.

A violation of this article by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

§ 234-14. Violations and penalties.

In addition to the revocation, suspension or nonrenewal of a license or permit issued under this article, any person found to be in violation of any provision of this article shall be subject to a penalty as provided in § 1-4 of this Code.

ARTICLE II

Nude Dancing in Licensed Establishments
[Adopted 12-8-1998 by Ord. No. 4-98]

§ 234-15. Prohibited acts.

It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

- A. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering; or
- B. Shows any portion of the female breast below a point immediately above the top of the areola; or
- C. Shows the covered male genitals in a discernibly turgid state.

§ 234-16. Exemptions.

The provisions of this article do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

§ 234-17. Definitions.

As used in this article, the following terms shall have the meanings indicated:

LICENSED ESTABLISHMENT — Any establishment licensed by the Village Board of the Village of Forestville to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

LICENSEE — The holder of a retail "Class A," "Class B," Class "B," Class "A," or "Class C" license granted by the Village Board of the Village of Forestville pursuant to Ch. 125, Wis. Stats.

§ 234-18. Violations and penalties.

Any person, partnership, or corporation who violates any of the provisions of this article shall be subject to a forfeiture of not less than \$500 and not more than \$2,500 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this article constitutes sufficient grounds for suspension, revocation or nonrenewal of an alcohol beverage license under § 125.12, Wis. Stats.