

**AN ORDINANCE REGULATING THE SALE OF
ALCOHOL BEVERAGES IN THE TOWN OF
GREENVILLE**

The Town Board of Supervisors of the Town of Greenville does ordain as follows:

SECTION 1.0 INTRODUCTION

- 1.1 Authority.** This ordinance is adopted pursuant to authority conferred by Section 125.10 Wis. Stats.
- 1.2 Adoption of State Statutes.** The provisions of Chapter 125, Stats., relating to the sale of fermented malt beverages and intoxicating liquors, exclusive of any provisions relating to the penalty to be imposed or the punishment for a violation, are hereby adopted and incorporated by reference. A violation of any such provision shall be a violation of this ordinance.
- 1.3 Election.** The Town elects to operate under Section 125.51(3)(b) Stats.

SECTION 2.0 LICENSES.

- 2.1 Licenses Required.** No person 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 or permit as provided in this ordinance, nor without complying with all the provisions of this ordinance and all statutes, ordinances and regulations of the State and Town.
- 2.2 License Classifications.** There shall be the following classes of licenses which, when issued by the Town Clerk/ Treasurer under the authority of the Town Board, and after payment of the fee set forth in the fee schedule, shall permit the holder to sell, deal or traffic in intoxicating liquor and/or fermented malt beverages as provided in Chapter 125, Stats. (Sections 125.25, 125.26, 125.27, 125.28, and 125.51).
 - (1) **Class “A”** licensees may sell beer to consumers in original packages or containers for off-premises consumption only. §125.25.
 - (2) **Class “B”** licensees may sell beer to consumers for on-premises or off-premises consumption. § 125.26(1).

Six Month Class “B” licenses may be issued for a period of 6 months in any calendar year which runs from Jan. 1st to Dec. 31st , and is thus different from a license year which runs from July 1st to June 30th. The fee for a six month license is half of the annual license fee as defined in Section 9 Fee Schedule and Penalties - §125.26(5). Such licenses are not renewable during the calendar year in which issued. A six month license issued from Jan. 1 through June 30, or for the balance of

the year would not prohibit the applicant from obtaining an annual license as of July 1 of that same year.

- (3) **Temporary Class “B”** (picnic) beer licensees may sell beer and other fermented malt beverages (e.g. wine coolers with a fermented malt beverage base) to consumers at a picnic or similar gathering of limited duration. Such licenses may only be issued to bona fide clubs, to county or local fair associations or agricultural societies that have been in existence for at least six months, and to veterans organizations. Applications must be filed with the Town Clerk at least 15 days prior to presentation before the Town Board. §125.26(6)

Temporary “Class B” (picnic) licensees may sell wine to consumers as provided in subparagraph (3) above.

An applicant would be exempt from the fee if at the same time the applicant has applied for a Temporary Class “B” beer license (above) for the same event. Not more than two (2) licenses may be issued under this subsection in any twelve (12) month period. Background checks may be waived by the Town Clerk.

- (4) **“Class A”** licensees may sell intoxicating liquor to consumers only in original packages or containers for off-premises consumption. Wine taste samples are allowed of not more than 3 fl. oz. each, free of charge, to customers and visitors for consumption on the premises only between the hours of 10 a.m. and 6 p.m. No licensee may provide more than 2 taste samples per day to any one person. §125.51(2)
- (5) **“Class B”** licensees may sell intoxicating liquor to consumers by the glass for on-premises consumption. However, wine may be sold for consumption off-premises in the original package or container in any quantity.
- (6) **Reserve “Class B”** licenses are those licenses available under the quota system which existed before December 1, 1997, and were not granted or issued by the Town as of December 1, 1997
- (7) **“Class C”** licensees may sell wine by the glass, or in an opened original container for consumption on premises. Licenses may be granted to an applicant only if (1) the applicant meets the qualifications set out in Section 125.04(s) for other retail licensees; (2) the license is for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts; and (3) wine is the only intoxicating liquor sold in the barroom. §125.51(3m)
- (8) **Wholesaler’s Fermented Malt Beverage License.**

2.3 Operator’s License. An operator’s license shall be issued by the Town Board to individuals in compliance with Sections 125.32(2) and 125.68(2) Stats. Operator’s licenses shall be issued only upon written application forms provided by the Town Clerk/ Treasurer and following Town Board approval. Licenses are issued for a two-year term that expires June 30th of the second term year.

- (1) **Operator's License Required.** The provisions of Section 125.68(2) Stats., and any future amendments or changes are hereby incorporated. Operator's licenses issued under this section are valid only within the Town of Greenville.
- (2) **Application.** An operator's license may not be issued unless the applicant fulfills one of the following requirements: (1) the applicant renewing an operator's license has held a current manager's, retailer's or operator's license within the past two years; or (2) the applicant has completed a server's training course within the last two years and shows proof. New applicants must be registered for the course and shall present a schedule at the time of application.

A written application shall be filed with the Town Clerk/Treasurer which shall include the name, residence, age and gender of applicant. A background check shall be performed to determine whether the applicant has a satisfactory history. All applications shall be accompanied by a recommendation for approval/denial by the Town Clerk/ Treasurer or his/her designee.

- (3) **Issuance of Operator's License.** Licenses and permits related to alcoholic beverages issued to natural persons under this Chapter may be issued only to persons who fulfill all of the following requirements:
 - (a) The person must be at least 18 years of age.
 - (b) An applicant for an operator's license shall successfully pass a responsible beverage server's course as required in Section 125.04(5) Stats., or hold a current operator's license from another Wisconsin municipality. All applicants shall provide necessary documentation to satisfy this requirement.
 - (c) An applicant shall submit a proper picture identification including a driver's license or other acceptable form of identification.
 - (d) An applicant may be denied a license based upon his/her arrest or conviction record subject to the Fair Employment Act Sections 111.32, 111.322 and 111.335 and Section 125.04(5)(a)1. It is not employment discrimination to deny a license because of a pending arrest record or a conviction record if the circumstances of the charge substantially relate to the alcohol beverage licensing activity.
 - (e) An applicant may not be issued a license if they are a "habitual law offender," Section 125.04(5)(b), Stats. The term "habitual" refers to multiple convictions or pending charges. The term "offender" refers to a person with civil violations such as ordinance convictions (or pending charges) which substantially relate to the alcohol beverage licensing activity.
 - (f) An applicant shall not be issued a license if he or she has been convicted of a felony which substantially relates to the alcohol beverage licensing activity.
 - (g) Arrests or convictions 5 years or older will not be considered in the operator's license review.

- (h) An applicant who is denied an operator's license by the Town Board will be allowed to appeal that decision through a public hearing before the Town Board.

Upon the approval of an application by the Town Board, the Town Clerk/ Treasurer or his/her designee shall, upon proof of payment of a license fee, issue a license to expire on the 30th day of June within the second term year following the issuance.

- (4) **Provisional Operator's License.** This ordinance authorizes the issuance of a provisional operator's license to those applying for a regular operator's license and who wish to commence work as an operator for the service or sale of alcoholic beverages before the Town Board will be able to meet to decide the application. The Town Clerk/ Treasurer or his/her designee shall have the authority to grant or deny the issuance of a provisional operator's license subject to the following conditions:
 - (a) A fee shall be paid at the time of application.
 - (b) A provisions operator's license shall not be issued to any applicant who has been denied a beverage operator's license.
 - (c) The provisional operator's license expires 60 days after its issuance or when a license is issued to the applicant, whichever is sooner.
 - (d) Applicants are limited to one provisional license per calendar year.
 - (e) At the time of application, the applicant for a provisional operator's license must present proof that the applicant is enrolled in or has completed a training course under Section 125.17(6) Stats., or the applicant must present a current copy of a valid operator's license issued by another Wisconsin municipality.
 - (f) Revocation. The provisional operator's license shall be revoked by the Town Clerk/ Treasurer if it is discovered that the holder of the provisional operator's license made a false statement on their application, or the holder fails to complete the Responsible Beverage Server Training Course, or does not comply with other requirements set forth in this ordinance.
- (5) **Temporary Operator's License.** The Town Clerk/ Treasurer or designee may issue a temporary operator's license subject to the following conditions:
 - (a) A written application shall be filed with the Town Clerk which shall include the name, residence, age and gender of the applicant, together with other such pertinent information as to determine whether the applicant has a satisfactory background.
 - (b) A fee shall be paid upon application.
 - (c) A temporary operator's license shall be valid for the duration of the event defined on the application and shall be issued only to Temporary Class "B" license holders or to operators employed by or donating their services to non-profit organizations.

- (d) No person may hold more than one temporary license per calendar year.

SECTION 3.0 RESTRICTIONS AND CONDITIONS ON LICENSES.

3.1 Restrictions.

- (1) **Qualifications.** Individuals; all partners (including limited partners); the officers, directors and agents of corporations; the members, managers and agents of limited liability companies; and the officers, directors and agents on non-profit organizations, shall meet the following requirements: (1) must be of legal drinking age; (2) may not have been convicted of a felony which substantially relates to the alcohol beverage licensing activity; (3) may not be a “habitual law offender” (multiple convictions or pending charges which substantially relate to the alcohol beverage licensing activity); (4) must be a resident of Wisconsin for 90 continuous days prior to the date of application (applies to all individuals, all natural persons in a partnership, and the agents of corporations and limited liability companies, but not to officers and directors of corporations, or managers of limited liability companies); and (5) must have successfully completed a responsible server training course within the last 2 years.
- (2) **Effect of Revocation of License.** No license shall be issued for any premises if a license covering such premises has been revoked within six (6) months prior to application. No license shall be issued to any person who has had a license issued pursuant to this ordinance revoked within twelve months prior to application.
- (3) **Location.** No Class “A”, “B”, or “C” license shall be granted for any premises within three hundred (300) feet of any school, hospital or church.
- (4) **Residential Premises.** No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.
- (5) **Inspection of Application and Premises.** The Town Clerk/ Treasurer shall notify the Outagamie County Sheriff’s Department and Fire Department Inspector of all licenses and permit applications, and these officials may inspect each application and premises to determine whether the applicant and premises comply with the regulations, ordinances and law.
- (6) **Health and Sanitation.** No license shall be issued for any premises which do not conform to the sanitary, safety and health requirements of the State Industrial Commission and the State Board of Health, and to all such ordinances and regulations adopted by the Town.
- (7) **Tax Delinquencies.** No license shall be granted for operation on any premises upon which taxes or assessments or other financial obligations to the Town are delinquent.

3.2 Conditions.

- (1) **Consent to Search and Investigation.** Every applicant procuring a license consents to the entry of law enforcement officers or other authorized representatives of the Town, at reasonable hours, for the purpose of inspection and search, and consents to the removal of items and articles that are in violation of State regulations and Town ordinances, and consents to the introduction of such items and articles in any prosecution that may be brought for such offense.
- (2) **Safety and Sanitation.** Each premises shall be conducted and maintained in a safe and sanitary manner.
- (3) **Agents and Employees.** A violation of this ordinance by an authorized agent or an employee of the licensee or permit holder shall constitute a violation by the licensee or permit holder.
- (4) **Abandonment.** Any licensee issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of the license. Abandonment shall be sufficient grounds for revocation or non-renewal of the license. “Abandonment” means a refusal or failure of the licensee to use the license for the purposes for which the license was granted, for one year. The Town Board may, for good cause shown, extend such period.

SECTION 4.0. SANCTION SYSTEM.

4.1 Point System. This ordinance establishes a point system for the purpose of providing objective guidelines for the Town Board to consider in determining whether to suspend or revoke alcohol licenses. The point system is as follows:

VIOLATION	POINTS
Sale to person under age 21 on premises or sale to intoxicated person	100
Refusal to allow search of premises or refusal to cooperate with a law enforcement investigation	100
Sale to person under age 21 on premises or sale to intoxicated person	100
Owner or employee sale of controlled substances	100
Violation of Town Adult Entertainment Ordinance	100
Failure to be licensed	100
Exceeding posted capacity	70
Open after hours	70
Failure to maintain order / disorderly conduct (including excessive noise)	70
Violation of health and sanitation rules	70

- (1) In determining accumulated points, the date of the violation shall be used as the basis for assessing points per incident. Points shall be assessed only after conviction for violations.
- (2) The Town Administrator shall notify the Town Board of any convictions which result in the assessment of points against any license. Following notification or the filing of a complaint pursuant to Section 125.12 Stats., the Town Board shall hold a hearing if required by Section 125.12 or this ordinance, and shall take the following action, after first determining the number of points to be assessed against the license.
 - (a) For points totaling 70-200 within a 12-month period, a warning to the licensee of the consequences of additional violations.
 - (b) For points totaling 201-300 within a 12-month period, suspension of the license for a period of not less than 5 days nor more than 30 days.
 - (c) For points totaling more than 300 within an 18-month period, revocation of the license. When any license is revoked, at least 6 months 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. This Section shall be construed consistent with the requirements of Section 125.12 Stats.
- (3) Notwithstanding the requirements of this Section, the Town Board may require the appearance of the licensee before the Board at any time.
- (4) In the event of the transfer or sale of the licensed business, all assessed points may be cancelled, unless any of the following apply: (1) the new licensee is related to the former licensee by blood, marriage or adoption; (2) the new licensee held a business interest in the previous licensed business, real estate or equipment; (3) the former licensee retains an interest in the business, real estate, or equipment used in the business; or (4) the new licensee 's acquisition of the business did not involve an arm's length transaction.
- (5) Nothing in this subsection shall be construed to conflict with, abridge or modify the rights, procedures or discretion established for revocation or suspension of licenses in Section 125. 12 Stats.

SECTION 5.0 REVOCATIONS, SUSPENSIONS, REFUSALS TO ISSUE OR RENEW.

- 5.1 Revocations and Suspensions.** Revocations and suspensions shall comply with Section 125.12(2) Stats. The Town Clerk shall give notice of each revocation and suspension to the person whose license is revoked or suspended. Any revocation shall be recorded by the Town Clerk, and no other license may be granted within 12 months of the date of revocation to the person who license was revoked. No part of the license fee may be refunded.
- 5.2 Refusals to Renew.** Refusals to renew shall comply with Section 125.12(3) Stats. Prior to the time for renewal of the license, the Town Board shall notify the licensee in

writing of the Town's intention to not renew the license, and shall provide the licensee with an opportunity for a hearing. The notice shall state the reasons for the intended action.

- 5.3 Refusals to Issue.** Refusals to issue shall comply with Section 125.12(3m) Stats. If the Town Board decides not to issue a new license, it shall notify the applicant for the new license of the decision not to issue the license. The notice shall be in writing and shall state the reasons for the decision.

SECTION 6.0 BEER GARDENS.

- 6.1 Outdoor Consumption Prohibited.** Except for temporary events approved by the Town Board, there shall be no consumption of alcohol beverages on any part of the licensed premises not enclosed within the building except as hereinafter provided.

- 6.2 Beer Garden Permits.** A beer garden permit may be granted by the Town Board, in its discretion, for the consumption of alcohol beverages on a part of the licensed premises not enclosed within the building. Permits shall expire on June 30 of each year. No person shall consume or possess alcohol beverages on any unenclosed part of the licensed premises which is not described in a beer garden permit.

6.3 Restrictions on Beer Garden Permits.

- (1) No permit shall be granted for a beer garden if any part of the beer garden is located within 100 feet from a dwelling.
- (2) There shall be a licensed operator within the beer garden when alcohol beverages are dispensed in the beer garden.
- (3) No open flames may be displayed.
- (4) The beer garden shall be clearly delineated by an attractive wall or by posted signs.
- (5) Noise from any source that is emitted from the beer garden and measured at any border of the real property on which the licensed premises is located shall not exceed 85db from 8:00 a.m. to 10:00 p.m. and 75 db from 10:00 p.m. to close of the beer garden.
- (6) Lighting of the area must be shielded with no intensity or brilliance that would create glare which is distracting to adjoining property owners or which could become a hazard or danger to vehicular traffic.
- (7) The outdoor premises shall be allowed to be open during the following hours:
 - Sunday through Thursday, 8:00 a.m. to 11:00 p.m.
 - Friday and Saturday, 8:00 a.m. to 12:00 midnight.

SECTION 7.0 FEES AND PENALTIES

- 7.1 License Fees.** Fees and penalties shall be prescribed by resolution adopted by the Town Board.
- 7.2 Effective Date.** This Ordinance shall be effective upon adoption and publication as required by law.

Adopted this ___ day of _____, 2008.

ATTEST:

Randy Leiker, Town Chair

Deborah Wagner, Clerk