

TOWN OF ST. CROIX FALLS

POLK COUNTY, WISCONSIN

ORDINANCE NO. 2013 - 01

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

ARTICLE I

Licensing

§ 1. State statutes adopted.

The provisions of Ch. 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 a part of this article 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 article. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made a part of this article in order to secure uniform statewide regulation of alcohol beverage control.

§ 2. Definitions.

As used in this article the terms "alcohol beverages," "intoxicating liquor," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages" and "wholesalers" shall have the meaning given them by Ch. 125, Wis. Stats.

§ 3. License required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this article nor without complying with all the provisions of this article, and all statutes and regulations applicable thereto, except as provided by §§ 125.26, 125.27, 125.28 and 125.51, Wis. Stats.

§ 4. Classes of licenses.

- A. Retail "Class A" intoxicating liquor license. A retail "Class A" intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, 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.
- B. Retail "Class B" intoxicating liquor license. A retail Class "B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four liters at any one time to be consumed off the

premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

- C. Class "A" fermented malt beverage retailer's license. A Class "A" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
- D. Class "B" fermented malt beverage retailer's license. A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages to be consumed either upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 0.5% of alcohol by volume without obtaining a special license to sell such beverages.
- E. Special Class "B" fermented malt beverage picnic license.
 - (1) License. A special Class "B" picnic license, when issued by the Town Clerk under authority of the Town Board, as provided for in § 125.26(6), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. Such license may be issued only to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans organizations. Such license is valid for dates as approved by the Town Board. Irrespective of other sections of this article, the Town Board is hereby authorized to issue a fermented malt beverage license to any local civic or any local religious or any local not-for-profit organization pursuant to this subsection.
 - (2) Application. 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 Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a penalty as provided in § 20 of this article and will be ineligible to apply for a special Class "B" license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered. Such license shall be valid for no more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.
- F. Special "Class B" wine picnic license.

- (1) License. A special "Class B" picnic license, when issued by the Town Clerk under authority of the Town Board, as provided for in § 125.51 (10), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale wine in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. Such license may be issued only to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans organizations. Such license is valid for dates as approved by the Town Board. Not more than two (2) licenses may be issued to any club, county or local fair association, agricultural association, church, lodge, society or veterans post in any twelve (12) month period. Irrespective of other sections of this article, the Town Board is hereby authorized to issue a wine license to any local civic or any local religious or any local not-for-profit organization pursuant to this subsection.
- (2) Application. 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 Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a penalty as provided in § 20 of this article and will be ineligible to apply for a special Class "B" license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered. Such license shall be valid for no more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

G. "Class C" wine license. A "Class C" wine license shall entitle the holder thereof to sell wine by the glass or in an opened original container for consumption on the premises where sold.

§ 5. License fees

There shall be the following classes and denominations of licenses which, when issued by the Town Clerk under the authority of the Town Board, after payment of the fee set by the Town Board, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in § 125.04(5) and (6), 125.25(1), (2) and (4), 125.26(2), 125.28(1)(a), (b) and (d) and (2), 125.32(2), 125.51(2), (3) and (3m)(e), or 125.68(2), Wis. Stats.:

- A. Retail "Class A" intoxicating liquor license.
- B. Retail "Class B" intoxicating liquor license.

- C. Class "A" fermented malt beverage retailer's license.
- D. Class "B" fermented malt beverage retailer's license. Fifty percent of the annual fee shall be charged for a six-month period. A Class "B" fermented malt beverage retailer's license for brewers shall be pursuant to §§ 125.31(1)(a) and 125.06(1), Wis. Stats.
- E. Special Class "B" fermented malt beverage picnic license.
- F. Special "Class B" wine picnic license.
- G. "Class C" wine license.

§ 6. Application for license.

- A. Contents. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by §§ 887.01 to 887.03, Wis. Stats., and shall be filed with the Town Clerk not less than 15 days prior to the granting of such license. The premises shall be physically described, to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- B. Corporations. Such application shall be filed and sworn to by the applicant, if an individual, or by the Chairperson and secretary, if a corporation.
- C. Publication. The application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant.
- D. 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.

§ 7. Qualifications of applicants; separate license required for each place of sale.

- A. Residency requirements. A retail Class "A" or retail Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and of Wisconsin.
- 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. No Class "A," Class "B," "Class A" or "Class B" license shall be granted to any underage person as defined by the Wisconsin Statutes.
- E. Corporate restrictions.

- (1) No license shall be granted to any corporation which does not comply with the provisions of § 125.04(6), Wis. Stats., which does not have an agent eligible for a license under this article or under state law, or which has more than 50% of the stock interest, legal or beneficial, in such corporation held by any person or persons not eligible for a license under this article or under state law.
 - (2) 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 Town Clerk a statement of transfers of stock within 48 hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12, Wis. Stats., when more than 50% of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this article or under the state law.
- F. Separate license required for each place of sale. A separate 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 where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

§ 8. Investigation.

The Town Clerk shall notify the Polk County Sheriff of each new application, and request that this official perform a background check of each applicant, together with such other investigation as shall be necessary in the opinion of the Sheriff, the Town Clerk and the Town Board to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and whether the applicant is a proper recipient of a license. In addition, if the application relates to a premises that was not operated with a license described in § 4 of this Ordinance during at least 180 days in the 365 days prior the date of the Application the Town Clerk shall notify the Chief of the Fire Department serving the Town regarding such Application and request verification from the Chief that the premises is in compliance with the State Fire Code. The Clerk shall request that these officials furnish to the Town in writing, the information derived from such investigation, accompanied by 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.

§ 9. Considerations.

- A. In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of

the location and premises proposed and generally the applicant's fitness for the trust to be reposed.

- B. No license, including without limitation, any license described under § 4 of this Ordinance, shall be granted for operation on any premises or with any equipment for which taxes or assessments or other financial claims of the Town or County are delinquent and unpaid.
- C. No license shall be issued unless the premises conforms to the sanitary, safety and health requirements of the State Building Code and the regulations of the State Department of Health Services applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all ordinances of the Town.

§ 10. Hearing; issuance of license.

Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town.

§ 11. Abandonment of premises.

Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the term of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.

§ 12. Violations and penalties.

- A. Forfeitures for violations of §§ 125.07(1) to (5) and 125.09(2), Wis. Stats., adopted by reference in § 1 of this article, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses.
- B. Any person who shall violate any provision of this article, except as otherwise provided in Subsection A herein, or who shall conduct any activity or make any sale for which a license is required without a license shall be subject to a forfeiture as provided in the Town Ordinances and Schedule of Fees and Forfeitures.
- C. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

Adopted this 16th day of January, 2013.

/s/Steven Palmer, Town Chairman

/s/Attest: Janet Krueger, Town Clerk

Posted on January 18, 2013, at the following locations:

Wayne's Café, Lamperts & Town Hall

Published in the Inter-County Leader on January 23, 2013.

Amended by Ordinance 13-04 on July 17, 2013.