

## 5.2400 ALCOHOL, BEVERAGE LICENSES

### 5.2401 Incorporation of State Statues

The provisions of Chapter 125 and §48.344 and §778.25 Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages are hereby adopted by reference and made a part of this section 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 section (5.0700). Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made part of Section 5.0700 of this Ordinance.

### 5.2402 Definitions

1. Granted License: Means a license approved for issuance by the Lakewood Town Board.
2. Inoperative License: Means a license that has been issued but under which the licensed activity is not occurring on the licensed premises.
3. Licensed Patio: means an area immediately adjacent to a licensed premises not including any part of a public right-of-way, which is licensed for the sale of alcohol issued by the Clerk.
4. Outdoor area: means a licensed patio, or any other outdoor area used in conjunction with a licensed premises.
5. Picnic License: has the meaning ascribed to Temporary Class "B" licenses in Wis. Stats 125.26(6).

### 5.2403 License classes

The Town Board is hereby authorized to grant the following licenses.

1. Class "A" license may sell fermented malt beverages to consumers in original packages or containers for off-premises consumption and may also provide customers and visitors of legal drinking age up to two free taste samples of no more than three fluid ounces not in the original package or container per person, per day for on-premises consumption between the hours of 11 a.m. and 7 p.m. Wis. Stat § 125.25.s "A" (beer) license. Authorized the retail sale of fermented malt beverages, in original packages, container, and bottles, for consumption off the premises.
2. "Class A" (liquor) license. Authorizes the retail sale of intoxicating liquor, in original packages and containers, for consumption off the premises where sold.
3. "Class A" cider licensees may sell cider, as defined in § 125.51(2)(e)1, for consumption off premise, and may not offer samples of intoxicating liquor. §125.51(2)(e). "Class A" cider licenses were created by 2015 Wis. Act 55. Class A" (cider only) license.
4. Class "B" (beer) license: Class "B" licensees may sell beer to consumers for on-premises or off-premises consumption. § 125.26(1).
5. "Class B" (liquor) license. Authorizes the retail sale of intoxicating liquor, by the glass and not in the original package or container, for consumption on the premises where sold or for consumption off the premises if the licensee seals the container of intoxicating liquor with a tamper evident seal before it is removed from the premises. Also authorizes the sale of wine or intoxicating liquor , in the original package or container and in any quantity, to be consumed off the premises where sold.
6. Temporary Class "B" (picnic) beer licensees: Picnic beer licensees may sell fermented malt beverages to consumers at a picnic or similar gathering of limited duration. Such licenses may be issued only "to bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months ... and to veterans' organizations." § 125.26(6).
7. Temporary "Class B" (picnic) wine licensees may sell wine at a picnic, meeting, or similar gathering of limited duration. Such licenses may be issued only to "bona fide clubs and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have

been in existence for at least 6 months ... and to posts of veterans' organizations...." § 125.51(10).

8. Reserve "Class B" licenses authorize the same sales as non-reserve "Class B" licenses but carry an additional initial issuance fee and are not eligible for transfer to another premise.
9. "Class C" wine licensees may sell wine by the glass or in one opened original container for consumption on the premises where sold. The open container may be taken for consumption off the premises only if in compliance with §125.51(3r).
10. Provisional Licenses. Municipalities that issue retail licenses must issue provisional licenses. Provisional retail licenses may be issued to persons who have applied for a Class "A", Class "B", "Class A", "Class B", or "Class C" license and authorize only the activities that the type of retail license applied for authorizes. A provisional retail license expires 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. § 125.185.

#### 5.2404 License Required

- A. License Required. No person, firm, business or corporation shall vend, sell, deal or traffic in or have in his/her 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, wine or fermented malt beverage, including wine cooler products, in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Section nor without complying with all the provisions of this Section, and all statutes and regulations applicable thereto, except as provided by Sections 125.06, 125.25, 125.26, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.
- B. License Application. Applications for intoxicating liquor or fermented malt beverage Licenses under this Section shall be obtained from the Office of the Town Clerk.
- C. Fees
  1. Application Fees: Applicants for license under this Section shall also pay all actual publication and notice expenses and such administrative and processing charges as the Town may, from time to time, establish by resolution. (Refer to Town of Lakewood Fee Schedule)
  2. License Issuance Fees. The fees for the issuance of intoxicating liquor or fermented malt beverage licenses under this Section shall be set by the Town Board by resolution. (Refer to Town of Lakewood Fee Schedule)
  3. License Issuance Fees. The fees for the issuance of operator under this Section shall be set by the Town Board by resolution. (Refer to Town of Lakewood Fee Schedule)

#### 5.2404 License Application:

- (a) Generally. An application for license must comply with the following requirements.
  1. Deadline. Consistent with Wis. Stats 125.04(3)(f), all applications for licenses to sell alcohol beverages shall be filed with the Clerk at least 15 days prior to the granting of the license.
  2. Receipt. All applications are received in-person or by mail, subject to completeness, applications will be mark with date and time received.
  3. Time limitation. An application shall not be valid after the license year for which

Commented [JR1]: Is this enough time to publish?

it has been filed.

4. Complete application. An application for a license must contain the following documents with signatures and all fees. Applications lacking any of the required documents or received without payment shall not be accepted by the Clerk.

(b) Original Applications

- a. Applications shall be made upon forms provided by the Clerk, which shall be completed in their entirety.
- b. Alcohol Beverage Individual Questionnaire (AB-100). Each person listed by each applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company.
- c. Alcohol Beverage Appointment of Agent.
- d. A valid form of identification issued by a governmental agency containing a photograph of the person for each person required to fill out a questionnaire.
- e. Property interest. Applications shall be accompanied by proof of one of the following:
  1. Ownership of the premises to be licensed.
  2. A valid option to purchase the premises to be licensed.
  3. A valid lease for the premises to be licensed for the term of the license.
  4. A valid option to lease the premises to be licensed for the term of the license.
- f. For individuals, partners, or agents, a copy of the responsible beverage server course certification issued in the past two years or a copy of a current operator's license in the last two years, or proof of agency for another establishment.
- g. Wisconsin seller's permit issued by the WI DOR. The legal entity of the seller's permit must match the legal entity on the original alcohol beverage retail license application.
- h. Floor plan for the facility, hand drawn is acceptable.
- i. Picture of outdoor premise (if applicable).
- j. Payment. All fees must be paid with application; license fees are listed on the Lakewood Fee schedule.

(c) Transfer applications.

- (1) Applications to transfer a license from place to place require;
  - a. Proof of control over the premise
- (2) Applications to transfer a license from person to person must be accompanied by written consent of the person from whom the license is to be transferred on a form provided by or acceptable to the Clerk and:
  - a. Proof of control over the premise
  - b. Completed AB-100 form
  - c. Completed AB-102 form
  - d. A valid form of identification issued by a governmental agency containing a photograph of the person.
  - e. a copy of the responsible beverage server course certification issued in the past two years or a copy of a current operator's license in the last two years, or proof of agency for another establishment.

(d) Renewal Applications. All application for renewal of licenses are subject to the qualifications, review proceeding and time constraints provided in this chapter and the WI Statutes.

(1) Renewal application deadline, Applications are due by April 15<sup>th</sup> of each year. If April 15 falls on a non-business day, the deadline will be extended to the next business day. The Town Board shall grant, issue or deny each timely-filed application no later than June 15<sup>th</sup> for the ensuing license year. If a renewal application is received after April 15<sup>th</sup>, notice of the Boards intent to grant, issue or deny the renewal application may not be available before the license expires on June 30.

(2) Late application fee. Renewal application received after the April 15 deadline shall be subject to a late filing fee as provide din the Fee schedule. Applications filed after May 15, will not be processed until after July 1.

## 5.2405 Provisional license.

(a) Issuance. To allow applicants an opportunity to conduct business before a regular license may be granted but after all other requirements for licensing have been met, the Board has identified limited circumstances under which a provisional license by be granted. The Clerk shall only issue a provisional retail license to an application who has submitted a regular Class "A", Class "B", "Class A", "Class B", or "Class C" retail license application for the same type of activity to permit the applicant to engage in the activity while the approval of the regular application is pending and in accordance with the requirements herein. The Clerk shall have three business days to grant or deny a provisional license.

(1) Qualification for provisional license. In accordance with Wis.Stats. 125.185, a provisional license is available to an application who has met all of the following criteria:

- a. The applicant has applied for a regular license;
- b. The applicant has submitted an application for a provisional license which authorizes only the type of activity allowed by the type of regular license applied for;
- c. The applicant meets all licensing requirements set forth in this section; and
- d. One of the following conditions exists:

1 Final approval of the regular license by the Town Board remains pending.

2. The applicant has applied for a new regular license, following the sale or transfer of an existing business that held a Town-issued regular license of the same type, and the provisional license is necessary to maintain the continuity of said business while approval of the new application is pending. The applicant must provide the Clerk with proof of control and/or occupancy of the premises to which the provisional license will be issued before the Clerk will issue the provisional license.

3. The applicant held a Town-issued regular license of the same type during the expiring licensing year and did not timely submit a renewal application because of excusable neglect on the part of the applicant.

4. An administrative error caused by the Town resulted in a delay in the application.

(2) Provisional license applications. A provisional license is available to an applicant for the same type of regular license if all the following conditions have been met.

a. The applicant has filed a complete regular license application form, as otherwise described in this section, for the same type of activity for which the provisional license is sought.

b. The applicant has paid all fees associated with the type of regular license applied for, as well as the provisional license fee, as provided by the fee schedule.

c. The applicant qualifies for the type of regular license applied for, in accordance with Wis Stats. 125.04.

d. The applicant has not held another provisional license for the type applied for within the last two license years.

e. For "Class B" license applications, the Town's quota under Wis Stats 125.51 does not prohibit the Town from issuing a "Class B" license.

1. In accordance with Wis. Stats. § 125.185(5), provisional licenses are not available for reserve licenses.

2. Issuance of "Class B" regular licenses will not exceed the number of available licenses under the Town's quota. In the event more regular license applications are received than there are licenses available under the Town's quota, no provisional licenses will be issued for any such applications.

b. *Expiration.* The provisional license expires 60 days after it is issued, or upon approval or denial of the applicant's regular license application, whichever occurs sooner. The provisional license may not be renewed.

c. *Revocation.* The Clerk may revoke the provisional license at any time if they discover that the provisional license holder made a false statement on the application.

## 5.2406 Approval and Issuance of Licenses

- A. License Approval. The approval of any license authorized under this Section shall be subject to the conditions and requirements of the applicable State Statutes and to approval by majority vote of the Town Board.
- B. Issuance of Licenses. The issuance of any license authorized under this Section shall be subject to the provisions of this Section and to the following:
  - 1. Delinquent taxes, Fees or Assessments. No license shall be granted for operation hereunder on any premises for which any taxes or assessments or other financial claims of the Town are delinquent and unpaid. (Refer to Section 5.0200 of this Chapter)
  - 2. Code of Compliance. No license shall be issued unless the premises conform to the sanitary, safety, and health requirements of the State Building Code, and the regulations of the State Board of Health and Fire Department-Department of Commerce. Each applicant's proposed licenses premises shall be subject to an inspection prior to issuance of the license by the designees of the Town Board.
  - 3. Certification that the applicant has successfully completed a background check.

## 5.2404 Posting Licenses; Defacement

- A. Licenses to be Posted. All licenses issued under this Section shall be posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- B. License Defacement Prohibited. It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.
- C. By July 15 annually the Clerk issuing license shall mail/inform the Department of Revenue; a list containing the name, address, and trade name of each person holding a license issued by the municipality under s. 125.25(6), Wis. Stat.

## 5.2406 Inoperative licenses.

Any license that has not been in continuous use in a manner indicating an ongoing business or has been granted but not issued, for a period of more than 60 days shall be subject to revocation or nonrenewal unless otherwise authorized by the Town Board.

## 5.2405 Conditions of License

All licensees hereunder do virtue of this acceptance of the issuance of a license under this Section consent to the following:

- A. Consent to Entry. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town 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. No employment of Minors. With the exceptions of hotel and restaurant operations, no retail Class "B" or Class "C" licensee shall employ any person under eighteen (18) years of age. Notwithstanding the foregoing, a member of the licensee's immediate family under the age of 18 may serve alcoholic beverages where otherwise allowed to by state law.
- 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 "B" or Class "C" license, at all times, the licensee 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 serving, any fermented malt beverages to customers. No member of the immediate family of the licensee under the age of eighteen (18) years shall serve as a waiter for, or in any other manner serve, any fermented malt beverages to customers unless an operator eighteen (18) years of age or over is present upon and in immediate charge of the premises. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he or she possesses an operator's license, who is at the time of such service upon said premises.
- E. Compliance with 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 and Class "C" licenses issued under this section. No Class "B" or Class "C" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- F. No establishment shall allow the online purchase of alcohol beverages

## 5.2406 Hours of Operation/Restriction

Establishments with Class "A", Class "B" or Class "C" licenses are either prohibited for selling alcohol or cannot be open for business during specified hours: Wis. Stats. §125.32(3) and 125.68(4) and 125.68(4)(c) 1 and 3.

#### 5.2407 Transfer of License; Lapse of License

- A. Transfer of License. Subject to and in accordance with the provision of s. 125.04 (12), Wis. Stats., a premises license issued hereunder shall be transferable from one premises to another if such transfer is first approved by the Town Board. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is \$10.00. Whenever a license is transferred the Town Clerk shall forthwith notify the State of such transfer.
- B. Transfer of Corporate Agent. Whenever the agent of a corporate holder of a license is, for any reason, replaced, the licensee shall give the Town Clerk written notice of said replacement, the reasons therefore and the new name of the agent. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue, which notice shall be served on the licensee. The corporation's license shall cease to be valid after receipt of such notice and the corporation shall suspend all operations otherwise permitted by such license until the successor agent or another qualified agent is appointed and approved by the Town and Wisconsin Department of Revenue.
- C. Lapse. Whenever any licensee under this Section shall not conduct his or her licensed business at the authorized location for a period of six (6) consecutive months, the license issued to him or her shall lapse and become void, unless such six (6) months period shall be extended by the Town Board.

#### 5.2408 Special Class "B" Fermented Malt Beverage Picnic or Special Event License Restrictions

The grant of a special Class "B" fermented malt beverage license or a special event license hereunder to groups or organizations shall be subject to the following conditions of license:

- A. Licensed Operator on Premises. There shall be at least one person properly licensed as an operator under the provisions of this Section on the premises at all times to supervise the service of beverages.
- B. Code of Compliance. Holders of the license hereunder shall fully comply with the provisions of this code and the state statutes.
- C. Indoor event Conditions. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. The venue shall contain adequate sanitary facilities to accommodate the size of the group.

## 5.2409 Operators Licenses

- A. Operator's License Required. The licensee, or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers shall be on the premises operated under a Class "A" or Class "B" intoxicating liquor license, Class "B" fermented malt beverage license, or Class "C" wine license, at all times. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the Class "A" or Class "B" licenses or Class "C" wine license unless he or she shall possess an Operator's License issued by the Town hereunder or unless he or she shall be under the immediate supervision of the Licensee or a person holding an Operator's License who shall be upon the premises at the time of such service. (State Law Reference: s. 125.17, Wis. Stats.) Operator(s) required completion of responsible beverage service training course; exempt from training course requirement if they are renewing an existing Operator's License, have completed the training course within last two (2) years, or have held a retail license, manager's or Operator's License anywhere in the State of Wisconsin with the last two (2) years. (s. 125.17(6), Wis. Stats).
- B. Application Procedure. The Town Clerk may issue an Operator's License to qualified individuals eighteen (18) years of age or older, on application forms to be obtained, from the Town Clerk.
- C. Term of License. The term of an Operator's License issued under the provisions of this Section shall be for a period of no more than one (1) year from the date of issuance and shall expire on the 30th day of June of the next subsequent calendar year after the year of issuance.
- D. License Fee. Refer to the Town of Lakewood Fee Schedule. License fee may be prepaid at time of the filing of the application and shall be non-refundable.
- E. Issuance of License. Upon approval of the Operator's License application by the Town Clerk the license shall be issued by the Town Clerk. 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.
- F. Display of License. Operator's License issued under the provisions of this Section shall be posted on the premises whenever the operator dispenses alcoholic beverages.

## 5.2410 Suspension, Revocation and Non-Renewal

- A. Notice and Hearing. No license issued hereunder shall be suspended, revoked or not renewed without first affording the license holder an opportunity for a public evidentiary hearing.

- B. Grounds. Licenses may be the subject of revocation, suspension, or nonrenewal proceedings as described in this section for any violation of Wis Stats Ch 125 or of this Code including but not limited to, the following:
1. The running of a disorderly house as proscribed by Wis Stats 125.12
  2. Activity by any licensee or operator that directly interferes with police officers or otherwise violates the law in a manner substantially related to the operation of the licensed facility.
  3. Any violation of any health provision of this Code dealing with public health, welfare and safety.
  4. Any liquor-related violation involving juveniles as proscribed by Wis.Stats Ch 125, including but not limited to Wis.Stats 125.07
  5. Any violations of general statutory restrictions pertaining to licensed premises and operations as proscribed by Wis.Stats.Ch 125
  6. Any failure to maintain the qualifications required of all license holders as detailed by Wis Stats 125.04 and as modified by the conditions of this Code or as a condition of granting or renewing a license.
  7. A lack of continuous use of the license in a manner indicating an ongoing business for a period exceeding 60 days in accordance with 5.2406
  8. The licensee no longer has a legal ownership or control of the property included in the premises description. If a portion of the property remains under the licensee's ownership or control and not other reasons for revocation exist, the licensee may modify its licensed premises and continue to operate.
  9. Selling alcohol beverages on-line.
- C. Hearing Forum. Any hearing for suspension, revocation or non-renewal of a license under this Section shall be held and conducted by and before the Town Board.
- D. Compliant. Any resident of the Town may file a sworn written complaint with the Clerk alleging that a person holding a license issued under this Section has violated the provisions of this Section or the regulations adopted under §125.10, §125.12, Wis. Stats.
- E. Summons. Upon the filing of Complaint, the Town Board shall, within thirty (30) days of the receipt thereof set a hearing date and issue a summons, signed by the Town Clerk. The summons shall command the licensee to appear before the Town Board on a day and place named in

the summons.

F. Hearing Process

1. If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the municipal governing body finds the allegations sufficient, the license shall be revoked. The Town Clerk shall give notice of the revocation to the person whose license is revoked.
  
2. If the licensee appears as required by the summons and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. If the complaint is found to be true, the license shall either be suspended for not less than ten (10) days nor more than ninety (90) days or revoked.
  
3. The provisions of s. 125.12, Wis. Stats., shall govern the conduct of the hearing hereunder.

G. Effect of Revocation. When a license is revoked under this subsection, the revocation shall be recorded by the Town Clerk and no other license issued under this Section may be granted within twelve (12) months of the date of revocation to the person whose license was revoked. No part of the fee paid for any license so revoked may be refunded.

H. Non-Renewal. The Town Board may refuse to renew a license under this Section for the causes provided in 5.0710(E) hereof. Prior to the time for the renewal of the license, the Board shall notify the licensee, in writing, of the Board's intention not to renew the license and provide the licensee with an opportunity for a hearing. A hearing shall be conducted per Section 5.2410 of this Chapter.

5.2411 Penalty

Any person serving alcoholic beverages without an operator's (bartender) license issued by the Town Board will be in violation and subject to a forfeiture (refer to the Town of Lakewood Bond Schedule).

Adopted this day \_\_\_\_\_ of \_\_\_\_\_ 2025

\_\_\_\_\_  
Mike Musil, Chairperson

\_\_\_\_\_  
Joanne Roy, Supervisor

\_\_\_\_\_  
Jamie Bostwick, Supervisor

Attest \_\_\_\_\_ Michelle Moczynski, Clerk

