

## Chapter 20

### Town Liquor Licensing Procedure

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#### **SEC. 20-1                    PURPOSE.**

This is the Town of Barnes Alcohol Control Ordinance. The purpose of this ordinance is for the Town to regulate the issuance, suspension and revocation of liquor licenses issued in the Town pursuant to Chapter 125 of the Wisconsin Statutes.

#### **SEC. 20-2                    AUTHORITY.**

The Town Board of the Town of Barnes has the authority under s. 125.10, Wis. stats., and under its Village Powers under s. 60.22 (3), Wis. stats., to regulate the sale at retail or wholesale of alcoholic beverages at premises locations in the Town, to the extent that Town regulations are not in conflict with State Statute, specifically including the issuance, renewal, revocation, suspension and regulation of alcohol retail sale or wholesale sale, licenses, or permits, along with the penalties for violations of this Ordinance.

#### **SEC. 20-3                    DEFINITIONS.**

The definitions of Wis. stats. § 125.02 are hereby adopted and incorporated herein unless otherwise defined herein.

- (a) "License" means an authorization to sell alcohol retail or wholesale beverages issued by the Town Board or its agent under this Ordinance.
- (b) "Licensee" means any person issued a license under this Ordinance and Chapter 125, Wis. stats., by the Town.
- (c) "Permit" means any permit issued by the Town under this Ordinance.
- (d) "Permittee" means any person issued a permit by the Town under this Ordinance.
- (e) "Retailer" or "retail" means any person who sells, or offers for sale, any alcohol beverages in the Town to any person other than a person holding a permit or a license under this chapter.
- (f) "Sell," "sold," "sale," or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme, or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.
- (g) "Tavern" means any place in which fermented malt beverages or intoxicating liquor are sold for consumption upon said premises.
- (h) "Town" means the Town of Barnes, Bayfield, County, Wisconsin.
- (i) "Town board" means the board of supervisors for the Town of Barnes, Bayfield County, Wisconsin and includes designees of the board authorized to act for the board.
- (j) "Town clerk" means the clerk of the Town of Barnes, Bayfield County, Wisconsin.
- (k) "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

#### **SEC. 20-4                    GENERAL LICENSING REQUIREMENTS.**

- (a) **License or Permit, When Required.** No person may sell, manufacture, rectify, brew or engage in any other activity in the Town of Barnes for which Chapter 125, Wis. Stats., provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this chapter.
- (b) **Licenses or Permits Issued in Violation of This Chapter.** No license or permit may be issued to any person except as provided in this chapter. Any license or permit issued in violation of this chapter is void.

(c) **Application for License.**

- (1) Forms. The Town clerk shall provide an application form for each kind of license issued under this chapter. Said application shall utilize forms AT-106 and AT-103 published by the Wisconsin Department of Revenue and shall be in duplicate, if the application be for a Class A or Class B license, signed by the applicant and containing the information required pursuant to Wis. stats. §125.04 which shall be verified by oath of the applicant. The application shall be filed with the Town clerk along with the cost of publication pursuant to paragraph 20-4-(c)(3) below.
- (2) Appointment of Agent. All corporations/organizations or limited liability companies applying for a license or permit shall appoint an agent. The agent shall complete form AT-104.
- (3) Publication of Alcohol Beverage Application. All applications for Class A and Class B license shall be published pursuant to Wis. stats. § 125.04(1)(g). The applicant shall reimburse the town for the cost for publication.
- (4) Public Hearing(s) may be Required. The Town clerk may schedule public hearing(s) before the Town board on the granting or transfer of Class A or Class B licenses.

(d) **Application for Corporate License.** All applications for corporate licenses shall contain the following information, as stated in the last annual report of the corporation:

- (1) A copy of the Articles of Incorporation, unless such application is for renewal of existing license, and a copy of any amendments to the Articles of Incorporation that have been filed with the Secretary of State and have not previously been filed with the City Clerk.
- (2) A list of the officers and directors of the corporation with their residences.
- (3) A list of the stockholders of the corporation together with the extent of their ownership, and their residences.
- (4) A statement by the applicant showing whether any corporate officers, directors or stockholders of the applicant hold any office or stock in a corporation holding a Class A or Class B beer or liquor license in any part of the state of Wisconsin.
- (5) A statement indicating whether any corporate officers, directors or stockholders have been convicted of any felony or misdemeanors or ordinance violation of the County of Bayfield (excluding traffic violations unrelated to alcohol).

(e) **Application for Limited Liability Company License.** All applications for limited liability company licenses shall contain the following information:

- (1) A copy of the Articles of Organization, unless such application is for renewal of an existing license, and a copy of any amendments to the Articles of Organization that have not previously been filed with the Town clerk.
- (2) A list, kept in alphabetical order, of each past and present member and, if applicable, manager. The list shall include the full name and last-known mailing and residence address of each member or manager, the date on which the person became a member or manager and the date, if applicable, on which the person ceased to be a member or manager.
- (3) A copy of the operating agreement and all amendments to the operating agreement.
- (4) A statement by the applicant showing whether any members or managers of the applicant hold any office or stock in a corporation or limited liability company or are members or managers of any limited liability company holding a Class A or Class B beer or liquor license in any part of the state of Wisconsin.
- (5) A statement by the applicant indicating whether any of the members or managers have been convicted of any felony or misdemeanors or ordinance violation of the County of Bayfield (excluding traffic violations unrelated to alcohol).
- (6) For purposes of this subparagraph, the term manager is defined as in sec. 183.0102, Wis. Stats.

**SEC. 20-5 HEARING PROCESS.**

- (a) In the event any alcohol beverage retail or wholesale sale licensed or permitted party violates this Ordinance or Chapter 125, Wis. stats, the Town board may take disciplinary action, including reprimand, permit or license suspension for a specified number of days, up to 90 days, or permit or license revocation. Any license or permit that has been revoked shall not be reinstated within the

following 12 months. Any disciplinary action taken shall follow notice to the licensee or permittee prior to a hearing.

- (b) **Notice.** In the event disciplinary action is taken against an alcohol beverage retail sale or wholesale licensee or permittee, the procedure mandated under s. 125.12, Wis. stats., or its successor, will be followed. (At present, that procedure requires personal service of the hearing notice (summons) and complaint, and a hearing within 3-10 days thereafter. In the event the permittee or licensee cannot be found, the summons may be published once in a newspaper of general circulation deemed most likely to provide notice to the license holder.) The Town clerk shall post or arrange to post the hearing notice or publish in a format acceptable to the Town chairperson. The hearing notice shall include the reason for the hearing.
- (c) **Hearing.** Evidence and testimony at the hearing shall be given in open session. All testimony shall be under oath.
- (d) **Decision.** The hearing decision of the board, shall be sent by first class mail to the licensee's last known address, or personally served. There shall be no refund of any alcohol beverage retail or wholesale sale license or permit fee paid to a party whose license is revoked under this Ordinance.
- (e) In lieu of a hearing, the Town board may accept surrender of the alcohol beverage retail or wholesale sale license or permit and the board shall then determine the time period before another application for the same type of license or permit will be accepted from the former licensee or permittee.
- (f) Unless no disciplinary action, including reprimand or probation, is ordered by the Town board, the alcohol retail sale or wholesale licensee or permittee shall reimburse the Town for costs of personal service, mailing, fax costs, copies, and any per diem paid for a Town officer to attend the hearing or other meeting due to a license violation. Unpaid costs assessed under this subsection shall accrue interest at the rate of 5% per annum if unpaid after 30 days. Payment shall be required before any future alcohol retail or wholesale sale licensee or permittee or is issued or reinstated to the license or permit holder.

#### SEC. 20-6

#### GROUNDS FOR DENIAL, REVOCATION AND SUSPENSION.

- (a) A license or permit shall not be denied on the grounds that the applicant lacks good moral character, unless there is evidence that the applicant would, if granted an initial or renewed license or permit, pose a threat to the safety or welfare of patrons of the licensed or permitted establishment in which he or she would be employed. The following will be considered grounds for a determination that an applicant, licensee, or permittee lacks good moral character:
  - (1) Suspension or revocation of a Class A, Class B, Operator's, or Manager's License under Chapter 125, Wis. stats., or this Ordinance if all of the following apply:
    - a. There is a relationship between the reasons for the suspension, revocation, or dismissal and the applicant's ability to competently tend bar without endangering the safety or welfare of the patrons of such bar.
    - b. The suspension, revocation, or dismissal occurred within a year of the date of the application, or there has been more than one such suspension, revocation, or dismissal within 3 years of the date of the application.
  - (2) Conduct exhibiting the use, within 3 years of the date of the application, of alcoholic beverages or controlled substances, as defined in Wis. stats. §961.41(1), to an extent or in a manner dangerous to any other person, or to an extent that such use would impair his or her ability to competently tend the Tavern business.
  - (3) The applicant, licensee, or permittee has habitually been a law offender, as defined in Wis. stats. § 939.62(1) or has been convicted of a felony and the circumstances of the crime or crimes substantially relate to the circumstances of the permitted or licensed activity, unless the person has been duly pardoned.
  - (4) The applicant, licensee, or permittee is subject to a pending criminal charge and the circumstances of the charge substantially relate to the circumstances of the permitted or licensed activity.
  - (5) The applicant, licensee, or permittee has been convicted of one or more of the following:

- a. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under Wis. stats. § 961.41(1),
  - b. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under Wis. stats. § 961.41(1m).
  - c. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to Wis. stats. § 961.41(1) or (1m).
  - d. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to Wis. stats. § 961.41(1) or (1m).(6) If any Town board, or local law enforcement recommends to the Town board denial of an Operator's License or Manager License or other license or permit on the basis provided herein, the applicant shall be given the opportunity to present evidence of rehabilitation. Such evidence may include, but is not limited to, letters of recommendation, evidence of family stability or educational advancement, satisfactory work performed, professional counseling, and participation in community activities.
- (7) If a license or permit is denied by the Town board, the applicant shall have the right to file an appeal with the Town clerk within 30 days of the date of the decision, and to appear and be represented by legal counsel before the Town board, to be heard, to present evidence in favor of the granting of the license or permit and to rebut the evidence presented in opposition to the granting of the license or permit. The hearing on the appeal shall beheld within 40 days of the filing of the appeal. Notice of the time and place of the hearing on the appeal shall be mailed by the Town clerk to the applicant by certified mail at least 10 days before the date of the hearing. The Town board shall, after the hearing, comply with Chapter 125 by providing in writing the reasons for its decision to grant or not grant a license or permit. The Town board shall comply with s. 125.12 Wis. stats in the denial, revocation, suspension, or non-renewal of a license or permit.
- (8) No licenses or permits shall be granted under this Ordinance or under Chapter 125, Wis. stats., unless the Town board shall by a vote of the majority of the members elect of the Town board have authorized the issuance of the permit or ordinance. The Town board shall meet not later than May 15 of each year and be in session from day to day, from time to time, thereafter, so long as it may be necessary for the purpose of action upon applications for licenses and permits as may be presented to them on or before April 15 and all applications for licenses so filed shall be granted or denied not later than June 15 for the ensuing license year.

**SEC. 20-7**

**PENALTIES.**

The forfeitures and penalties provided for in this section shall be applicable to violations of Section 20-4(a) of this ordinance. Violation of this ordinance shall be in accordance with the schedules of deposit, which are now in existence and may be amended from time to time in the future, plus any applicable assessments, costs, fees and penalty enhancements now in force in the Bayfield County Circuit Court, or as enforced in the future and restitution as it may apply under §973.20 Wis. stats. Each day’s failure to comply with this Chapter shall constitute a separate offence.

**SEC. 20-8**

**SEVERABILITY.**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

**SEC. 20-9**

**EFFECTIVE DATE.**

This Ordinance is effective on publication. The clerk shall properly post or publish this ordinance as required under s 60.80, Wis. Stats.

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Dick Collyard, Chairman

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Christine M. Webb, Supervisor

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Jack Meinke, Supervisor

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Donna Porter, Supervisor

\_\_\_\_\_  
Mitch McGee, Supervisor

Adopted: October 24, 2006

Published: November 9, 2006

Posted: November 6, 2006

Attest: \_\_\_\_\_  
Elaine J. Brustad, Town Clerk-Treasurer

Dated: October 24, 2006