

PART II LICENSES AND REGULATIONS

Chapter 20 ALCOHOLIC BEVERAGES

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20.01 Strict compliance required

It shall be unlawful for any person, firm, association, corporation or limited liability company to sell, or keep for sale, at wholesale or retail, or permit to be sold, or kept for sale, at wholesale or retail, within the village of Lake Delton, any alcohol beverages except in strict accordance with this chapter's provisions.

20.02 Statute adopted

The statutory provisions of Chapter 125 of the Wisconsin Statutes, describing and defining regulations with respect to alcoholic beverages are hereby adopted and by reference made a part of this chapter as if set forth in full herein; except for those provisions requiring imprisonment or provisions permitting the village to enact standards different from that set forth by the legislature. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter unless there is specific provision to the contrary. Any future amendments, revisions or modifications of the statutes incorporated herein are made part of this chapter. In the event of a conflict between the provisions of this chapter and any statute, the chapter controls unless expressly forbidden by the statute. If the statute authorizes the village to enact a provision in its sole discretion and the chapter does not so provide, the village shall be deemed to have declined to act.

20.03 Definitions

Whenever the following terms are used in this chapter, they shall be construed as follows:

- A. Alcohol beverages. Means fermented malt beverages, wine and intoxicating liquor.
- B. Brewer. Means any person who manufactures fermented malt beverages for sale or transportation.
- C. Brewery premises. Means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.
- D. Club. Means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and that only sells alcohol beverages incidental to its operation.
- E. Department. Means the state of Wisconsin Department of Revenue.

F. Fast food restaurant. Means a restaurant serving food primarily prepared in advance and sold to its customers at a counter, and/or a restaurant utilizing a drive-through facility.

G. Fermented malt beverages. Means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degenerated grains or sugar containing one-half percent (0.5 %) or more of alcohol by volume.

H. Full-service restaurant. Means a restaurant where meals are primarily prepared individually for the customer and are served to customers at their table by wait staff. A restaurant that is a fast food restaurant, or that has drive-through facilities is not considered a full-service restaurant.

I. Intoxicating liquor. Means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half percent (0.5 %) or more of alcohol by volume, which are beverages, but does not include 'fermented malt beverages' that contain less than five percent (5 %) of alcohol by weight.

J. Legal drinking age. Means twenty-one (21) years of age.

K. License. Means an authorization to sell alcohol beverages issued by a municipal governing body under this chapter.

L. Permit. Means any permit issued by the department under this chapter.

M. Person. Means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.

N. Premises. Means the area described in a license or permit.

O. Principal business. Means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.

P. Restaurant. Has the meaning as defined in s. 254.61(5), Wis. Stats., and whose sale of alcohol beverages accounts for less than fifty percent (50 %) of the establishment's gross receipts.

Q. 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.

R. Under the influence. Means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition that is the result of indulging to any degree in alcohol beverages and that tends to deprive a person of the clearness of intellect and control of himself or herself that he or she would otherwise possess.

S. Underage person. Means a person who has not attained the legal drinking age.

T. Wholesaler. Means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.

U. Wine. Means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain one-half percent (0.5 %) or more of alcohol by volume

V. Digital/Video Camera System. The camera system shall include digital/video camera(s) and digital/video recorders. The video cameras shall provide high definition ("HD") color and black and white image resolution of not less than seven hundred twenty (720) p / one (1) MP and shall be supported by additional lighting if necessary to produce easily discernible video images at all times. The video cameras shall not record audio. The digital video recorder(s) shall be capable of storing video footage in a searchable format and of transferring selected recorded images to a commercially available portable digital format for independent, standalone review and screening by a third party.

W. "Nightclub" commercial establishment operating under "Class B" Malt and Intoxicating Liquor licensee. Modified & Amended Ordinance 14-24 Passed: 11/10/2014 Published: 11/15/2014

20.04 License classifications

A. Class A Licenses.

1. A "Class A" license authorizes retail sales of fermented malt beverages within the Village of Lake Delton, for consumption elsewhere than on the parcel where sold.
2. A "Class A" license authorizes retail sales of all alcohol beverages within the Village of Lake Delton, for consumption elsewhere than on the parcel where sold.
3. Subject to the conditions of s. 125.51 (2) (e), Wis. Stats., the holder of a Class "A" license is eligible to apply for a "Class A" license for the limited purpose of selling cider on the same premises for which the Class A license is issued.

20.04 A (1-3) Modifying & Amending Ordinance 17-011 Passed 6/26/2017 Published 07/05/2017

B. Class B Licenses.

1. A Class "B" license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers may be removed from the premises where sold.
2. A "Class B" license authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises.
3. A "Class B site" license authorizes the retail sales of wine, fermented malt beverages and intoxicating liquor, for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container, in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises.
All provisions of Chapter 125 Wisconsin Statutes and this chapter regulating "Class B" licenses shall apply to "Class B site" licensed premises unless otherwise expressly provided.
4. A Temporary Class "B" License may be issued to qualified applicants in accordance with the provisions of s. 125.26 (6) *Wisconsin Statutes*. Ordinance 16-012 Modifying & Amending 20.04 B (4) Passed 10/10/2016 Published 10/15/2016
5. A Temporary "Class B" License may be issued to qualified applicants accordance with the provisions of s. 125.51 (10) *Wisconsin Statutes*. Ordinance 16-012 Modifying & Amending 20.04 B (5) Passed 10/10/2016 Published 10/15/2016

C. "Class C" Licenses. A "Class C" license authorizes the retail sale of wine by the glass or in opened original containers for consumption on the premises when the quota limiting the number of Class B Licenses as set forth in s. 125.51 (4) Wis. Stats. has been filled.

D. Wholesaler's License. A Wholesaler's license shall permit its holder to sell and keep for sale, within the village of Lake Delton, alcohol beverages in their original packages or containers to dealers to be consumed elsewhere than on the premises where stored or sold.

E. Operator's or Manager's License. An Operator's or Manager's license shall permit its holder to serve or sell alcohol beverages.

20.05 Licensing requirements

A. License or permit, when required. No person may sell, manufacture, rectify, brew or engage in any other activity 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 licenses.

1. Contents. The village clerk shall provide an application form prepared by the department for each kind of license issued under this chapter. Said application shall be completed by the applicant containing the information required by s. 125.04, Wis. Stats., and any additional information the village requests, signed by the applicant and verified by oath of the applicant and filed with the village clerk.

2. Publication of application for license. The village clerk shall publish in the *Wisconsin Dells Events* a notice of such application, containing the name and address of the applicant, the kind of license applied for, and the location of the premises to be licensed. At the time of filing the application the applicant shall pay to the village clerk the cost of said publications.

3. Time of filing and acting on applications. Applications for both Class A licenses and "Class B" and "Class B site" licenses, which are to be acted upon at the first meeting in May of each year, must be filed on or before April 15 of each year. Application for Class "B" and Class C licenses, to be acted upon at the first meeting in June of each year, must be filed on or before May 15 of each year. The village clerk may conditionally accept renewal applications offered for filing notwithstanding the deadline provided in this subsection but shall not forward to the village board any application for which there is a deficiency or lack of compliance with any requirement in the application process.

4. Training course. No licenses shall be issued unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult-education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the department or the educational approval board or unless the applicant fulfills one of the following requirements;

a. The person is renewing an operator's license.

b. Within the past two (2) years, the person held a Class "A", Class "B", "Class A", or "Class B" license or permit or a manager's or operator's license.

c. Within the past two (2) years, the person has completed such a training course.

Those who complete such program shall have an appropriate endorsement recorded and placed on their licenses. No operator's license shall be issued or renewed to any person who failed to complete the program during any previous period during that such person held an operator's license without first successfully completing the program. Where application is made for a license on behalf of a sole proprietorship, the sole proprietor shall have successfully completed the beverage server training course.

Where such application is made on behalf of a partnership, all partners shall have successfully completed the beverage server training course. Where such application is made on behalf of a corporation or a limited liability company, the agent appointed shall have successfully completed the beverage server training course.

5. Refusals to issue new license or permit. If the village board decides not to issue a new license or permit under this chapter, such denial shall include a reason.

The village clerk shall transmit to the applicant by first-class mail, the village board's decision and shall state the reason thereof.

D. Procedure on receiving an application.

1. No license shall be granted under this chapter unless a public hearing is held on such application.
2. No such hearing shall be held except upon proper notice in the agenda for such hearing and notice to the public by a Class 1 Notice in the *Wisconsin Dells Events*, together with the posting of such notice in three public places in the village, including the public posting area of the Village Municipal Building. Such notice may be given by publication and posting of the agenda showing such hearing.
3. Such hearing shall be conducted and recorded with either a court reporter or a tape recording, unless this condition is unanimously waived by village board vote.
4. The order of procedure shall be persons appearing in favor of the granting the license shall appear first and make their presentation; the persons appearing in objection shall then make their presentations, and the persons appearing in favor shall then have an opportunity to present rebuttal. The village board shall have the right to limit the amount of time for each presentation, to receive petitions for or against, to request that persons signing such petitions sign either a form or a sheet stating who they are, who they represent, whether they are electors or otherwise, their address and whether they are for, against or have no position on the matter.
5. After conducting the hearing, which shall follow regular rules of order, the board may meet in open or closed session. Closed sessions shall be held only if properly noticed in the agenda. They shall then act upon the application at such time or later, as the board feels sufficient information has been received on which to act properly and either grant, deny or table the application for a period of time.

E Qualifications for licenses and permits. Qualifications for licenses and permits issued under this chapter are as set forth in this chapter and the requirements of Chapter 125 Wisconsin Statutes.

F. Criteria for granting the license.

1. The village board shall answer certain questions in the affirmative before it shall be proper to grant a license. Among the questions, but not limited thereto, shall be those questions following, and it is mandatory for the said board to consider these conditions on any request for a Class A Beer or Class B Malt Beverage and Liquor License, or combination thereof or Class B Fermented Malt Beverage Licenses, and the board shall not issue such a license until it finds the answers to the following questions to be in the affirmative:
 - a. Are the premises and the building in which the licensee is to be conducting business in accord with the state of Wisconsin zoning and building codes and village of Lake Delton codes, and in compliance with other regulating bodies?
 - b. Is the building sightly and will its construction and operation be in such a manner that it will not create, add to, or aggravate any chance of bringing about a "honky-tonk" atmosphere?
 - c. Is it in the commercial and general welfare of the village of Lake Delton, Sauk County, Wisconsin?
 - d. Does granting the license have a valid purpose?
 - e. Will the aesthetic propensities of the building and the operation generally, including fencing, grounds, parking and otherwise, contribute to the community's general attractiveness?

- f. Is the sign copy to be used with such business, on and off premises, such that it will not confuse the tourist public or the local public, both of which are the village's economic lifeblood?
- g. Will the effect of granting this license have any socially redeeming values effectuated for the benefit of the people of the community of the village of Lake Delton?
- h. Is the building, business and entire set-up constructed, located and operated so it is not a vengeance, spite or other type of operation based on contrariness or based on the destruction of some other business?
- i. Has the traffic situation been reviewed by a proper traffic reviewing authority such as the Lake Delton Police Department, and is such report on file for the benefit of the village board's consideration?
- j. Has the village board considered the availability of the sale of the product that will be sold under this license in its total quantum capacity available to the residents, tourists, passers-through and others that will be affected and have access to same and is it the village board's decision that adding this license will not create an oversupply that would be adverse to the health, safety, general welfare and public peace, safety and order of the community?
- k. Has the village board carefully considered the application in its entirety, including such background material as shall be lawful as it may require within the orbit of proper inquiry in this respect, and also the personnel involved in the operation, and is the village board satisfied that there is no one operating who is a convicted felon or who is not a person of good character and that every applicant and all employees and/or agents etc. are people of good character and that the application itself meets with all of the legal requirements of the laws of the state of Wisconsin and the village of Lake Delton's ordinances?
- l. Has the village board, or a majority of those members voting, personally inspected the premises, or if a proposed structure, the plans and specifications for same, and if necessary, has it consulted with engineers?
- m. Has the board consulted, should it deem necessary to do so, with special experts such as engineers, legal counsel or otherwise, to check the validity of allegations made by way of the application, the plans and specifications or other documents the board shall, in its reasonable wisdom, require in order that it may be properly advised as to the entire structure of the organization, its principal, the type and nature of the building and operation, and has the board satisfied itself that it has met the legal requirements and the ethical requirements that would go with an operation so that it will not be a detriment to the health, safety and general welfare of the people of the village of Lake Delton.

2. Issuance of a "Class B site" license. The village board may in its sole discretion issue "Class B site" licenses to qualified applicants. In reviewing an application for a "Class B site" license the village board shall, in addition to other requirements of this chapter, and of *Wisconsin Statutes Chapter 125*, investigate and determine whether the premises meets the qualifications for a "Class B site" license. In making its determination of whether a particular application qualifies for a "Class B site" license the village board shall consider, in addition to the requirements of F (1) above, the following factors in making its determination:

- a. Whether the premises defined in the application constitutes a full-service restaurant that has a seating capacity of 300 or more persons; or

b. A hotel that has 50 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.

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c. Whether issuing the site license is in the public interest.

d. For purposes of this paragraph seating capacity means the indoor seating capacity of the restaurant.

e. The banquet room capacity shall be the maximum number of persons permitted under state or village building regulations, whichever is more restrictive.

3. Discretionary authority of the village board. The fact that a particular premises meets the qualifications set forth in subparagraphs F (1) and (2) above does not entitle said premises to a license, the issuance of which remains the sole discretion of the village board considering all factors relevant to the issuance of said license.

G. Expiration dates. Except as otherwise provided in this chapter all licenses and permits issued under this chapter shall expire on June 30 of each year.

H. License framed and posted. Licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front that allows the license to be clearly read. All licenses shall be conspicuously displayed for public inspection at all times in a room or place where the activity subject to licensure is carried on.

I. Transfer of licenses and permits.

1. From place to place. With the exception of a "Class B site" license that is nontransferable, a license may only be transferred to another place or premises with the village board's approval. The village board may permit one transfer during the license year provided the licensee proves to the village board's satisfaction the new premises is in full and complete compliance with all state and village law, regulations and ordinances; the owner and/or lien holder of the existing premises consents to the transfer in writing, and that such transfer is not detrimental to the public interest. Application to transfer shall be filed with the village clerk along with payment of a transfer fee in the amount of ten dollars (\$10.00). In the event the village board approves the transfer the village clerk shall promptly notify the department of all transfers.

2. From Person to Person.

a. Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without the village board's approval. If the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application, then under such circumstances or others deemed sufficient by the village board in its discretion, the village board may, upon application, transfer the license to the licensee's designee provided such designee complies with all the requirements under this chapter applicable to original applicants, except that a surviving spouse shall be exempt from payment of the license fee for the year in which the transfer takes place.

b. Upon the happening of any of the events under paragraph (a) above, the personal representative, the surviving spouse, if a personal representative is not appointed, the trustee, or the receiver may continue or sell or assign the business.

c. Businesses may be continued under paragraph (b) above only if the personal representative or surviving spouse is a U.S. citizen.

J. Limitation upon issuance of licenses.

1. Issuance of "Class A" licenses.

- a. "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses that will be issued within the Village shall only be issued to qualifying businesses meeting the standards established Chapter 125, Wisconsin Statutes and in subparagraph b below.
- b. Standards for licensing of premises for "Class A" Fermented Malt Beverage and Intoxicating Liquor sales. Only the following businesses are eligible for "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses provided the meet all other requirements of this Chapter:
 - 1. Full service Grocery Stores open 12 months a year with a minimum of 50,000 square feet of interior space. The liquor area must be located in a separate room either inside the grocery store or connected by a door from the inside of the store to an attached structure. This structure could have an outside entrance as long as there is an interior entrance from the grocery store.
 - 2. Liquor stores open 12 months a year with a minimum of 5000 square feet of interior space and with a minimum inventory of \$175,000. For purposes of this provision liquor store means a retail store in which the sale of alcoholic beverages exceeds 80% of its gross sales. No liquor store may be located within 1000 feet of an existing liquor store.
 - 3. Retail stores offering occasional sales of liquor and/or wine in special promotions in combination with other goods provided that the full retail value of the alcoholic beverage constitutes less than 50% of the price or the promotion. For purposes of this provision, up to 4 Special Promotions may be held during a license year.
 - 4. Retail stores holding "Class A" licenses in effect at the time of enactment of this section.
- c. Authorized sales personnel. All sales in or on the premises for which a "Class A" Fermented Malt Beverage and Intoxicating Liquor license has been issued shall be made by the owner (licensee) or by licensed employees, each of whom shall be responsible for checking the ages of such customers so as to prevent sales to customers not authorized to purchase such beverages and liquors because of age, and who shall be deemed to be aware of all the laws governing the sale of fermented malt beverages and intoxicating liquors with respect to such licensed premises and the types of sales that may lawfully be made under such license.
- d. "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses are not transferable to another location.

2. Class "B" Fermented Malt Beverage License.

- a. No Class "B" Fermented Malt Beverage license shall be issued in the village of Lake Delton except (1) in restaurants where full-course meals are served, and where food is predominantly the major sales item, computed by gross sales, floor area and general use of the restaurant or (2) in restaurants or hotels meeting the criteria specified in s. 125.51(4)(v), Wis. Stats. This section does not apply to any existing licenses that were in existence as of January 13, 1965.
- b. No Class "B" license shall be issued hereunder for the sale of alcohol beverages on any premises unless such premises complies with and conforms to all ordinances, health, sanitation, building and fire regulations of the village and the state.
- c. Off-premises sale of liquor in original packages. Holders of "Class B" Fermented Malt Beverage and Intoxicating Liquor licenses may sell liquor in the original package for off-premises consumption, not to exceed one-gallon per sale. Such sales shall be

made either by the licensee or by a licensed bartender or employee licensed for such purposes.

3. Class "B" License (Picnic). Original Class "B" licenses may be issued by the village board 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 (6) months prior to the application date and to posts of veterans' organizations, authorizing the sale of 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 application shall be filed with the village board at least thirty (30) days prior to the granting of the license. The village board may issue a license for an application that is not timely filed provided it finds it has all the information necessary to make an informed decision. The license shall be issued upon written application, and for such time, not to exceed four (4) days, as shall be designated by the board and shall be subject to such restrictions as imposed by the board. The village clerk is authorized to issue renewal Class "B" picnic licenses to previously approved applicants.

4. Class C License.

- a. A Retail Class C license may be issued to a person qualified under s. 125.04 (5), Wis. Stats., for a restaurant operating under a restaurant license issued by the state of Wisconsin, in which the sale of alcohol beverages accounts for less than fifty percent (50 %) of gross receipts and which does not have a barroom.
- b. Each applicant for a Class C license shall disclose on the application the receipts for the sale of alcohol beverages and the percentage of such sales to the gross sales.

K. Special Exceptions Permits

1. Any person asking to be relieved from the strict enforcement of this section provisions may apply for a Special Exceptions Permit. The application shall be on a form provided by the Clerk Treasurer-Coordinator. The completed form and all supporting documents shall be filed with the Clerk Treasurer-Coordinator along with the filing fee. The Clerk Treasurer-Coordinator shall then proceed with the procedure set forth in s.20.05 (c) above.
2. When reviewing an application for a Special Exception Permit, the Village Board shall take into consideration such factors it deems appropriate, including but not limited to:
 - a. The Special Exceptions Permit will not be contrary to the purposes of this Chapter, or detrimental to the public health and welfare.
 - b. Past experience with the applicant or similar business operations.
 - c. The holder of the special exception permit must comply with all other local ordinances and applicable state laws.
 - d. The special exception permit may include restrictions and prohibitions in addition to those provided in this chapter including but not limited to hours of operation, products offered for sale, definition of premises, signage and such other requirements that the Village Board deems appropriate.
3. After reviewing the application and supporting documentation the Village Board shall approve or deny issuance of the Special Exception permit subject to such conditions and restrictions it deems appropriate.

20.05 K Modified & Amended Ordinance 20-007 Passed: 10/12/2020 Published: 10/22/2020

20.06 General provisions and hours

A. No license where pending violation. No license shall be issued, renewed or granted hereunder to any person, firm, corporation, limited liability company or organization for any premises as a result of the sale or transfer of the business, stock in trade or furnishings of said premises, to a new

applicant while there is pending against the former licensee thereof any proceedings for the violation of any provisions of the village of Lake Delton's general ordinances, which on conviction would result in automatic forfeiture of said license.

B. Licensee, agent or operator on premises at all times. There shall be at all times, upon the licensed premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who shall have an Operator's or Manager's license and who shall be responsible for the acts of all persons serving, as waiters or in any other manner, any alcohol beverages to customers. No person other than the licensee, or the agent named in the license if the licensee is a corporation or limited liability company, shall serve alcohol beverages in any place operated under a license unless he/she shall possess such

Operator's or Manager's license, or unless he/she shall be under the immediate supervision of the licensee or a person holding an Operator's or Manager's license who shall be at the time of such service upon said premises. No person may manage premises operating under a license or permit, unless the person is the licensee or permittee, an agent of the corporation or Limited Liability Company or the holder of a manager's license.

C. Sign to be posted. A sign bearing the words "Bar closed after 2:00 a.m., 2:30 a.m. on Saturday and Sunday" shall be conspicuously displayed over the bar in all premises for which a Class "B" or "Class B" license shall have been issued.

D. Class A hours.

1. Premises Hours. No premises for which a Class "A" Fermented Malt Beverage license has been issued shall sell fermented malt beverages between the hours of 12:00 a.m. and 6:00 a.m. No premises for which a Class "A" Intoxicating Liquor license has been issued shall sell intoxicating liquors between the hours of 9:00 p.m. and 6:00 a.m.
2. No-carryout law. Between 9:00 p.m. and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from the "Class A" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.

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E. "Class B" and Class "B" Hours.

1. No-carryout law. Between 12:00 a.m. and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from the "Class B" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.
2. Premises hours. No premises for which a "Class B" or Class "B" license has been issued shall be permitted to remain open between the hours of 2:00 a.m. and 6:00 a.m., on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday. On January 1 the premises are not required to close.
3. Hotel and restaurant exemption. Hotels and restaurants the principal business of which is furnishing food and/or lodging to patrons, and bowling centers, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but shall not sell, serve, give away or in any way deal or traffic in alcohol beverages in violation of Subparagraphs (1) and (2) above.
4. Regulation of closed retail space. Only the permittee, licensee, employees, salespersons, employees of wholesalers licensed under s. 125.28(1) or 125.54(1), Wis. Stats., or service personnel may be present on Class B premises during hours when the premises are not open for business if those persons are performing job-related activities.
5. No-carryout law. Between 12:00 a.m. and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from any "Class B" or Class "B" licensed premises, any alcohol beverages in an original unopened package, container or bottle or for consumption away from the premises.

6. No after-hours consumption. It shall be unlawful for any person to possess or drink from any open container that contains alcohol beverages within a "Class B" or Class "B" licensed premises between 2:00 a.m. and 6:00 a.m. on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.

F. "Class C" Hours

1. Except as provided in paragraph (2) of this subsection, no premises for which a "Class C" license has been issued may be open between the hours of 2:00 a.m. and 6:00 a.m. on weekdays and 2:30 a.m. and 6:00 a.m. on Saturday and Sunday.

2. Hotels and restaurants, the principal business of which is furnishing food, drinks or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell alcohol beverages between the hours of 2:00 a.m. and 6:00 a.m.

G. It shall be unlawful for the licensee or any employee of a licensed establishment to be under the influence of an intoxicant, or a controlled substance or a combination of an intoxicant and a controlled substance, while performing services on the licensed premises.

H. Licenses for less than one year. A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.

I. A Retail "Class A" and "Class B" license shall not both be issued for the same premises or connecting premises.

J. No person may hold both a "Class C" license and either a "Class A" or "Class B" license for the same premises or for connecting premises. No person may allow another to use his/her "Class C" license or permit to sell alcohol beverages.

K. No retail license shall be issued to any person who has not attained the legal drinking age.

L. Police record and report. Before any original license other than an Operator's or Manager's license shall be issued or granted under this chapter, the Chief of Police shall first file a complete written report with the village board showing the applicant's complete police record, if any, and likewise showing for the previous (3) three-year period the complete police record, if any, of any licensee during such (3) three-year period of the premises or business as to which application is being made, both reports to include arrests, complaints, prosecutions and other proceedings. Said complete written report shall not be required for Operator's license renewals.

M. Place-to-place deliveries. No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

N. Restrictions applicable to "Class A" and Class "A" licenses. No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a "Class A" or a Class "A" license has been issued any fermented malt beverage except in original unopened packages, containers or bottles, not to be consumed in or about the premises where sold.

O. Restrictions applicable to wholesaler's license. No person, corporation or limited liability company holding a wholesaler's license and no person as an agent or employee of such licensee shall sell or keep for sale any fermented malt beverage except in original packages or containers and in quantities of not less than four and one-half (4 1/2) gallons at any one time, and it shall be unlawful for any such licensee or any agent or employee of such licensee to sell or dispense any fermented malt beverage for consumption on the premises of such licensee.

P. Public notification of availability of "Class B" license. In the event that a Reserve "Class B" Fermented Malt Beverage and Intoxicating Liquor License becomes available, the clerk shall publish a Class 1 Notice pursuant to Chapter 985 of the Wisconsin Statutes notifying the public of the availability of the Reserve "Class B" license. That no hearing on an application for a Reserve "Class B" License may be held prior to seven (7) days after publication of the notice.

Q. Security Digital/Video Camera System Required. Commencing on January 1, 2015, all nightclubs with a maximum occupancy, as determined by the Village, of four hundred (400) or more individuals, operating under a "Class B" license are required to install and maintain in proper working order, a Digital/Video Camera System meeting the following requirements:

1. Purpose. The purpose of this Section is to maintain the health, safety and welfare of the community by providing safe environments for the consumption of alcohol, assisting in the apprehension of suspects involved in violent crimes, and restricting access of minors and others prohibited from consuming alcohol.
2. Security cameras sufficient in number to cover the establishment's parking areas, and all common areas producing high definition color and black and white digital images with a resolution of not less than seven hundred twenty (720) p / one (1) MP.
3. The security cameras shall be operated during all hours the establishment is open to customers and two (2) hours after closing.
4. There shall be no obstructions or other impediments blocking any portion of a camera's manufacturer specified field of view.
5. Recorded digital/video image files shall be kept for a minimum of thirty (30) days.
6. All recordings made by Digital/Video Camera System installed and maintained pursuant to this Section while in the possession of the business shall be stored in a controlled area to which only authorized personnel have access.
7. The registered agent of the licensed premises subject to the provisions of this Section shall include with its application for a "Class B" license a certification that the licensed premises is in compliance with this Section. Licenses issued prior to the effective date of this Ordinance shall remain in effect until they expire, unless subsequently revoked or suspended. Renewal of said licenses shall be conditioned upon compliance with the provisions of this Section 20.06

(Q) Modified & Amended Ordinance 14-24 20.06 Q - Passed: 11/10/2014 Published: 11/15/2014

R. Outdoor Licensed Premises. When the licensed premises include a restaurant with an outdoor area where food and alcoholic beverages are to be consumed, the outdoor area included in the licensed premises must meet the following standards:

1. Access to the licensed outdoor area must be through the restaurant.
2. The entire licensed outdoor area must be fenced.
3. No permanent or semi-permanent structures shall be within the setback areas. For purposes of this provision, tables, umbrellas, heating Units and chairs are allowed in the setback area. No bars or counters or other structures moveable or not may be in the setback area.
4. The Village Plan Commission shall review all proposed licensed outdoor areas to determine if they are harmful, offensive or otherwise adverse to the surrounding neighborhood and shall recommend to the Village Board that the license be granted as requested, modified or denied.
5. There shall always be a licensed operator within the licensed outdoor seating area when in operation.
6. The outdoor area can only sell alcohol beverages when the restaurant is operating.

S. LIMITATIONS ON OTHER BUSINESS; CLASS "B" PREMISES. No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

- (a) A hotel.

- (b) A restaurant, whether or not it is a part of or located in any mercantile establishment.
- (c) A combination grocery store and tavern.
- (d) A combination sporting goods store and tavern in towns, villages and 4th class cities.
- (e) A combination novelty store and tavern.
- (f) A bowling center or recreation premises.
- (g) A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for the Class "B" license or permit.
- (h) A movie theater.
- (i) A painting studio.
- (j) Premises for which a temporary Class "B" license is issued under s. 125.26 (6) if the license is one of multiple licenses issued by the municipality to the same licensee for the same date and times, the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times, and an admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event.

Adopting s. 125.32 Wis. Stats.

Modified & Amended Ordinance 19-003 20.06 R and S - Passed: 5/13/2019 Published: 5/23/2019

20.07 Fees

The village board shall establish fees for licenses issued pursuant to this chapter.

20.08 License revocation, suspension or non renewal

The following provisions shall apply to the revocation, suspension or non renewal of any license issued pursuant to this chapter.

A. Complaint. Any village resident may file a sworn written complaint with the village clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:

1. The person has violated any provision of this chapter.
2. The person keeps or maintains a disorderly or riotous, indecent or improper house.
3. The person has sold or given away any intoxicant to any underage person, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards.
4. The person has failed to maintain the premises according to standards prescribed for sanitation by the state division of public health, or in whose premises persons are permitted to loiter for purposes of prostitution.
5. The person has not observed and obeyed any lawful order of the village board or village police officers.
6. The person does not possess the qualifications required under this chapter to hold the license.
7. The person has been convicted of manufacturing or delivering a controlled substance under s. 161.41(1), Wis. Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under s. 161. 41 (1 m), Wis. Stats.; or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance under a substantially similar federal law or a substantially similar law of another state.
8. The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver a controlled substance.

B. Notice of hearing on complaint. Upon the filing of the complaint, the village board shall issue a notice of hearing on complaint, signed by the clerk and directed to any peace officer in the municipality who shall serve said notice upon the licensee in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court. The notice shall set forth the nature and content of the complaint filed with the village and shall command the licensee complained of to appear before the village board on a day and time and at a place named in the notice, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The notice and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear.

C. Hearing procedure.

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 village board finds the allegations sufficient, the license shall be revoked. The clerk shall give notice of the revocation to the person whose license is revoked.
2. The president of the village board, or his designee, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in s. 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.
3. If the licensee appears as required by the notice 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. All proceedings and testimony shall be recorded on tape and transcribed unless waived by both the complainant and licensee. If either party requests a stenographic recording and transcription, village staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The village clerk shall mark and receive all exhibits admitted into the record.

D. Village board decision.

1. Within twenty (20) days of the hearing completion, the village board shall submit its findings of fact, conclusions of law and decision. The committee shall provide the complainant and the licensee with a copy of the decision.
2. The village board decision shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the village the actual cost of the proceedings.
3. If the village board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the village board finds the complaint is true, it shall determine the sanctions to be imposed against the licensee. Sanctions include a warning, a fine not to exceed \$500, suspension of license or revocation of license.
4. The village clerk shall give notice of the sanctions imposed to the licensee.

E. Effect of revocation. When a license is revoked under this subsection, the village clerk shall record the revocation and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation.

F. Judicial review. The village board action in granting or failing to grant, suspending or revoking any license, or the failure of the village board to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or village resident.

G. Non renewal of license. The village attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the village board to hear evidence that a license issued

pursuant to this chapter should not be renewed. The village board shall, in writing, notify the licensee of the consideration of non renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non renewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for non renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subdivisions (A) and (B) shall apply. The commencement of this action shall stay action by the village board on the licensee's application until the decision of the village board is final.

H. Other provisions. Any license issued pursuant to this order shall be subject to such further regulations and restrictions as the village board of the village of Lake Delton may impose by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations her/his license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this chapter in accordance with this section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

20.09 Nudity, nude entertainment banned

This section and section 20.10 bans nude, semi-nude and other sexually explicit performances on premises that have municipal liquor and beer licenses. Persons who violate these sections are subject to penalties and license revocation. In enacting these sections, the village of Lake Delton finds as follows:

- A. There is a direct relationship between alcoholic beverage consumption and nude and semi-nude activities and an increase in criminal activities, moral degradation and the disturbances of the peace and the good order of the community. The concurrences of these activities are hazardous to the health and the safety of those persons in attendance and tends to depreciate the value of adjoining property and harm the economic welfare of the community as a whole.
- B. The combination of the sale and consumption of alcoholic beverages with the performance of nude and semi-nude acts, exhibitions and entertainment is adverse to the public's interest and the quality of life, tone of commerce and total community environment in the village.
- C. In order to promote and preserve the public peace and good order and to safeguard the health, safety, morals and welfare of the community and the citizens thereof, it is necessary and advisable for the village to prohibit certain forms of nude and semi-nude acts, exhibitions, entertainment at commercial establishments at which alcoholic beverages are, or are available, to be sold or consumed.
- D. The particular combination of liquor, nudity and sex could be construed as a subliminal endorsement for unlawful sexual harassment.
- E. There are significant secondary effects of adult entertainment establishments including prostitution, sexual assault and other criminal activity.

20.10 Prohibited acts

A. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the license(e) to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises that:

1. Expose his or her genitals, pubic hair, perineum, anal region or pubic hair region; or
2. Expose any device, costume or covering that gives the appearance of or simulates genitals, pubic hair, perineum, anal region or pubic hair region; or
3. Exposes any portion of the female breast at or below the areola thereof; or

4. To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

B. It shall be unlawful for any licensee or manager or agent of the licensee knowingly to permit any exhibition prohibited by subparagraph (A) to be exposed for viewing by persons within the licensed premises.

20.11 Penalties

A. Any person violating any provision of this chapter or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty of not more than five hundred dollars (\$500.00), unless a greater maximum penalty is specifically provided for in this chapter, except that where a lower maximum penalty shall be provided by Chapter 125 of the Wisconsin Statutes for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this chapter.

B. Nothing in this subsection shall in any way diminish the village board's authority to suspend, revoke or not renew any license issued pursuant to this chapter for any violation of this chapter or other village ordinance or state law.

C. Any person, partnership or corporation who violates any of the provisions of the sections 20.09 and 20.10 shall be subject to license suspension, revocation or non-renewal as provided by section 20.08 of this chapter and s. 125.12 (1), Wis. Stats. and a forfeiture of not less than \$500.00 and not more than \$1,000.00; and in default of payment thereof, imprisonment in the Sauk County Jail for not more than ninety (90) days. A separate offense shall be deemed committed on each day on that a violation occurs or continues.

20.05 F (2b) Modified & Amended Ordinance 10-005 Passed: 11/22/2010 Published: 11/27/2010
20.06 D Modified & Amended Ordinance 12-001 Passed 2/13/2012 Published 2/18/2012
20.05 J. 1. (a) (b) (d) Modified & Amended Ordinance 12-004 Passed 3/26/2012 Published 4/4/2012
20.03 V Modified & Amended Ordinance 14-24 Passed: 11/10/2014 Published: 11/15/2014
20.03 W Modified & Amended Ordinance 14-24 Passed: 11/10/2014 Published: 11/15/2014
20.06 Q Modified & Amended Ordinance 14-24 Passed: 11/10/2014 Published: 11/15/2014
20.04 B (4) Modifying & Amending Ordinance 16-012 Passed 10/10/2016 Published 10/15/2016
20.04 B (5) Modifying & Amending Ordinance 16-012 Passed 10/10/2016 Published 10/15/2016
20.04 A (1) Modifying & Amending Ordinance 17-011 Passed 6/26/2017 Published 07/05/2017
20.04 A (2) Modifying & Amending Ordinance 17-011 Passed 6/26/2017 Published 07/05/2017
20.04 A (3) Modifying & Amending Ordinance 17-011 Passed 6/26/2017 Published 07/05/2017
20.06 R Modified & Amended Ordinance 19-003 Passed: 5/13/2019 Published: 5/23/2019
20.06 S Modified & Amended Ordinance 19-003 Passed: 5/13/2019 Published: 5/23/2019
20.05 K Modified & Amended Ordinance 20-007 Passed: 10/12/2020 Published: 10/22/2020