

CHAPTER 2

Liquor Licenses and Permits

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SEC. 6-2-1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 and §§48.344 and 778.25, Stats., relating to the sale, possession and consumption of intoxicating liquor and fermented malt beverages, except any provisions relating to the penalties to be imposed, are adopted and made a part of this Section by reference. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made part of this Section in order to secure uniform statewide regulation of alcohol beverage control.

SEC. 6-2-2 DEFINITIONS.

As used in this Chapter, the terms, *alcoholic beverages, intoxicating liquor, legal drinking age, sell, sold, sale, restaurant, club, retailer, person, fermented malt beverages, wholesalers, retailers, operators wine and non-intoxicating beverages*, shall have the meanings given to them in §125.02, Stats. The terms, *motor vehicle, school, school administrator, and school premises*, shall have the meanings given to them in §125.09(2), Stats. The term, *immediate supervision*, means that the licensee, members of the licensee's immediate family who are 18 or older, a licensed operator, or approved agent must be able to **see** at all times the activities of those persons serving alcohol beverages.

SEC. 6-2-3 GENERAL RESTRICTIONS.

- (a) **License Requirement.** No person shall vend, sell, manufacture, rectify, brew or engage in any other activity for which this Chapter or Chapter 125, Stats. provides a license, permit or other type of authorization without holding the appropriate license, permit or other type of authorization. §125.04(1), Stats.
- (b) **Consumption of Alcohol in a Public Place.** The owner, lessee or person in charge of a public place may not permit the consumption of alcohol in a public place unless the person has an appropriate license except as otherwise provided in §125.09(1), Stats.
- (c) **Possession on School Grounds.** No person may possess or consume alcohol beverages on school premises, in a motor vehicle if a pupil attending the school is in the motor vehicle or while participating in a school sponsored activity except as provided in §125.09(2)(c), Stats.
- (d) **Door-To-Door Peddling.** No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.

SEC. 6-2-4 CLASSES OF ALCOHOL BEVERAGE LICENSES.

The following retail alcohol beverage licenses may be issued by the City Clerk after approval of the license application by the Common Council:

- (a) **Class "A" Fermented Malt Beverage Retailer's License.** Class "A" licensees may sell beer to consumers in original packages or containers for off-premises consumption only. §125.25, Stats.
- (b) **Class "B" Fermented Malt Beverage Retailer's License.** Class "B" licensees may sell beer to consumers for on-premises or off-premises consumption. §125.26(1), Stats. A Class "B"

license issued to a person operating a hotel authorizes that person to furnish a registered guest who has attained the legal drinking age with a selection of beer in the guest's room which is not part of the Class "B" premises. §125.26(2m), Stats.

- (c) **Temporary Class "B" Beer (Picnic) License.** Temporary Class "B" (picnic) beer licensees may sell beer and other fermented malt beverages (e.g., wine coolers with a fermented malt beverage base) to consumers at a picnic or similar gathering of limited duration. Such licenses may be issued only to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months and to veterans' organizations. §125.26(6), Stats.
- (d) **"Class A" Liquor License.** "Class A" licensees may sell intoxicating liquor to consumers only in original packages or containers for off-premises consumption. §125.51(2), Stats.
- (e) **"Class B" Liquor License.** "Class B" licensees may sell intoxicating liquor to consumers by the glass for on-premises consumption. §125.51(3)(b), Stats. "Class B" license issued to a winery authorizes the sale of wine to be consumed by the glass or in open containers on-premises and also authorizes the sale of wine in the original package or container to be consumed off-premises, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine. §125.51(3)(am). "Class B" license issued to a person operating a hotel authorizes that person to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the "Class B" premises. §125.51(3)(bm), Stats.
- (f) **Reserve "Class B" liquor licenses** are those licenses available under the quota system existing before December 1, 1997, that were not granted or issued by the municipality as of December 1, 1997. The number of reserve "Class B" licenses available to the City of Thorp as of the effective date of this Chapter is eight (8). (5/11/2000).
- (g) **Temporary "Class B" Wine (Picnic) License.** 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, 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), Stats.

- (h) **"Class C" Wine License.** "Class C" wine licensees may sell wine by the glass or in an opened original container for consumption on the premises where sold. "Class C" wine licenses may be granted to an applicant only if: (1) the applicant meets the qualifications set out in §125.04(5), Stats for other retail licensees; (2) the license is for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts; (3) the restaurant does not have a barroom; and (4) a "Class B" liquor license cannot be granted to the applicant because the municipality has issued all of the "Class B" liquor licenses available under its statutory quota. §125.51(3m), Stats.
- (i) **Provisional Retail 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 authorizes 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, Stats.

SEC. 6-2-5 OTHER LICENSES.

- (a) The following individual licenses may be issued by the City Clerk after approval of the license application by the Common Council:
 - (1) **Operator's License.** Any person, 18 or older, who is serving alcohol beverages in an establishment with a Class A, B or C license must obtain an operator's license unless the person is under the immediate supervision of one of the following: (rev. 7-11-2005)
 - (A) The licensee;
 - (B) Someone with the privilege of an operator's license; (See §§125.32(2) and 125.68(2), Stats.)
 - (C) Someone holding a valid operator's license; or
 - (D) The approved agent of the corporation or limited liability company.
 - (2) **Temporary Operator's License.** Any person, 18 or older, employed by or donating their services to nonprofit corporations, must obtain a temporary operator's license unless the person is under the immediate supervision of one of the following:

- (A) The licensee;
 - (B) A person with the privilege of an operator's license; (See §§125.32(2) and 125.68(2), Stats.)
 - (C) A person holding an operator's license; or
 - (D) The approved agent of the corporation or limited liability company.
- (b) The following individual licenses may be issued by the City Clerk-Treasurer prior to approval of the license application by the Common Council: (rev. 7-11-2005)
- (1) **Provisional Operator's License.** Subject to the following, any applicant for an operator's license who is otherwise eligible under this Chapter may receive a provisional operator's license. (rev. 7-11-2005)
 - (A) A provisional license may not be issued to any person who has been denied a regular beverage operator's license by the city council. (rev. 7-11-2005)
 - (B) Prior to issuance of the provisional license, the Clerk-Treasurer shall provide the police department with a copy of the application and the police department shall then make a background check on the license holder and report the results to the Clerk-Treasurer's office. (rev. 7-11-2005)
 - (C) The Clerk-Treasurer may deny or revoke the provisional license if it is discovered that the holder of the license made a false statement on the application. (rev. 7-11-2005)
 - (D) The Clerk-Treasurer may deny or revoke the provisional license of any person when it is determined that that person's criminal or civil conviction record substantially relates to the duties and circumstances of a beverage operator's position. (rev. 7-11-2005)
 - (E) Any person whose provisional license is denied or revoked by the Clerk-Treasurer shall have the right to appeal that denial or revocation to the city council. Such appeal must be made in writing and presented to the Clerk-Treasurer within 10 days after the date of denial or revocation. Such appeal will then be heard by the city council at its next regularly scheduled meeting. (rev. 7-11-2005)
 - (F) No person shall be issued more than 3 provisional licenses in any 2-year period. (rev. 7-11-2005)

SEC. 6-2-6

LICENSE FEES.

- (a) **Class "A" Fermented Malt Beverage Retailer's License Fee.** \$100.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time. The fee

- for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued. §125.25, Stats.
- (b) **Class "B" Fermented Malt Beverage Retailer's License Fee.** \$100.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.26(4), Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued. §125.26, Stats.
 - (c) **Temporary Class "B" Beer or "Class B" Wine (Picnic) License Fee.** \$10.00 per license or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §§125.26(6) and 125.51(10), Stats.
 - (d) **"Class A" Liquor License Fee.** \$100.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.51(2)(d), Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (e) **"Class B" Liquor License Fee.** \$175.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.51(3)(3), Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (f) **"Class C" Wine License Fee.** \$100.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.51(3m)(e), Stats. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - (g) **Provisional Retail License Fees.** \$15.00 or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.185(3), Stats.
 - (h) **Initial Issuance Fee for Reserve Class "B" Licenses.** \$10,000.00 or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.51(3)(e)2, Stats.
 - (i) **Operator's License Fees.** \$10.00 per year or such other licensing fee as the Common Council may otherwise establish from time to time.

- (j) **Temporary Operator's License Fees.** \$5.00 or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.185(3), Stats.
- (k) **Provisional Operator's License Fees.** \$15.00 or such other licensing fee as the Common Council may otherwise establish from time to time, subject to the limitations provided in §125.17(5), Stats. (rev. 7-11-2005)

SEC. 6-2-7 LICENSE TERM.

Licenses and permits expire on June 30 of each year, except:

- (a) **Provisional Retail License.** A provision retail license expires 60 days after its issuance or when the retail license is issued to the holder whichever is sooner.
- (b) **Temporary Class "B" Beer Licenses.** Temporary Class "B" Beer Licenses are valid for the day, or consecutive days, that the specified event is in progress.
- (c) **Temporary "Class B" Wine Licenses.** Temporary "Class B" Wine Licenses are valid for the day, or consecutive days, that the specified event is in progress.
- (d) **Operator's License.** Operator's Licenses are valid for no more than two (2) years, and expire on June 30.
- (e) **Temporary Operator's License.** Temporary Operator's Licenses are valid for any period from one day to fourteen days.
- (f) **Provisional Operator's License.** Provisional Operator's Licenses expires 60 days after its issuance or when the operator's license is issued to the holder, whichever is sooner.

SEC. 6-2-8 LIQUOR LICENSE APPLICATION.

- (a) **Form.** All applications required under this Chapter or by Chapter 125, Stats. shall be made in writing on forms prescribed by the Wisconsin Department of Revenue, or otherwise adopted by the Common Council, and filed with the City Clerk.
- (b) **Investigation.** The City Clerk shall notify the Chief of Police and Building Inspector of each new application and these officials shall inspect and investigate the qualifications of the applicant and the other license requirements. These officials shall furnish to the Common Council the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or denied.

SEC. 6-2-9

QUALIFICATIONS OF APPLICANT.

- (a) **Statutory Requirements.** In order to obtain the licenses described herein, individuals, all partners (including limited partners), the officers, directors, and agents of corporations, the members, managers and agents of limited liability companies and the officers, directors and agents of nonprofit organizations must meet the qualifications set forth in the Wisconsin Statutes. Those qualifications include, but are not necessarily limited to, (1) Must be of legal drinking age, except that a person may obtain an operator's license if he or she is at least 18; (2) May not have an arrest or conviction record subject to the Fair Employment Act (§§111.321, 111.322 and 111.335, Stats.); (3) May not be a "habitual law offender"; (4) May not have been convicted of a felony which substantially relates to the alcohol beverage licensing activity.
- (b) **Seller's Permit.** All applicants for retail licenses must provide proof, as required by §77.61(11), Stats., that they are in good standing for sales tax purposes. §125.04(5)(a)4, Stats. This requirement does not apply to applicants for operator's licenses. It also does not apply to applicants for temporary Class "B" licenses or temporary "Class B" licenses who are not required to hold a seller's permit. §125.04(5)(d)3, Stats.
- (c) **Residency.** Individuals, all natural persons in a partnership and the agents of corporations and limited liability companies are subject to the residency requirement in §125.04(5)(a)(2), Stats. This requirement does not apply to applicants for operator's licenses, the officers and directors of corporations, and the members or managers of limited liability companies.
- (d) **Responsible Beverage Server Training Course.** Individuals, partners and agents of corporations and limited liability companies must have successfully completed an approved responsible beverage server training course given by T.I.P.S., C.A.R.E., Wisconsin/National Restaurant Association, the Professional Bartending School of Wisconsin (Milwaukee), or a Wisconsin vocational, technical, and adult education facility unless:
- (1) The person is renewing a license.
 - (2) Within the past two years the applicant held a manager's or operator's license, or held or was agent of a corporation or limited liability company that held a Class "A" beer, Class "B" beer, "Class A" liquor, "Class B" liquor, or "Class C" wine license.

- (3) Within the past two years the person successfully completed such a training course.

SEC. 6-2-10 OTHER LICENSE REQUIREMENTS.

- (a) **Waiting Period.** All applications to sell alcohol beverages, except applications for Temporary Class "B" Beer Licenses lasting less than four (4) days, must be filed with the City Clerk at least 15 days prior to the granting of the license.
- (b) **Publication.** All applications for permanent retail licenses must be published in the manner provided in §125.04(3)(g), Stats.
- (c) **Approval Period.** All applications filed on or before April 15 must be granted or denied no later than June 15.
- (d) **Limitation on Licensee.** No person may allow another to use his or her license to sell alcohol beverages. The license must be held by the actual operator who is deriving the profits. The licensee must have control of the premises.
- (e) **Limitation on Other Businesses.** No Class "B" beer license 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 Class "B" licensed premises 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, and except as otherwise provided in §125.32(3m), Stats.
- (b) **Location.** Unless waived by a majority vote of the City Council, a retail license may not be issued within 300 feet of the main entrance of any established public school, parochial school, hospital or church. This paragraph shall not apply to the following:
- (1) To premises licensed as such on June 30, 1947;
 - (2) To any premises licensed as such prior to the occupation of real property within 300 feet thereof by a school building, hospital building or church building;
 - (3) To a restaurant provided the sale of alcoholic beverages in said restaurant accounts for less than 50% of its gross receipts; or
 - (4) To beer-only licenses.
- (b) **Health and Sanitation Requirements.** "Class B" liquor licenses and "Class C" Wine licenses may be granted but cannot be issued until the applicant has premises that meet the requirements of the following:

- (1) The Environmental Sanitation Section of the Wisconsin Department of Health and Social Services if the operation involves the sale of food; or
- (2) The sanitation requirements set forth in chapter HSS 196, Wisconsin Administrative Code.

SEC. 6-2-11 REFUSAL TO GRANT LICENSE.

- (a) **Denial.** After reviewing an application, and considering public sentiment and local concerns, the common council may refuse to grant a new license based on a failure to meet statutory qualifications or other license requirements. The common council also may refuse to grant a retail license based on a concern for public health, safety and welfare including, but not limited to, adverse impact on traffic, adverse impact on the peace, quiet and cleanliness of the neighborhood, insufficient parking, proximity to other licensed establishments, residential areas, schools, churches or hospitals, or the ability of the police to provide law enforcement services.
- (b) **Notice of Denial.** When the common council decides not to grant a new license, it must notify the applicant in writing and set forth the reasons for denial. §125.12(3m), Stats.
- (c) **Remedies of Applicant.** An applicant denied a new license may:
 - (1) Reapply for the license; or
 - (2) Appeal the denial to the circuit court under §125.12(2)(d), Stats.

SEC. 6-2-12 WITHHOLDING LICENSES.

- (a) **Municipal Debts.** Any license granted under this ordinance or Chapter 125, Stats. shall be withheld if the applicant owes delinquent or unpaid taxes, assessments, water or sewer charges or other claims to the City of Thorp.
- (a) **Municipal Forfeitures.** Any license granted under this ordinance or Chapter 125, Stats. shall be withheld if the applicant has failed to pay overdue municipal forfeitures.

SEC. 6-2-13 TRANSFER OF LICENSES.

- (a) **From Person to Person.** No license may be transferred from person to person except as provided by §125.04(12)(b), Stats.
- (b) **From Place to Place.** No licenses issued pursuant to this Section may be transferred from location to location except

as provided in §125.04(12)(a), Stats. and except upon the approval of the Common Council.

SEC. 6-2-14 POSTING AND CARE OF LICENSES.

Every license issued under this Chapter shall be posted and at all times displayed as provided in §125.04(10), Stats. No person shall post such licenses or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

SEC. 6-2-15 REGULATION OF LICENSED PREMISES AND LICENSEES.

- (a) **Gambling and Disorderly Conduct Prohibited.** Each licensed premises shall at all times be operated in an orderly manner; and no disorderly, riotous, indecent or improper conduct or gambling shall be allowed at any time on any licensed premises.
- (b) **Safety and Sanitation Requirements.** Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.
- (c) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representative of the City 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 City Ordinances or state laws.

SEC. 6-2-16 CLOSING HOURS.

- (a) **Class "B" Licensed Premises.** Premises holding a Class "B" License may remain open only during the hours provided in §125.32(3), Stats. and may sell fermented malt beverages in an original, unopened package, container or bottle, or for consumption away from the premises only during the hours provided in §125.32(3)3, Stats.
- (b) **Class "A" Licensed Premises.** Premises holding a Class "A" License may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours provided in §125.32(3)(b), Stats.

- (c) **"Class B" and "Class C" Licensed Premises.** Premises holding a "Class B" or "Class C" License may remain open only during the hours provided in §125.68(4), Stats. and may sell intoxicating liquor in an original, unopened package, container or bottle, or for consumption away from the premises only during the hours provided in §125.32(3)3, Stats.
- (d) **"Class A" Licensed Premises.** No premises for which a "Class A" License has been issued may remain open for the sale of intoxicating liquor during the hours provided in §125.68(4), Stats.

SEC. 6-2-17 NONRENEWAL, REVOCATION OR SUSPENSION OF LICENSES.

- (a) **Cause Required for Nonrenewal, Revocation or Suspension of Licenses.** The common council may refuse to renew, revoke or suspend a license issued under this Chapter only for the causes specified in §125.12(2)(ag), Stats.
- (b) **Nonrenewal of License.** Prior to the time for renewal of a license, the common council must notify the licensee of its intent to deny renewal of the license and the reason(s) for doing so. Hearings regarding the nonrenewal of a license issued under this Chapter shall be conducted in the manner and under the procedure established by §125.12(b), Stats.
- (c) **Revocation or Suspension of License.** Proceedings for the revocation of a license issued under this Chapter shall be instituted and conducted in the manner and under the procedure established by §125.12, Stats.
- (d) **Review.** The action of the City Council in granting, failing to grant, renewing or failing to renew, suspending or revoking a license, or failing to revoke or suspend any license for good cause may be reviewed by a circuit court. §125.1292)(d), Stats.

SEC. 6-2-18 VIOLATIONS BY AGENTS AND EMPLOYEES.

A violation of this Chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

SEC. 6-2-19 REGULATION OF UNDERAGE AND INTOXICATED PERSONS.

The provisions of §§125.07, 125.075 and 125.085, Stats., except any provisions relating to the penalties to be imposed, are adopted and made a part of this Chapter by reference.

SEC. 6-2-20 PENALTIES.

- (a) Forfeitures for violations of Section 6-2-1 of these Ordinances, shall conform to the forfeiture penalty permitted to be imposed for violations of the Wisconsin Statute to which it makes reference, including any variations or increases for subsequent offenses.
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the City of Thorp, except as otherwise provided in Subsection (1) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of these Ordinances.
- (c) Any licensee or permittee violating the provisions of these Ordinances may be subject to the nonrenewal, suspension or revocation of his or her license or permit.
- (d) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.