

ORDINANCE NO. 53-B

BEING AN ORDINANCE TO REGULATE THE SALE OF ALCOHOL BEVERAGES IN THE TOWN OF JEFFERSON, JEFFERSON COUNTY, WISCONSIN.

SECTION 1: STATE STATUTES ADOPTED. The provisions of Ch. 125, Wisconsin Statutes, defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this chapter by reference. A violation of any such provision shall constitute a violation of this chapter.

SECTION 2: LICENSES, PERMITS, AUTHORIZATION REQUIRED. (a) When Required. Except as provided by Section 125.06, Wisconsin Statutes, no person shall, within the Town, serve, sell, manufacture, rectify, brew, or engage in any other activity for which this chapter of Ch. 125, Wisconsin Statutes, required a license, permit, or other authorization without holding the appropriate license, permit, or other authorization as provided in this chapter. See Section 125.04(9), Wisconsin Statutes.

(b) Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises which in direct connection or communication to each other where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale. See Section 125.04(9), Wisconsin Statutes.

SECTION 3: CLASSES OF LICENSES AND FEES. The following classes and denominations of licenses may be issued by the Town Clerk under the authority of the Town Board, or as may be delegated by the Town Board, after payment of the fee herein specified which, when so issued, shall permit the holder to sell, deal, or traffic alcoholic beverages as provided in Section 125.17, 125.25, 125.28, and 125.51, Wisconsin Statutes. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

(a) Class A Fermented Malt Beverage Retailer's License. \$100.00/year.

(b) Class B Fermented Malt Beverage Retailer's License. \$50.00/yr.

1. Six Month. A license may be issued at any time for six (6) months in any calendar year, for which 3/4 of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued.

2. Picnic. \$10.00/day. Picnic licenses may be granted to individuals by the Town Clerk.

(c) Wholesaler's Fermented Malt Beverage License. \$25.00/year or fraction thereof.

(d) Retail Class A Liquor License. \$250.00/year.

(e) Retail Class B Liquor License. \$150.00/year. A retail Class B liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed 4 liters at any one time to be consumed off the licensed premises. Wine may be sold in original packages or otherwise in any quantity to be consumed off the licensed premises. If issued in conjunction with a Class B Fermented Malt Beverage License the fee is \$350.00 per year.

1. 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.

2. Licenses valid for six (6) months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.

(f) Class C Wine License. A Class C license authorizes the retail sale of wine by the glass in opened original container for consumption on the premises where sold.

(g) Operator's License. \$10.00 per year.

1. Operator's Licenses may be granted to individuals by the Town Clerk for the purposes of complying with 125.17(1), 125.32(2) and 125.68(2), Wis. Stats.

2. Operator's Licenses may be issued only on written application on forms provided by the Clerk.

3. Operator's Licenses shall be valid for one or two years and shall expire on June 30th of the year.

(h) Provisional Operator's License. \$10.00 per year.

1. Provisional operator's licenses may be granted to individuals by the Town Clerk for the purposes of complying with Section 125.185, Wisconsin Statutes.

2. Provisional operator's license may be issued only on written application on forms provided by the Clerk.

3. Provisional licenses may be issued by the Town Clerk in accordance with Sections 125.185, Wisconsin Statutes.

4. Provisional licenses shall be valid for sixty (60) days after its issuance or when a license under par. (g) is issued to the holder, whichever is sooner.

(i) Temporary Operator's Licenses. \$10.00 fee

1. Temporary Licenses may be granted to individuals by the Town Clerk for the purposes of complying with Section 125.17(4), Wisconsin Statutes.

2. Temporary Licenses may be issued only on written application forms provided by the Town Clerk.

3. Temporary Licenses may be issued only to operators employed by, or donating their services to non-profit corporations.

4. No person may hold more than one license of this kind per year.

5. Temporary Licenses are valid for any period from one day to fourteen days, and the period for which it is valid shall be stated on the license.

6. Temporary Licenses may be issued by the Town Clerk in accordance with 125.17(1)(2)(3)(4), Wisconsin Statutes.

SECTION 4: LICENSE APPLICATION. (a) Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages or for operator's licenses shall be made in writing on forms prescribed by the State Department of Revenue or for operator's licenses and filed with the Town Clerk. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall.

(b) Application to be Notarized. Applications shall be signed and sworn to by the applicant provided by Section 887.01, Wisconsin Statutes.

(c) List of Licenses. By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager's or operator's license.

SECTION 5: LICENSE RESTRICTIONS. (a) **Statutory Requirements.** Licenses shall be issued only to persons eligible therefor under Section 125.04, Wisconsin Statutes.

(b) **Location.** 1. No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than 300' from the main entrance of any established public or parochial school, hospital, or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance to the premises covered by the license.

2. This paragraph shall not apply to the premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300' thereof by any school, hospital or church building.

(c) **Violators of Liquor or Beer Laws or Ordinances.** No retail Class A or B license shall be issued to any person who has been convicted of a violation of any federal or State liquor or fermented malt beverage law or the provisions of this section during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

(d) **Health and Sanitation Requirements.** No retail Class B license shall be issued for any premises which does not conform to the sanitary, safety, and health requirements of the State Department of Industry, Labor, and Human Relations pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by the Town.

(e) **License Quota.** 1. "Class A" License. The Town shall not issue more than two (2) "Class A" intoxicating liquor licenses.

2. Class B License. The number of persons and places that may be granted a retail Class B liquor license under this section is limited as provided in Section 125.51(4), Wisconsin Statutes.

(f) **Corporations.** No corporation organized under the laws of this State, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of Section 125.04(6), Wisconsin Statutes.

(g) **Age Requirement.** No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued to applicants who have attained the age of 18.

(h) **Effect of Revocation of License.** Whenever any license has been revoked, at least twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.

(i) **Revocation of License Due to Non-use.** If any license granted under this section is not used at least one (1) day within the license year, such non-use shall be grounds for cancellation of the license in accordance with the provisions of this section. Prior to the cancellation of any license, the Town shall notify the licensee in writing of the Town's intention to cancel the license for non-use and provide the licensee with an opportunity for a hearing. Such hearing shall be conducted in accordance with Section 125.12(2)(b), Wisconsin Statutes, or any amendments thereto. Judicial review shall be as provided in Section 125.12(2)(d), Wisconsin Statutes, or any amendments thereto.

(j) **Delinquent Taxes, Assessments and Claims.** No license shall be granted for any premises for which taxes, assessments or other claims of the Town are delinquent and unpaid, or to any person delinquent in payment of such claims to the Town.

(k) **Issuance for Sales in Dwellings Prohibited.** No license shall be issued to any person for the purpose of possessing, selling, or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.

SECTION 6: FORM AND EXPIRATION OF LICENSES. All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and, unless sooner revoked, shall expire on June 30 thereafter except as otherwise provided by law. The Town Clerk shall affix his or her affidavit as required by Section 125.04(4), Wisconsin Statutes.

SECTION 7: TRANSFER OF LICENSES. (a) **As to Person.** No license shall be transferable as to licensee except as provided by Section 125.04(2), Wisconsin Statutes.

(b) **As to Place.** Licenses issued pursuant to this section may be transferred as provided in Section 125.04(12), Wisconsin Statutes. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for the transfer shall be had in the same manner and form as the original application.

SECTION 8: POSTING AND CARE OF LICENSES. Every license or permit required under this section shall be framed and posted and at all times displayed as provided in Section 125.04(10), Wisconsin Statutes. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application or knowingly deface or destroy such license.

SECTION 9: REGULATION OF LICENSED PREMISES AND LICENSEES. (a) Gambling and Disorderly Conduct Prohibited. Each licenses and permitted premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on any such premises.

(b) **Employment of Underage Persons.** No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.

(c) **Sales by Clubs.** No club shall sell intoxicating liquors or fermented malt beverages, except to members and guests invited by members.

(d) **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.

(e) **Nude and Nearly Nude Dance Prohibited.** The Town Board finds that nudity in establishments licensed to sell alcohol beverages has secondary impacts which warrant regulating such activity. 1. It shall be unlawful for any person to appear or perform nude or nearly nude when that person appears on the premises of an establishment licensed to sell alcohol beverages for consumption on the premises in such a manner or utilizing such attire as to expose to view any portion of the ~~public area~~^{public}, anus, vulva or genitals, or any simulation thereof or when any female appears on such an establishment's premises in such a manner of attire as to expose to view that portion of the breast below the top of the areola, nipple, or simulation thereof.

2. The proprietor or owner of a licensed establishment who permits the nude or nearly nude activity prescribed by sub-par. 1 on his premises shall be subject to proceedings to suspend or revoke all alcohol beverage licenses held for the establishment. Each performance in violation of sub par. 1. shall be a separate offense.

3. Any person who knowingly permits a nude or nearly nude performance or who performs nude or nearly nude in violation of sub-par. 1 shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00.

SECTION 10: CLOSING HOURS. No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages.

(a) If a wholesale license, between 5 p.m. and 8 a.m., except on Saturday when the closing hour shall be 9 p.m.

(b) If a retail "Class A" license, between midnight and 8 a.m.

(c) If a retail "Class A" license, between 9 p.m. and 8 a.m.

(d) If a retail "Class B" license, between 2 a.m. and 6 a.m. on weekdays and between 2:30 a.m. and 6 a.m. on Saturdays and Sundays. On January 1, premises operating under a "Class B" license are not required to close. No package, container, or bottle sales may be made after midnight.

(e) Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

SECTION 11: REVOCATION AND SUSPENSION OF LICENSES. (a) Procedure. Whenever the holder of any license under this section violates any portion of this section, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Section 125.12, Wisconsin Statutes, and the provisions therein relating to granting a new license shall likewise be applicable.

SECTION 12: NON-RENEWAL OF LICENSE. Before renewal of license issued under this section is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for non-renewal and a copy of any proposed motion for non-renewal and shall have an opportunity to be heard before the Town Board.

SECTION 13: VIOLATIONS BY AGENTS AND EMPLOYEES. A violation of this section by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

SECTION 14: PENALTIES. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500.00, or by imprisonment in the county jail for a term of not more than ninety (90) days, or by both such fine and imprisonment, and his license shall be subject to revocation by a court of record in its discretion. In event that such person shall be convicted of a second offense, under the provisions of this section such offender, in addition to the penalties herein provided, shall forthwith forfeit any license issued to him or her without further notice, and in the event that such person shall be convicted of a felony, in addition to the penalties provided for such felony, the court shall revoke the license of such offender.

SECTION 15: SEVERABILITY. It is the intention of the Town Board that this ordinance, and every provision thereof, shall be considered separable, and the invalidity of any section, clause or provision of this ordinance shall not affect the validity of any other portion of this ordinance.

SECTION 16: DATE EFFECTIVE. This ordinance shall be in full force and effect as of September 10, 1998, after its passage and publication.

The foregoing ordinance was adopted at a meeting of the Town Board of the Town of Jefferson on September 2, 1998.

ATTEST TO:

Brookly A. Vogel
Clerk

Harold Bockmann
Harold Bockmann, Chairperson

Richard Schmidt
Richard Schmidt, Supervisor

Reuben Schroedl
Reuben Schroedl, Supervisor

Don Bieglow
Don Bieglow, Supervisor

Eugene Haag
Eugene Haag, Supervisor