

**ORDINANCE NO: 29****AN ORDINANCE PROHIBITING CERTAIN ACTIVITIES MADE CRIMES RELATING TO ALCOHOLIC BEVERAGES**

The Town Board of the Town of Grand Rapids, Wisconsin, pursuant to Chapter 125 of the Wisconsin Statutes does ordain as follows with regard to its Town Ordinances:

**29.1 Statutory Authority**

The provisions of Chapter 125 of the Wisconsin Statutes together with the applicable statutory definitions, as may be amended from time to time, are hereby incorporated.

**29.2 Purpose**

It is the responsibility of the town board of the Town of Grand Rapids to screen applicants for alcohol beverage licenses within the Town of Grand Rapids under the licensing authority granted by Chapter 125 of the Wisconsin Statutes. The town board adopts the following guidelines in order to specify the reason(s) for denying an alcohol beverage license. The town board retains broad discretionary authority in the area. However, if a decision is made to deny a license, the town board is required to provide that applicant with a written reason for the denial. This ordinance is adopted to help meet that requirement.

The town board has the duty to the citizens of Grand Rapids and the potential employers of the individuals holding operators licenses to ensure that only responsible individuals are licensed, as alcohol beverage operators are in a unique position to embezzle funds from their employers, sell drugs, or deal in stolen property with the public. Furthermore, responsibility is required since alcohol beverage license holders must act in cooperation with law enforcement to enforce the alcohol beverage laws. Finally, the town board owes a duty to applicants for alcohol beverage licenses in that the applicants should not be subject to discrimination based on a prior arrest or conviction record, pursuant to section 111.335 of the Wisconsin Statutes, unless the arrest or conviction record substantially relates to the circumstances of the particular licensed activity.

**29.3 License Requirements**

No person may sell fermented malt beverages or intoxicating liquors without first obtaining the proper license and paying license fee as per Ordinance 39 "Schedule of Fees and Forfeitures". All applicants must meet the requirements of Chapter 125 of the Wisconsin Statutes.

A. Pursuant to sections 125.04 (5) (a) and (b) and 111.35 Wis. Stats., the town board has determined that the nature of the following criminal matters substantially relate to the sale of intoxicating beverages and liquor:

1. Category 1. Any applicant who has been convicted of, released from incarceration in the Wisconsin State Prison System, or a county jail or released from parole or probation status for any offense within the last five (5) years in the following subcategories will not be eligible for an alcohol beverage license:

a. Violent crimes against the person of another, including but not limited to homicide, aggravated battery, sexual assault, injury by negligent use of a

- weapon, injury by negligent use of a vehicle, or injury by intoxicated use of a vehicle.
- b. Crimes involving cooperation with law enforcement officials including but not limited to any offense of intentional false alarms, obstructing a police officer, resisting arrest, bribery of public officers or employees, misconduct in public office, perjury, false swearing, assault by prisoner, escape from custody, bail jumping, or bomb scares.
  - c. Crimes involving dishonesty, including but not limited to theft, or misappropriation of funds, burglary, entry into locked vehicle, fraud on hotel or restaurant keeper, issuance of more than one worthless check, receiving or transferring stolen property, loan-sharking, robbery, forgery, and retail theft.
2. Category 2. Applicants will not receive a license if they meet any of the following criteria:
- a. Within the 3 year period prior to the filing of the application, have been convicted, released from incarceration or released from parole or probation status for any crime involving children, including but not limited to, any abuse of children, contributing to the delinquency of a minor, stolen property from children, selling drugs to children, or any crime involving child pornography.
  - b. Within the two year period prior to the filing of the application, have had a temporary restraining order or injunction issued against him or her for domestic abuse, child abuse or harassment.
3. Category 3. Any applicant who has been convicted of, released from incarceration in the Wisconsin State Prison System or county jail or released from parole or probation status for any offense within the last three (3) years in the following subcategories will not be eligible for an alcohol beverage license:
- a. Alcohol Beverage Offenses, including but not limited to sale of alcohol beverages without a license or permit, furnishing alcoholic beverages to underage persons (furnishing alcohol beverages to underage persons shall not be used as grounds for suspension, revocation, or non-renewal of an existing license unless the licensee has committed two violations within a one-year period), furnishing alcohol beverages to intoxicated persons, or any other violation of Chapter 125 of the Wisconsin Statutes or a local ordinance enacted in conformity therewith. This does not include offenses for possession or consumption of alcohol by a minor, which is covered in Category 4.
  - b. Drug-related offenses, including but not limited to, any offense involving the sale or possession of narcotics or other controlled substances
4. Category 4. Any applicant who has had two or more convictions within the last two (2) years for any offense in any combination of the following subcategories will not be eligible for an alcohol beverage license:

- a. Operating a motor vehicle while under the influence of intoxicants or drugs.
- b. Operating a motor vehicle with a BAC in excess of .08% by weight
- c. Unlawful possession or consumption of alcoholic beverages by a minor.
- d. Open intoxicants in public places or in a motor vehicle.

#### **29.4 Application Process**

- A. Applications for licenses shall be filed with the town clerk together with payment of the applicable fee as established in Ordinance No. 39 Schedule of Fees and Forfeitures.
- B. All applications for licenses shall be processed as provided for in sec. 125.04 Wis. Stats.
- C. Any applicant who materially falsifies an application for an alcohol beverage license will not be eligible to reapply for an alcohol beverage license for a period of six (6) months from the date of denial of such application. The Grand Rapids Town Board may waive the provisions of this paragraph, allowing the applicant to submit a corrected application, and grant an alcohol beverage license to the applicant, if it appears to the town board that any falsifications on the applications were the result of inadvertence, excusable neglect or mistake.
- D. Ordinance Compliance. The premises for which the application is made must be in compliance with all other town ordinances, including but not limited to the zoning code.
- E. Fee Compliance. No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the town are delinquent and unpaid. Likewise, no license shall be issued to a person who has delinquent taxes, fines or other obligations owed to the Town.
- F. Safety Code Compliance. The premises for which the application is made must be in compliance with all public safety codes, including but not limited to the fire code.

#### **29.5 Quotas**

- A. Regular "Class B" intoxication liquor licenses. No more than 13 "Class B" intoxicating liquor licenses shall be issued, held or available for issuance.
- B. Reserve "Class B" intoxicating liquor licenses. No more than 3 reserve "Class B" intoxicating liquor licenses shall be issued, held or available for issuance. The issuance of a reserve "Class B" intoxicating liquor license shall be made on a case-by-case basis upon approval of the town board.
  1. A retail reserve "Class B" license, when issued by the town clerk, after approval of the town board, shall permit its holder to sell, deal, and traffic in intoxicating liquors to be consumed on the premises so licensed, by the glass;

or to be sold in multiples not to exceed four liters at any one time, and consumed off the premises so licensed in the original package or container. In addition to the annual fee provided in Ordinance 39 – Schedule of Fees and Forfeitures, a fee of \$10,000 shall be paid for initial issuance of any license designated a “reserve” license, pursuant to § 125.51(3)(e)2, Wis. Stats.

- a. The town finds that it is in the interest of public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.
- b. The holder of a Reserve “Class B” license may apply for an economic development grant in an amount not to exceed \$9,500 within twelve (12) months of the date of issuance of the Reserve “Class B” license. The holder shall complete an Application for Economic Development Grant for Reserve “Class B” Liquor License, available from the town clerk, and shall attach complete, legible copies of paid invoices or receipts evidencing or documenting improvements made to the licensed premises in an amount equal to or greater than the amount requested in the economic development grant application. Licensees must be compliant with all liquor licensing requirement and all ordinances of the Town of Grand Rapids and not have been delinquent in any obligation to the Town of Grand Rapids for the previous five years.
- c. The economic development committee, shall review the grant application and either approve or deny the application, as appropriate. The grant funds shall not be disbursed until the licensed premises listed on the application is operating and open to the public.
- d. If the economic development committee determines that the licensee is not in compliance with the approved license or grant application requirements set forth above, the economic development grant request shall be denied and the clerk shall make such findings in writing to be delivered to the licensee. If the licensee disagrees with the economic development committee’s determination, the licensee may file a written notice of appeal upon the clerk within ten (10) calendar days of the mailing of the economic development committee’s findings to the licensee. The clerk shall forward said notice of appeal to the town board, which shall hold a hearing thereon within thirty (30) business days. The town board shall then make findings of whether the licensee is in compliance with the license requirements and whether the application satisfies the above requirements. If the town board finds that the licensee is in compliance with license requirements and the grant application satisfies the aforementioned requirements, the town board shall authorize the payment of the economic development grant.

## 29.6 Renewals

- A. Application for renewal shall be considered and processed according to the procedures set forth in Chapter 125 Wis. Stats.

- B. Only convictions during the current licensing year for the individual shall be considered for denial of renewal applications unless the chief of police demonstrates that the convictions from previous license years were not known or considered in granting the current license.

## 29.7 Revocation and Suspension of Licenses

- A. Procedure: Whenever the holder of any license under this Ordinance violates any portion of this Ordinance, Chapter 125 of the Wisconsin Statutes or any other applicable law or regulation, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Chapter 125 of the Wisconsin Statutes. In case of revocation of any license, no refund shall be made of any part of the license fee.

### B. Point Values for Alcohol Beverage License Violations

1. Purpose and Definitions: The purpose of this subsection is to administratively interpret those portions of this section relating to establishing an alcohol beverage demerit point system to assist in determining which licensees should be subject to suspension or revocation procedures.
2. Point Schedule: The schedule of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome licensees who have repeatedly violated state statutes and town ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

<u>Type of Violation</u>	<u>Point Value</u>
a. Sale of Alcohol Beverages without License or Permit;	100
b. Sale of Controlled Substances on Licensed Premises	100
c. Sale of Alcohol Beverages to Under Aged Person	50
d. Sale of Alcohol Beverages to Intoxicated Person	50
e. Under Aged Person on Premises	50
f. Intoxicated Bartender; Disorderly Conduct on Premises	50
g. After Hours Consumption	50
h. Refusal to Allow Police to Search Premises or Refusal to Cooperate with Lawful Police Investigation	50
i. Licensee, Agent or Operator Not on Premises at all Times	25
j. Persons on Premises after Closing Hours	25
k. Violation of Carry-out Hours	25
l. Licensee Permitting Person to Leave Licensed Premises With Open Alcohol Beverage	25
m. False Statement on Application	25
n. All Other Violations of this Ordinance	25

- C. **Violation, How Calculated:** In determining the accumulated demerit points against a licensee within twelve (12) months, the town board shall use the date each violation was committed as the basis for the determination

- D. **Suspension or Revocation of License:**

1. The town board shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court-imposed convictions or who have had referred to the town board reports from the town attorney which, if believed, would result in two hundred (200) demerit points in twelve (12) months.
2. If the demerit point accumulation, as determined by the town board, calculated from the date of violation, exceeds two hundred (200) points in a twelve (12) month period, two hundred fifty (250) points in a twenty-four (24) month period or three hundred (300) points in a thirty-six month period, the suspension shall be for not less than ten (10) days nor more than ninety (90) days. If the demerit point accumulation, calculated as noted above, exceeds 350 points in a thirty-six month period, or if the license is eligible hereunder for a suspension and was previously subject to a suspension, the town board may revoke the license. If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation
3. In all cases, the procedures for revocation and suspension set forth in sec. 125.12 Wis. Stats shall be followed.

## 29.8 Provisional Licenses

- A. Authorized official: Pursuant to sec. 125.17(5) Wis. Stats., the police chief or his or her designee (designee must be a Police Officer authorized to do record check) is authorized to issue provisional operators' licenses. Pursuant to sec. 125.185 Wis. Stats., the town clerk is authorized to issue provisional retail licenses.
- B. The authorized official shall not issue a provisional license unless he or she is satisfied that the standards set forth in Chapter 125 Wis. Stats. and this Ordinance are likely to be satisfied.
- C. A provisional retail license may be issued only to a person who has 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.
- D. Each applicant must be a least eighteen (18) years of age, and have completed the appropriate application forms. All arrests and convictions of the applicant shall be disclosed on the applications or an attached sheet. The applicant for a provisional operator's license must present, with the application, proof that the applicant has either completed or is enrolled in a training course under sec.125.17 (6) Wis. Stats.
- E. The provisional license shall be effective until such time a regular license is issued to the holder, In no case will the provisional license be effective more than sixty (60) days after issuance. The issuance date and final date of validity, shall be placed on the license form when issued.
- F. Upon written application for any provisional license, the police chief, or his or her designee, shall conduct a record check for past crimes or arrests. If the applicant has no past crimes or arrests as verified by the record check and if the applicant is otherwise in compliance with the requirements of Chapter 125 Wis. Stats. and this Ordinance, the authorized official may issue a provisional license to the applicant and

said issuance shall be reported to the town board at the next regularly scheduled town board meeting. A provisional license will not be renewable.

- G. If the applicant has past crimes or arrest as verified by the record check, the authorized official shall present the application and provide the results of the record check to the town board on the next regularly scheduled town board meeting. The town board shall then act upon the application, and if the town board approves the application, the authorized official shall then issue the license.
- H. A provisional license may not be issued to any person who has been denied an operator’s license by the town board.
- I. A fee as per Ordinance 39 “Schedule of Fees and Forfeitures” is required to be paid by or for the applicant prior to license issuance. This fee is in addition to the fee charged the applicant for the operator or retail license.
- J. Following issuance, if it is discovered that a part of the license application was false, then the authorized official may revoke said license. Upon making such a decision, the authorized official shall mail or have a written notice delivered to the license holder, notifying the person of the action taken, the reason(s) for such action, and the right to have a license review hearing before the town board, upon the applicant's written request. When a request for a hearing is made, the board shall follow general procedures as set forth in Section 125.12, although no complaint is required. A request for a hearing does not stay the effect of the revocation. The authorized official shall notify the licensee of the board time scheduled for hearing the matter, by mail or delivery. Any mailed notice is sufficient if mailed by first class to the last known address of the licensee, in an envelope containing the return address of the authorized official. No request for a license review hearing is valid if received past the final day the provisional license would have been effective.

**29.9 Off-premise Sales with “Class B” License**

Pursuant to sec. 125.51 (3) (b) Wis. Stats., a retail “Class B” liquor license, when issued by the town clerk under authority of the town board, shall permit its holder to sell, deal, and traffic in intoxicating liquors to be consumed on the premises so licensed, by the glass; or to be sold in multiples not to exceed four liters at any one time, and consumed off the premises so licensed in the original package or container.

**29.10 Penalties**

Any person, firm, or corporation violating any of provisions of Chapter 125 of the Wisconsin Statutes and/or any portion of this Ordinance shall, upon conviction, be subjected to forfeiture per Ordinance 39 Schedule of Fees and Forfeitures together with the costs of prosecution.

**This ordinance shall take effect from and after the date of its passage and publication as provided by law.**

**HISTORY**

<b>Declaration/Ordinance/Resolution No</b>	<b>Dated</b>
<b>RESOLUTION NO:</b>	21-July-1987
	21-January-1992
2005-04	24-May-2005
2005-08	13-September-2005

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Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

2006-07	23-May-2006
2009-31	23-June-2009
2011-19	10-May-2011
2011-45	09-August-2011
2012-12	10-April-2012
2013-17	14-May-2013
2013-29	13-August-2013