

RESOLUTION
Town of Grand Rapids
Wood County, Wisconsin

RESOLUTION NO: 2018-32

Re: Ordinance No. 29 – Regulating Fermented Malt Beverages and Intoxicating Liquor

The Town Board of the Town of Grand Rapids, Wood County, Wisconsin,
RESOLVES as follows:

Ordinance 29 is hereby amended as presented.

The Town Board of the Town of Grand Rapids, Wood County, Wisconsin, has the specific authority under Chapter 125 of Wisconsin Statutes to amend this ordinance.

Revisions were made to the following, with any remaining items being re-labeled accordingly:

29.1 Statutory Authority

The provisions of Chapter 125 of the Wisconsin Statutes describing and defining regulations with respect to alcohol beverages, as may be amended from time to time, are hereby incorporated. A violation of any such provisions shall constitute a violation of this Ordinance.

29.3 License Required

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatsoever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28, 125.51 of the Wisconsin Statutes. The Term “sell” includes the transfer, barter, trade, and exchange of alcohol beverages.

29.4 Application Process

- A. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Sections 887.01 to 887.04, Wis. Stats. and shall be filed together with payment of the applicable fee as established in Ordinance No. 39 Schedule of Fees and Forfeitures with the Town Clerk not less than thirty (30) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances. New businesses and businesses with a change of ownership shall also be required to obtain a Business License, pursuant to Town Ordinance 70.1.
- B. Such application shall be filed and sworn to by the president and secretary, if a corporation, or by all members if an LLC.
- C. The application shall be published according to the Wisconsin Statutes in the official Town newspaper, and the applicant shall pay the costs of publication. All applications for licenses shall be processed as provided for in sec. 125.04 Wis. Stats.
- D. Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof. Any amendment which constitutes a material change, as determined by the Town Clerk after consultation with the Town Attorney, shall be on file for 15 days from its filing and shall be published as provided for in paragraph (C) above.

29.6 Qualifications for Applicants and Premises

No person, firm or corporation may sell fermented malt beverages or intoxicating liquors without first obtaining the proper license as provided in this Ordinance and paying a license fee as per Ordinance 39 “Schedule of Fees and Forfeitures”. The

Term "sell" includes the transfer, barter, trade, and exchange of alcohol beverages. All applicants must meet the requirements of Chapter 125 of the Wisconsin Statutes.

A. **Applicant Restrictions:** Subject to the additional guidelines for applicant screening under Subsection 29.5(F), licenses related to alcohol beverages issued to persons under this Section may be issued only to persons who meet the following requirements:

1. **Residence Requirements:** A Class "A", Class "B", "Class A" or "Class B" license shall be granted only to persons who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of application.

2. **Age of Applicant:** Except as provided for in sec. 125.04(5)(d)2, Wis. Stats., no license under this section shall be granted to any underage person who has not attained the legal drinking age.

3. **Arrest or Conviction Record; Habitual Offenders:** No license or permit related to alcohol beverages may, subject to secs. 111.321, 111.322 and 111.335, Wis. Stats., be issued under this chapter to any person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses, charged as a crime, which are substantially related to the licensed activity within the five (5) years immediately preceding the license application.

4. **Operator's Licenses; Class "A", Class "B" or "Class C" Premises:** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A", Class "B" or "Class C" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the license or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Sec.125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A", Class "B" or "Class C" license or permit unless he or she has an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

5. **Right to Premises:** No applicant will be considered unless he or she has the right to possession of the premises described in the application for the license period, by lease or by deed.

6. **Applicant to have Malt Beverage License:** No "Class B" license shall be issued to any person who does not have a Class "B" license.

7. No license shall be granted to any applicant for operation on any premises, or for operation with any equipment, for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent.

8. No license or permit shall be granted to any applicant who has delinquent taxes for any real or personal property within the Town or who has delinquent assessments, forfeitures or other financial claims owed to the Town.

9. Paragraphs (7) and (8) shall not prevent the renewal of an existing license if real property taxes are delinquent for not more than one year. Personal property taxes, however, must be current at the time of renewal.

B. **Corporate Restrictions:**

1. No license shall be granted to any corporation or limited liability company, which does not comply with the provisions of Sec. 125.04(5)(c) and (6), Wis. Stats.

2. Each corporate or limited liability company applicant shall file with its application for such license a statement by its officers or members showing the names and addresses of the persons who are stockholders together

with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within five (5) business days after such transfer of stock.

- C. **Adequate Parking on Premises:** Adequate parking shall be available on-site. The minimum number of parking stalls that will be required shall be determined by dividing the maximum capacity of the establishment, as determined by the Fire Chief, by the number three (3).
- D. **Sexually Oriented Businesses:** No license for the sale or consumption of alcohol shall be issued to any sexually oriented business, as that term is defined in Section 64.3(W) of the Town Code of Ordinances. The offering of sexually oriented entertainment shall serve as a basis for the revocation of a license issued under this section.
- E. No license shall be issued for a "Class B" or "Class C" license unless the premises conforms to the sanitary, safety and health requirements of the State Building Code, and the regulations of the Wis. Department of Health Services applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex.
- F. 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. Any applicant who has been convicted of the following misdemeanor or ordinance violations within the applicable time frame set forth in the following categories will not be eligible for an alcohol beverage license:

4. Category 4. Any applicant who has had two (2) or more convictions, not arising out of the same incident, 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.

29.7 Investigation

- A. The Town Clerk shall notify the Chief of Police of each new application. The Fire Chief shall be notified of each application requiring a Business License. These officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Town Clerk in writing, who shall then forward the same to the Town Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

29.8 License Application Decision

- A. **Granting of License:** Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town.
 - 1. **Numbering of License:** 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.
- B. **Denial of License:** If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reconsidered. In addition, the notice shall inform the applicant that any evidentiary hearing or meeting at which final action will be taken on

the reconsideration of the application shall be held in closed session, pursuant to Section 19.85(1) (b), Wis. Stats. unless the applicant requests such hearing and/or meeting be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least five (5) business days prior to the Town Board meeting at which the application is to be reconsidered. Upon the completion of the hearing/meeting, a final determination shall be issued to an applicant in writing.

1. Pursuant to sec. 125.12 (2) (d) Wis. Stats., upon denial, suspension, revocation or nonrenewal of a license by the Town Board, an applicant may seek Circuit Court review thereof by certiorari within 30 days of receipt of the final determination.

29.9 Renewals

- A. Application for renewal shall be considered and processed according to the procedures set forth in Chapter 125 Wis. Stats, with review thereof pursuant to Sec. 29.7(B) of this Ordinance.

29.10 Revocation and Suspension of Licenses

- C. **Demerit Points, 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. **Notice of Violations:** Upon determination that a violation has occurred for which demerit points may be assessed pursuant to this subsection, the Police Chief shall send a letter by regular mail to the licensee or its agent noting the violation(s), the associated number of points, and the possibility of initiation of suspension or revocation proceedings if the point levels in sub. par. 2. are reached. A licensee may appeal the Police Chief's assessment of points to the Town Board by filing a written appeal with the Town Clerk within fifteen (15) days of the Police Chief's letter. Chapter 68 of the Wisconsin Statutes shall govern the appeal process.

E. Suspension or Revocation of License

3. In all cases, the procedures for revocation and suspension set forth in sec. 125.12 Wis. Stats. and Sec. 29.7(B) of this Ordinance shall be followed.

This ordinance amended by a majority of the town board with a quorum present and voting and proper notice having been given, amends the attached **Ordinance 29 – Regulating Fermented Malt Beverages and Intoxicating Liquor.**

Motion	For	Against	Abstain	Absent	ACTION TAKEN
<u> </u> Arne Nystrom	[<input checked="" type="checkbox"/>]	[]	[]	[]	<input checked="" type="checkbox"/> Adopted as presented
<u> 1 </u> Bill Clendenning	[<input checked="" type="checkbox"/>]	[]	[]	[]	<input type="checkbox"/> Adopted as amended
<u> </u> Patty Lumby	[<input checked="" type="checkbox"/>]	[]	[]	[]	<input type="checkbox"/> Rejected
<u> </u> Dan Paulsen	[<input checked="" type="checkbox"/>]	[]	[]	[]	<input type="checkbox"/> Tabled until _____
<u> 2 </u> Andrew Simon	[<input checked="" type="checkbox"/>]	[]	[]	[]	<input type="checkbox"/> Referred to _____

I, Lisa Dotter, Clerk for the Town of Grand Rapids, hereby certify that the above is a true and correct copy of a Resolution which was adopted on the 11th day of December, 2018 by the Town Board, Town of Grand Rapids, County of Wood.

Dated this 11th day of December, 2018.

By: Arne Nystrom
 Arne Nystrom, Town Chairman

By: Lisa Dotter
 Lisa Dotter, Clerk