

**ORDINANCE NO: 29****AN ORDINANCE REGULATING FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR**

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 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.

**29.2 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 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.
- E. 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.

## 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.

## 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:

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 (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.
- 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.

## 29.10 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

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- 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:**
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. and Sec. 29.7(B) of this Ordinance shall be followed.

**29.11 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.

### **29.12 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.

### **29.13 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**

#### **Declaration/Ordinance/Resolution No**

#### **Dated**

#### **RESOLUTION NO:**

	21-July-1987
	21-January-1992
2005-04	24-May-2005
2005-08	13-September-2005
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
2018-32	11-December-2018