

## SUBCHAPTER 1: ALCOHOL BEVERAGES

**CHAPTER 15: LICENSES AND PERMITS****SUBCHAPTER 1: ALCOHOL BEVERAGES****15.100 TITLE**

This Subchapter shall be known as the "Town of Lyndon Alcohol Ordinance" or the "Alcohol Ordinance," except as referred to herein, where it shall be known as "this Subchapter."

**15.101 AUTHORITY**

This Subchapter is adopted pursuant to §§ 125.10 and 60.22 Wis. Stats.

**15.102 PURPOSE**

The Town of Lyndon, in order to promote the public health, safety, general welfare and good order of the Town, and to comply with the requirements of State Law, hereby adopts this Subchapter.

**15.103 STATE STATUTES ADOPTED**

The provisions of Chapter 125 of the Wisconsin Statutes, including any future revisions or amendments thereto, describing and defining the rules and regulations concerning the sale of alcohol beverages, are hereby adopted and, by reference, made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by Chapter 125, is required or prohibited by this Chapter. Any penalty imposed by Chapter 125, is not imposed or adopted by this Chapter, but instead, the separate penalties prescribed herein shall be imposed, provided however, the penalties prescribed herein shall be limited to and shall not exceed the penalties prescribed by Chapter 125 for the same act. Any future amendments, revisions, or modifications of Chapter 125 are intended to be made a part of this Chapter.

**15.104 LICENSES AND FEES**

The following classes and denominations of Licenses may be issued by the Clerk, upon approval by the Board, upon compliance with the specified law, and upon payment of the specified fee:

<u>LICENSE</u>	<u>FEE</u>
(1) Class "A" Fermented Malt Beverage License under § 125.25 Wis. Stats.	\$100.00 per year or prorated according to the number of months or fraction thereof for which the license is issued
(2) Class "B" Fermented Malt Beverage License under § 125.26(1) Wis. Stats.	\$100.00 per year or prorated according to the number of months or fraction thereof for which the license is issued
(3) Class "B" Fermented Malt Beverage 6 month License under § 125.26(5) Wis. Stats.	50% of the license fee charged for licenses issued under ' 125.26(1) Wis. Stats.
(4) Class "B" Fermented Malt Beverage Picnic License under § 125.26(6) Wis. Stats.	\$10.00 per event
(5) Wholesaler's License under § 125.28 Wis. Stats.	\$25.00 per year or fractional part thereof
(6) "Class A" Intoxicating Liquor License under § 125.51(2) Wis. Stats.	\$150.00 per year and prorated for any fraction thereof
(7) "Class B" Intoxicating Liquor License under § 125.51(3) Wis. Stats.	\$500.00 per year and prorated for any fraction thereof. \$10,000.000 for an initial issuance of a reserve "Class B" license
(8) Temporary "Class B" Wine License under § 125.51(10) Wis. Stats.	\$10.00 per event, except that no fee may be charged if a temporary "Class B" license is issued for the same event

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(9) Operator's License under § 125.17(1) Wis. Stats.	\$35.00 per year or any fraction thereof
(10) Temporary Operator's License under §125.17(4) Wis. Stats.	\$15.00 per period
(11) Provisional License under ' 25.17(5) Wis. Stats.	\$15.00
(12) Manager's License under ' 125.18 Wis. Stats.	\$25.00 per year or any fraction thereof
(13) Provisional Retail Licenses under ' 125.185 Wis. Stats	\$15.00
(14) Class "C" License under § 125.51(3m) Wis. Stats.	\$100 per year or any fraction thereof

**15.105 ADDITIONAL REQUIREMENTS**

In addition to all statutory requirements, the following requirements shall be fulfilled for each license:

- (1) **LICENSE APPLICATION:** License application forms, supplied by the Town, shall be prepared and filed with the Clerk, and shall provide the following information:
- (a) Name, address and telephone number of the applicant.
  - (b) Date of birth of the applicant.
  - (c) Name, address and phone number of the applicant's proposed new employer.
  - (d) Name, address and telephone number of the applicant's last employer for whom the applicant tended bar (if applicable).
  - (e) Name, address and phone number of each municipality from which the applicant received a license issued under Ch. 125 Wis.Stats. regarding alcohol beverages.
  - (f) Certification that the Applicant is familiar with, and shall obey the requirements of, all applicable statutes, regulations, and this Chapter.
- (2) **QUALIFICATIONS:** In determining the suitability of an Applicant, consideration shall be given to the moral character and financial responsibility of the Applicant, the appropriateness of the location and premises proposed, and generally, the Applicant's fitness for the trust to be imposed.
- (3) **OUTSTANDING DEBTS:** 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 who is delinquent in payment to the Town of taxes, assessments or claims, including (but not limited to) unpaid forfeiture judgments to the Town and Town utility bills.
- (4) **INVESTIGATION:** The Clerk, or designee, shall investigate (to the extent applicable) the following for each new applicant:
- (a) The last known alcohol business for which the applicant worked.
  - (b) The law enforcement agency for the last known municipality in which the applicant worked in an alcohol business.
  - (c) The last known municipality which issued an alcohol license to the applicant.
  - (d) The applicant's criminal conviction record, traffic record, and ordinance violation record, including the applicant's record of any pending criminal charge and the circumstances of the charge, provided however, such investigation shall comply with the requirements, limitations, and prohibitions of §111.335 Wis. Stats. regarding employment discrimination.

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- (5) **REFERRAL BY CLERK:** If the Clerk's investigation does not reveal any violation, infraction, or other questionable conduct which, in the Clerk's sole discretion, relates to the circumstances of the license for which the applicant has applied, then the Clerk may place the application upon the next Board agenda for action. However, if the Clerk's investigation reveals any violation, infraction, or other questionable conduct which, in the Clerk's sole discretion, relates to the circumstances of the license for which the applicant has applied, then the Clerk shall summarize such information and forward the information to the Board, which shall conduct a confidential review of the information, in closed session, to determine the following:
- (a) Whether the Applicant has habitually been a law offender as per §125.04(5)(b) Wis. Stats;
  - (b) Whether the Applicant has been convicted of a felony and has not been duly pardoned as per §125.04(5)(b) Wis. Stats; or
  - (c) Whether a pending charge or a conviction for any felony, misdemeanor, or other offense substantially relates to the circumstances of the job permitted by the License requested as per §111.335(1)(c) Wis. Stats.

In making the foregoing determinations, the Committee may require the Applicant to appear before the Committee, and may conduct an evidentiary hearing thereon, pursuant to §19.85(1)(b) Wis. Stats.

**(Rationale:** It is the purpose of this subsection to provide a procedure by which the Town can carefully investigate the background of each applicant, and at the same time comply with Wisconsin's discrimination laws. *See generally*, §111.321 *et seq* Wis. Stats.)

**15.106 CONDUCT PROHIBITED**

In addition to all other requirements of the Statutes and this Code, the following requirements shall also be observed:

- (1) **DISORDERLY CONDUCT:** Each licensed or permitted premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct or gambling, proscribed by this Code or State Statute, shall be allowed at any time on any such premises. It shall be a violation of this Section for any operator to fail to take reasonable steps to prevent, to avoid, and to stop such proscribed conduct.
- (2) **SALES BY CLUBS:** No club operating under a Class "B" or "Class B" permit shall serve, sell, dispense, or give away any alcohol beverages, except to members or to guests invited and accompanied by members.
- (3) **AGENTS AND EMPLOYEES:** A violation of this Chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.
- (4) **SANITATION AND SAFETY:** All licensed premises shall conform to all state and local sanitary, safety, and health rules, regulations, and codes.
- (5) **FALSE APPLICATIONS:** No person or organization shall submit a false application for a license. No person or organization shall submit an application on the behalf of, or as a "front" for, any other person or organization.
- (6) **INSPECTION FOR ENFORCEMENT:** Section 139.08(4) Wis. Stats., and all amendments thereto, are incorporated herein by reference.

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**15.107 NON-RENEWALS, REVOCATIONS AND SUSPENSIONS**

In addition to all Statutory procedures and requirements, the Town may also revoke, suspend, or non-renew any license as provided in this Section.

**(1) ABANDONMENT:**

- (a)** Whenever a licensee fails to use such license for a period of 180 days, the licensee shall be deemed to have forfeited such license. "Use" as used herein shall mean the regular, daily operation of the premises so licensed for the regular sale of alcohol beverages.
- (b)** The Clerk shall, by certified mail, notify the licensee of said forfeiture. Within fifteen (15) days of the receipt of said notice, the licensee may petition to the Town for a 90-day extension of time within which to use such license. The Board shall grant such extension if the licensee demonstrates to the satisfaction of the Board that the license was not used due to undue hardship or unusual circumstances beyond the licensee's control. In making its decision, the Board may consider such factors as financial hardship; damage to the premises rendering it temporarily unfit for safe operation; a closing of the premises for a reasonable period to alter, repair, remodel or redecorate; closing the premises prior to a sale when such sale shall be reasonably anticipated and documented Licensee; or an illness of the licensee with proof of such illness. The granting of an extension shall not be unreasonably denied, however the decision of the Board shall be final and no further extensions shall be authorized.
- (c)** If the premises shall be destroyed or damaged by fire or other natural causes, and cannot be reasonably repaired or rebuilt within the 90-day extension, the Board, upon a showing that the licensee is making substantial efforts to repair the premises and reopen for regular business, may grant one (1) additional extension of 90 days. "Substantial efforts" shall include, but not be limited to, a showing that the licensee has employed someone to make the necessary repairs, that work is being done, and that repairs will be completed within the period of the extension.

- (2) FAILURE TO PAY:** Whenever an applicant, who has been granted a license, fails to pay for the license or fails to pick up the license from the Town Clerk office, within 30 days after such license is granted, such license shall be deemed to have been forfeited, and the Clerk shall, by certified or registered mail, notify the grantee thereof.

**15.108 CLASS "B" FERMENTED MALT BEVERAGE PICNIC LICENSES**

In addition to all statutory requirements, the following requirements shall be fulfilled for each Class "B" Fermented Malt Beverage Picnic License issued pursuant to §125.26(6) Wis. Stats.

- (1) SITE PLAN:** The application for a Class "B" Fermented Malt Beverage Picnic License shall be accompanied by a site plan, which shall show the location where the beer shall be dispensed and the location of the fencing required below.
- (2) FENCING:** Unless the Board otherwise permits, all organizations shall install a fence around the area (indoors and outdoors) where fermented malt beverage is to be sold and consumed. No sale or consumption of fermented malt beverages shall be permitted outside of the fenced area and no underage person shall be permitted within the fenced area unless such underage person is accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age. The organization shall also continually station a person at the entrance of the fenced area for the purpose of checking age identification. There shall be only one point of ingress and egress, and the fence shall be a minimum of four (4) feet high. If consumption is to occur indoors, a fence need not be used if persons under the legal drinking age are not permitted to enter the building.

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- (3) **SIGNS:** All organizations issued a Class "B" License shall post, in a conspicuous location, at the main point of sale and at the point of entry, a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person or to any person without proper identification.
- (4) **NOTICE TO NEIGHBORS:** All property owners within one hundred (100) feet of a proposed outside beer garden shall be given notice of a pending application for a Class "B" picnic license at least three (3) days prior to the Board meeting at which such license shall be acted upon. Notice shall be given by first class mail.

**15.109 UNDERAGE PERSONS ON PREMISES**

Pursuant to §§125.07(3)(a)8 and 125.07(3)(a)10 Wis. Stats., underage persons may enter and remain on Class "B" or "Class B" licensed premises, provided the licensee first obtains a written authorization from the Board permitting underage persons on the premises on the date specified in the authorization.

**15.110 "CLASS B" LICENSES: OFF-PREMISES CONSUMPTION**

Pursuant to § 125.51(3)(b) Wis. Stats., the Town hereby authorizes all retail "Class B" licenses to sell intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, to be consumed off the premises where sold; however, wine may be sold for consumption off the premises in the original package or container in any quantity.

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