

## CHAPTER 16

### ALCOHOL BEVERAGE REGULATIONS

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**ALCOHOL BEVERAGE REGULATIONS**

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**CHAPTER 16**

**Section 16.01. PURPOSE.** This Chapter is enacted for the purpose of regulating and licensing the sale and possession of alcohol beverages, as defined and regulated under Chapter 125, Wisconsin Statutes.

**Section 16.02. DEFINITIONS.** As used in this chapter:

(1) "Alcohol beverages" means fermented malt beverages and intoxicating liquor as defined in 125.02, Wisconsin Statutes.

(2) "Fermented malt beverages" means any beverage made by the alcohol germination of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

(3) "Intoxicating liquor" means all ardent, spirituous, distilled or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include "Afermented malt beverages" which contain less than 5% of alcohol by weight.

(4) "License" means an authorization to sell alcohol beverages, issued by the Village Board under this Chapter.

(5) "Person" means a natural person, sole proprietorship, partnership, corporation, or association.

(6) "Sell", "sold", "sale" or "selling" means any transfer of alcohol beverages with consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages, or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of alcohol beverages.

(7) "Legal drinking age" has the meaning defined in Section 125.02(8m), Wis. Stats. of 1986.

(8) "Underage person" has the meaning defined in Section 125.02(20m), Wis. Stats. of 1986.

**Section 16.03. GENERAL LICENSING REQUIREMENTS.**

(1) License Required. No person may sell alcohol beverages or engage in any other activity for which this chapter provides a license, without holding a license issued under this chapter.

(2) Licenses Issued in Violation of Chapter. No license may be issued to any person except as provided in this chapter. Any license issued in violation of this chapter is void.

(3) Applications for Licenses.

[a] Class "B" Licenses. Applicants for Class "B" licenses authorizing the sale of alcohol beverages shall file their applications on application forms prepared by the Wisconsin Department of Revenue. Such applications shall contain all the information required by said forms, shall be sworn to by the applicant, and shall be filed with the Village Clerk at least 15 days prior to the granting of the license.

[b] Operators' Licenses. Applicants for issuance of operators' licenses for the purpose of complying with the provisions of Section 125.32(2), Wisconsin Statutes and Sec. 16.6 of this chapter, shall file their applications on forms prescribed by the Village Board. Such applications shall contain all information required by such forms, shall be sworn to by the applicant, and shall be filed with the Village Clerk at least 15 days prior to the granting of the license. An operators' license may be issued by the Village Clerk upon completion of the waiting period subject to Section 125.17(1), Wis. Stats and the Village Clerk may also issue temporary operator's licenses and provisional operator's licenses subject to Section 125.17(4),(6)(b), Wis. Stats. All such operator's licenses are subject to payment of the applicable fees and approval by the Chief of Police or the Chief's designee.

(1) Applications which are not recommended for approval by the Police Department or which the Village Clerk determines merit review by the Village Board shall be forwarded to the Village Board for approval or denial and the applicant shall receive a written notice stating that they must appear before the Village Board for review of the application. The notice shall state that failure to appear may result in a denial of the application. Application for these described licenses referred to the Village Board may be denied only by the Village Board. (Amd. 09/16/20, Ord #545)

(4) Subsequent Changes. Within 10 days of any change in any fact set forth in an application for a license issued under this chapter, the licensee shall file with the Village Clerk a written statement of the changed fact.

(5) Records.

[a] The Village Clerk shall retain all applications made to the Village for four (4) years and thereafter may destroy the applications.

[b] Any person may inspect applications for licenses issued under this chapter.

(6) License Restrictions. No licenses shall be issued for any premises within three hundred (300) feet of any school, hospital, place of worship, nor in any residence district, except as to locations existing prior to the time of the passage of this chapter or when permitted pursuant to the grant of a Special Use Permit by the Village Board. The residence district and the Special Use Permit shall be those defined in the Zoning Regulations (Chapter 7) of the Village of River Hills. (Amd. 09/16/20, Ord #545)

(7) Qualifications for Licenses.

[a] Natural persons. Licenses issued under this chapter may be issued only to persons who:

1. Are of good moral character;
2. Have been residents of this state continuously for at least one year prior to the date of filing the application;
3. Are U.S. citizens; and
4. Have attained the legal drinking age.

[b] Criminal offenders. Subject to Section 111.30, Wisconsin Statutes, no license may be issued under this chapter to any natural person who has habitually been a law offender or has been convicted of a felony, unless the person has been duly pardoned.

[c] Corporations. No license may be issued to a corporation unless the agent of the corporation appointed under the provisions of 125.04(6), Wisconsin Statutes, and the officers and directors of the corporation meet the qualifications of pars. [a] and [b], except that par. [a]2 and 3 do not apply to officers and directors of corporations organized under the laws of states other than this state or foreign countries.

[d] Operators' licenses. Paragraphs [a] 2 and 3 do not apply to applicants for operators' licenses.

(8) Licenses of Corporations. All licenses issued under this chapter to corporations shall be subject to the provisions of 125.04(6) Wisconsin Statutes.

(9) Licenses Not Valid Until Fees Paid. No license under this chapter may be delivered to the applicant until the applicant files with the Village Clerk a receipt showing payment of the license fee to the Village Treasurer.

(10) License Framed, Posted.

[a] Frame. License issued under this chapter shall be enclosed in a frame having a transparent front which allows the license to be clearly read.

[b] Display. All licenses shall be conspicuously displayed for public inspection at all times in the room or place where the activity subject to licensure is carried on.

(11) Expiration Dates. Except as otherwise provided in this chapter, licenses issued under this chapter shall expire on June 30th of each year.

(12) License Transfers.

[a] Class "B" licenses issued under this chapter shall be transferable only in strict accordance with the provisions of 125.04(12), Wisconsin Statutes.

[b] operators' licenses are not transferable.

(13) Exceptions. All requirements of this chapter as to licenses are subject to the exceptions provided in 125.06, Wisconsin Statutes.

(14) Fees. The fees for the issuance of licenses under this chapter shall be as set forth in the schedule of fees as adopted and subject to amendment from time to time by Resolution of the Village Board. The Resolution and the applicable schedule of fees shall be kept on file in the Office of the Village Clerk and will be posted in the village website. (Amd Ord #537, 10/16/19)

**Section 16.04. RESTRICTIONS ON SALES TO UNDERAGE PERSONS AND INTOXICATED PERSONS: POSSESSION BY UNDERAGE PERSONS: PENALTIES.**

(1) Sales of Alcohol Beverages To Underage Persons.

[a] Restrictions.

1. No person may procure for, sell, dispense, or give away any alcohol beverages to any underage person, not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.

2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person, not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age.

[b] Penalties and License Suspension For Sale to Underage Persons.

1. For the purposes of this subsection, violation means a violation of this section or a violation of section 125.07, Wisconsin Statutes.

2. A person who commits a violation is subject to a forfeiture of:

A. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or

B. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

3. A court shall suspend any license issued under this chapter to a person for:

A. Not more than 3 days, if the Court finds that the person committed a violation within 12 months after committing one previous violation;

B. Not less than 3 days nor more than 10 days, if the Court finds that the person committed a violation within 12 months after committing two other violations; or

C. Not less than 15 days nor more than 30 days, if the Court finds that the person committed the violation within 12 months after committing three other violations.

4. The Court shall promptly mail notice of a suspension under this paragraph to the Village Clerk.

(2) Underage Persons; Prohibitions; Penalties.

[a] Any underage person who does any of the following is guilty of a violation:

1. Procures or attempts to procure alcohol beverages.
2. Enters or is on licensed premises in violation of Section 125.07(3), Wisconsin Statutes.
3. Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.

[b] Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, who knowingly possesses or consumes alcohol beverages is guilty of a violation.

[c] Any person violating par. [a] or [b] is subject to the following penalties:

1. For a first violation, a forfeiture of not less than Two Hundred Fifty (\$250.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, a suspension of the person's operating privilege as provided under Section 343.30(6)(b)1, Wisconsin Statutes, participation in a supervised work program under Section 125.07(4)(cg) Wisconsin Statutes, or any combination of these penalties.
2. For a violation committed within twelve (12) months of a previous violation. either a forfeiture of not less than Three Hundred (\$300.00) Dollars, nor more than Five Hundred (\$500.00) Dollars, suspension of the person's operating privilege as provided under Section 343.30(6)(b)2. Wisconsin Statutes, participation in a supervised work program under Section 125.07(4)(cg), Wisconsin Statutes, or a combination of these penalties.
3. For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of Five Hundred (\$500.00) Dollars, revocation of the person's operating privilege under Section 343.30(6)(b)3, Wisconsin Statutes, participation in a supervised work program under Section 125.07(4)(cg), Wisconsin Statutes, or a combination of these penalties.

[d] Notwithstanding the provisions of paragraph [c] of this subsection, disposition in proceedings against a person who is under 18 years of age on the date of disposition shall be as provided by Section 48.344, Wisconsin Statutes.

(3) Sales of Alcohol Beverages to Intoxicated Persons.

[a] Restrictions.

1. No person may procure for, sell, dispense, or give away alcohol beverages to a person who is intoxicated.
2. No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with a person who is intoxicated.

[b] Penalties. Any person who violates par. [a] shall be subject to a forfeiture of not less than \$100.00 nor more than \$500.00.

**Section 16.05. POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.**

[a] In this section:

1. "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
2. "School" means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
3. "School Administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
4. "School premises" means premises owned, rented or under the control of a school.

[b] Except as provided by par. [c] no person may possess or consume alcohol beverages:

1. On school premises;



2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

[c] Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and school board policies.

[d] An adult person who violates this subsection is subject to a forfeiture of not more than \$200.00. Sections 48.344 and 125.07(4)(c) and (d), Wis. Stats. provide the penalties applicable to underage persons.

#### **Section 16.06. CLASS "B" LICENSES.**

(1) A class "B" license issued under this chapter authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises.

(2) A Class "B" license authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. Wine may be sold in the original package or container in any quantity to be consumed off the premises where sold.

(3) Class "B" licenses may be issued to any person qualified under Section 16.03, except a foreign corporation. Such licenses may not be issued to any other person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six months before the date of application. A class AB@ license for a hotel, restaurant, club, society, or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this chapter.

(4) Class "B" licenses shall particularly describe the premises for which issued, and are not transferable, except as provided in section 16.03(13). A Class "B" license is subject to revocation for violation of any of the terms or provisions thereof.

(5) Temporary Operator's License – Temporary operator's licenses may be granted to individuals pursuant to §125.17(4), Wisconsin Stats., by the Village Board for the purpose of allowing said individuals to dispense and serve alcohol beverages under a license issued under §125.26(6) or §125.51(10), Wisconsin Stats., to a non-profit organization. No person may hold more than one license of this kind per year. Any temporary operator license issued under this

section shall be valid for any period from one (1) to fourteen (14) days, and the period for which it is valid shall be on the license. The fee for said license shall be set by Village Board resolution. (Cr. 03/06/19, Ord # 533)

**Section 16.07. RESTRICTIONS ON OPERATIONS.**

(1) Person Responsible. No premises operated under a Class "B" license may be open for business unless there is upon the premises the licensee, the agent named in the license if the licensee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any alcohol beverages to customers. No person other than the licensee or agent may serve alcohol beverages in any place operated as a Class "B" license or permit unless he or she has an operator's license or is under the immediate supervision of the licensee or agent or a person holding an operator's license, who is on the premises at the time of the service.

(2) Closing Hours.

[a] No premises for which a Class "B" license has been issued may remain open between 2:00 a.m. and 6:00 a.m. Monday through Friday, and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, the premises are not required to close.

[b] Between 12 midnight and 8 a.m. no person may sell alcohol beverages on Class "B" licensed premises in an original unopened package, container or bottle for consumption away from the premises.

**Section 16.08. CONDITION OF PREMISES: BOARD OF HEALTH MAY MAKE RULES.**

Each licensed premises shall be maintained in a sanitary manner and shall be in a safe and proper place for the purpose for which used. The Board of Health is authorized and empowered to make reasonable rules for the sanitation of all places of business possessing licenses under this chapter.

**Section 16.09. INVESTIGATION AND INSPECTION.**

Whenever in the judgment of the Village Board, there is a need for investigation of an applicant, the Village Clerk shall notify the Village Police Department, the Health Officer, the Chief of the Fire Department, and the Building Inspector of such application and those officials shall investigate the applicant and inspect the premises for which the license is to be granted, for the purpose of determining whether the applicant and the premises sought to be licensed comply with the regulations, ordinance and laws applicable thereto. Said officials shall report to the Village Board, in writing, the information derived from such investigations, accompanied by recommendations as to whether a license should be granted or refused. 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 where such licensed business is to be conducted, and generally the applicant's fitness for the trust to be reposed.

**Section 16.10. REVOCATIONS, SUSPENSIONS, NONISSUANCE OR NONRENEWAL OF LICENSES.** Any revocation, suspension or refusal to issue or renew any license under this chapter shall be subject to the procedure provided in Section 125.12, Wisconsin Statutes.

**Section 16.11. PENALTIES.**

(1) First Offense. Any person who violates any provision of this chapter for which a specific penalty is not provided, shall be subject to a forfeiture of not more than \$500.00. Any license or permit issued to the person under this chapter may be revoked by the Court.

(2) Subsequent offenses. If a person is convicted of a 2nd or subsequent offense to which subs. (1) applies, in the same license year as a prior conviction to which subs. (1) applies, in addition to the penalties provided for the offense under subs. (1), any license or permit issued to the person under this chapter shall be forfeited without notice.

**Section 16.12. DIVISIBILITY OF PROVISIONS.** If any section, subsection, sentence, clause, or phrase of this chapter is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Village Board hereby declares that it would have enacted this chapter and each section, subsection, clause and phrase thereto, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.