

Chapter 154

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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[HISTORY: Adopted by the Village Board of the Village of Fall Creek 10-4-1960 as Ch. 11, Sec 11.01 of the 1960 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances -- See Ch. 184.

Peace and good order -- See Ch. 199.

§ 154-1. State statutes adopted by reference.¹

The provisions of W.S.A. ch. 125, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this chapter in order to secure uniform statewide regulation of alcohol beverage control.

§ 154-2. License required; compliance with state and village regulations.

- A. When required. No person, except as provided by §154-1 of this chapter, shall distribute, vend, sell, offer or keep for sale, at retail or wholesale, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage or cause the same to be done without having procured a license or permit as provided in this chapter or without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the state and village applicable thereto.
- B. Separate license required for each place of sale. A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale, and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 154-3. License classes and fees. [Amended 5-2-1978; 4-10-1997,² 5-8-2003, 4-12-2004, 3-8-2010, 4-9-2010, 8-8-2011, 6-24-2020, 4-12-2021]

A. There shall be the following classes and denominations of licenses which, when issued by the Village Clerk-Treasurer under the authority of the Village Board, after payment of the fee hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in W.S.A. ch. 125:

- (1) Class "A" (off premises consumption) fermented malt beverage license: \$100 per year, prorated for partial year. **[Amended 6-24-2020, 4-12-2021]**
- (2) Class "B" (on or off premises consumption) fermented malt beverage license: \$100 per year, prorated for partial year. **[Amended 6-24-2020, 4-12-2021]**
- (3) Temporary Class "B" license (picnic license):
 - (a) for events lasting less than 4 days: 15 day waiting period required before granting license; \$10 as provided in W.S.A. s. 125.26(6),
 - (b) for events lasting 4 days or more: 15 day waiting period required before granting license; \$10 as provided in W.S.A. s. 125.26(6).
 - (c) Exceptions to waiting period: The Village Board may reduce the above waiting periods, on a case-by-case basis, at their discretion. **[Added 4-9-2010]**
- (4) Reserve "Class B" intoxicating liquor license: \$10,000 initial issuance fee.
- (5) Retail "Class A" (off premises consumption) intoxicating liquor license: \$100 per year, prorated for partial year. **[Amended 6-24-2020, 4-12-2021]**
- (6) Retail "Class B" (on premises consumption) intoxicating liquor license: \$250 per year, prorated for partial year. **[Amended 6-24-2020, 4-12-2021]**
- (7) Provisional retail license: \$15 per license.
- (8) Wholesaler's license: \$25 per year.
- (9) Operator's license (commonly called a "bartender's license"):
 - (a) Regular operator's license: \$15 per year, non-prorated for partial year. **[Amended 8-8-2011]**
 - (b) Provisional operator's license: \$15. **[Amended 8-8-2011]**
 - [1] The Clerk-Treasurer is authorized to issue the license without Village Board approval.
 - [2] The applicant must have proof of registration in a responsible beverage server training course.
 - [3] The license expires in 60 days or at the issuance of a regular operator's license.
 - (c) Temporary operator's license: \$15. **[Amended 8-8-2011]**
 - [1] The applicant must be employed by or donating time to a nonprofit organization.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

[2] The applicant may hold one temporary license per year.

[3] The license shall be valid for one to 14 days, as specified.

B. Part-time or semiannual liquor licenses shall be issued pursuant to W.S.A. ch. 125.

§ 154-4. License restrictions.

In addition to the requirements imposed by the provisions of the Wisconsin statutes adopted by reference in §154-1 of this chapter, the following restrictions shall apply to the issuance of licenses or permits pursuant to this chapter:

- A. Requirements for licenses. Only those requirements listed in W.S.A. ch. 125 and any amendment, revisions or modifications thereto are necessary.³
- B. Effect of revocation of license. No license shall be issued for any premises if a license covering such premises has been revoked within six months prior to application. No license shall be issued to any person who has had a license issued pursuant to this chapter revoked within 12 months prior to application.
- C. Inspection of application and premises. The Village Clerk-Treasurer shall notify the Eau Claire City/County Board of Health, Chief of Police and Building Inspector of all license and permit applications, and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. These officials shall furnish to the Village Board, in writing, the information derived from such investigation. No license or permit provided for in this chapter shall be issued without the approval of a majority of the Village Board, and no license shall be renewed without a reinspection of the premises and report as herein required.⁴
- D. Health and sanitation. No license shall be issued for any premises which do not conform to the sanitary, safety and health requirements of the Wisconsin Department of Commerce and the State Board of Health and to all such ordinances and regulations adopted by the village.
- E. Tax delinquencies. No license shall be granted for operation on any premises upon which taxes or assessments or other financial claims of the village are delinquent or unpaid.
- F. Location of premises. No retail Class "A" or Class "B" fermented malt beverage license or liquor license shall hereafter be issued for premises the entrance of which is less than 300 feet from the main entrance of any established public or parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. **[Amended 5-2-1978]**

§ 154-5. Right of entry; inspections.

It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the Village of Fall Creek without any warrant, and the

³ Editor's Note: Amended at time of adoption of Code (see Ch.1, General Provisions, Art. I).

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provision, Art. I).

application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this chapter.

§ 154-6. Posting licenses and permits.⁵

Licenses or permits issued under this chapter shall be posted and displayed as provided in W.S.A. s. 125.04(10), and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

§ 154-7. Regulation of licensed premises. [Amended 4-3-1979⁶]

- A. Sale of beer to minors restricted. The provisions of W.S.A. s. 125.07 shall apply to the sale of fermented malt beverages to persons who have not attained the legal drinking age when not accompanied by a parent, guardian or adult spouse, except as provided in said statute.
- B. Safety and sanitation requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.
- C. Improper exhibitions. It shall be unlawful for any person to perform or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (3) Exposes any portion of the female breast at or below the areola thereof; or
 - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

§ 154-7.1. Cancellation for nonuse of license. [Added 3-8-2010]

If a person holding a license issued under § 154-3 fails to keep the licensed premises open to the public for 60 consecutive days or more per license year, his license may be revoked by the Village Board after a public hearing following the procedure for revocation in Ch. 125, Wis. Stats. If the licensee demonstrates to the satisfaction of the Village Board that, due to nonrecurring undue hardship or unusual circumstances beyond his control, he could not make use of the license for the minimum time prescribed by this section, the Board may grant an exemption under such circumstances and conditions as may be determined by the Board to be reasonable.

§ 154-8. Revocation and suspension of licenses.

- A. Procedure. Except as hereinafter provided, the provisions of W.S.A. ch. 125 shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this chapter.

⁵ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Revocation or suspension proceedings may be instituted by the Village Board upon its own motion by adoption of a resolution.⁷

- B. Suspension of licenses. The Village President or the Chief of Police, upon obtaining reasonable information that any licensee has violated any provision of this chapter or any state or federal liquor or fermented malt beverage law or committed any felony, may suspend the license or permit of such person for a period not to exceed 10 days pending hearing by the Village Board pursuant to Subsection A.
- C. Automatic revocation. Any license or permit issued under the provisions of this chapter shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent or representative of a second offense under this chapter or W.S.A. ch. 125 or any other state or federal liquor or fermented malt beverage law or any felony.⁸
- D. Repossession of license or permit. Whenever any license or permit under this chapter shall be revoked or suspended by the Village Board, Village President, Chief of Police or action of any court or Subsection C, it shall be the duty of the Clerk-Treasurer to notify the licensee or permittee of such suspension or revocation and to notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk-Treasurer's office.

**§ 154-9. Sale of fermented malt beverages in Village parks by employees or agents of Village.
[Amended 6-10-2004]**

Pursuant to §§125.06(6) and 125.10, Wis. Stats., officers and employees of the Village of Fall Creek, together with agents of the Village, the latter limited to active members of the Fall Creek Fire District Fire Department, are hereby authorized to engage in sale of fermented malt beverages in any public park operated by the Village. Said sales shall be restricted to those made by Village officers and employees and the designated agents only. Each person who seeks to engage in such sales shall, prior thereto, obtain from the Village an operator's license for that purpose.

§ 154-10. Violations and penalties⁹ [Amended 6-10-2004]

The penalty for violation of any of the provisions of this chapter shall be a penalty as provided in Chapter 1, General Provisions, § 1-19 of this Code, provided that no penalty imposed shall exceed the maximum allowed by W.S.A. ch. 125. A separate offense shall be deemed committed on each day in which a violation occurs or continues.

⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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