

# **Chapter 160**

## **INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES**

### **ARTICLE I**

#### **General Provisions**

- § 160-1. State statutes adopted.**
- § 160-2. Definitions**
- § 160-3. License required.**
- § 160-4. Classes of licenses.**
- § 160-5. License fees.**
- § 160-6. Application for license.**
- § 160-7. Qualifications of applicants and premises.**
- § 160-8. Investigation.**
- § 160-9. Approval of application.**
- § 160-10. Granting of license.**
- § 160-11. Transfer and lapse of license.**
- § 160-12. Numbering of license.**
- § 160-13. Posting of licenses.**
- § 160-14. Conditions of license.**
- § 160-15. Closing hours.**
- § 160-16. Special Class “B” fermented malt beverage license**

- § 160-17. Revocation and suspension of licenses.**

### **ARTICLE II**

#### **Operators License**

- § 160-18. License required.**
- § 160-19. Application for license.**
- § 160-20. Duration.**
- § 160-21. Fee.**
- § 160-22. Issuance of license.**
- § 160-23. Display of license.**
- § 160-24. Revocation of license.**

### **ARTICLE III**

#### **Enforcement**

- § 160-25. Violations and penalties**

**[HISTORY: Adopted by the Village Board of the Village of Genoa City as Title 7, Ch. 2 of the 1984 Code. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Alcoholic beverages -- See Ch. 93.

Food-handling establishments -- See Ch. 149.

Peace and good order -- See Ch. 194.

---

### **ARTICLE I**

#### **General Provisions**

- § 160-1. State statutes adopted.**

The provisions of Ch. 125 and §§ 938.344 and 778.25, Wis. Stats., relating to the sale of alcohol beverages, except §§ 125.66(3), 125.04(5), 125.09(6), 125.69(1)(b), (3), (5) and (7),

125.11(1), and 125.12(2)(ag) and (ar), exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statutes, are hereby adopted and made a part of this chapter by reference. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made a part of this chapter.

#### **§ 160-2. Definitions.**

As used in this chapter, the terms "alcohol beverages," "intoxicating liquors," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages," "wholesalers" and "operators" shall have the meaning given them by Ch. 125, Wis. Stats.

#### **§ 160-3. License required.**

No person, firm or corporation shall, except as provided by § 160-1, vend, sell, deal or traffic in or have in his or its 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 whatever, 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 §§ 125.06, 125.25, 125.26, 125.27, 125.28 and 125.51, Wis. Stats.

#### **§ 160-4. Classes of licenses.**

- A. Retail "Class A" intoxicating liquor license.** A retail "Class A" intoxicating liquor license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- B. Retail "Class B" intoxicating liquor license.** A retail "Class B" intoxicating liquor license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed, and in the original package or container, in multiples not to exceed four liters at any one time, and to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- C. Class "A" fermented malt beverage retailer's license.** A Class "A" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
- D. Class "B" fermented malt beverage retailer's license.** A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the

authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than 1/2 of a percentum of alcohol by volume without obtaining a special license to sell such beverages.

**E. Club or special Class "B" fermented malt beverage picnic license.**

- (1) A club or special Class "B" picnic license, when issued by the Village Clerk-Treasurer under authority of the Village Board, as provided for in § 125.26(6), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages at a particular picnic, post meeting, fair or similar gathering. Such license may be issued only to bona fide clubs, state, county or local fairs, associations or agricultural societies, lodges or societies that have been in existence for not less than six months prior to the date of application for such license or to posts of ex-servicemen's organizations now or hereafter established. Such license is valid for dates as approved by the Village Board.
- (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity.

**F. Wholesaler's license.** A wholesaler's fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

**§ 160-5. License fees. [Amended 4-14-05]**

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 as set by the Village Board, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in § 125.04(5), (6) and (10), 125.12(2)(ag) and (ar), 125.17, 125.28(1), (2) and (4), 125.25(1), (2) and (4), 125.26(1), (2), (4), (5) and (6), 125.27(1), 125.32(2), (5) and (6)(a), 125.33(2) and (3), 125.68(2), or 125.51(2) and (3), Wis. Stats.:

- A. Retail "Class A" intoxicating liquor license.
- B. Retail "Class B" intoxicating liquor license.
- C. Class "A" fermented malt beverage retailer's license.
- D. Class "B" fermented malt beverage retailer's license.

- E. Wholesaler's license.
- F. Special Class "B" fermented malt beverage picnic license.

**§ 160-6. Application for license.**

- A. **Contents.** 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 State Treasurer and shall be sworn to by the applicant and shall be filed with the Village Clerk-Treasurer not less than 15 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.
- B. **Corporations.** Such application shall be filed and sworn to by the applicant, if an individual, or by the president and secretary, if a corporation.
- C. **Publication.** The application shall be published at least once in the official Village newspaper, and the costs of publication shall be paid by the applicant.
- D. **Amending application.** 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 10 days after the occurrence thereof.

**§ 160-7. Qualifications of applicants and premises.**

- A. **Residence requirements.** A retail Class "A" or retail Class "B" fermented malt beverage license or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and residents of the State of Wisconsin continuously for at least one year prior to date of filing the application.
- B. **Applicant to have malt beverage license.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- C. **Right to premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- D. **Age of applicant.** No Class "A," Class "B," "Class A" or "Class B" licenses shall be granted to any person deemed underage by the Wisconsin Statutes.
- E. **Corporate restrictions.**
  - (1) No license shall be granted to any corporation which does not comply with the provisions of § 125.04(6), Wis. Stats., which does not have an agent eligible for a

license under this chapter or under state law, or which has more than 50% of the stock interest, legal or beneficial, in such corporation held by any person or persons not eligible for a license under this chapter or under the state law.

- (2) Each corporate applicant shall file with its application for such license a statement by its officers 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 Village Clerk a statement of transfers of stock within 48 hours after such transfer of stock.
- (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12, Wis. Stats., when more than 50% of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this chapter or under the state law.

**F. Separate licenses.** A separate license shall be required for each business premises where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

**G. 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 section revoked within 12 months prior to application.

#### **§ 160-8. Investigation.**

The Village Clerk-Treasurer shall notify the Chief of Police, Health Officer, and Building Inspector of each new application for license and 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, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall furnish to the Village Board in writing the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

#### **§ 160-9. Approval of application.**

- A.** 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 reposed.
- B.** No license shall be granted for operation on any premises or with any equipment for which taxes or assessments or other financial claims of the Village are delinquent and unpaid.

- C. No license shall be issued unless the premises conform to the sanitary, safety, and health requirements of the State Department of Commerce and the regulations of the State Board of Health and Village Board of Health 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, and must conform to all ordinances of the Village.

#### **§ 160-10. Granting of license.**

Upon the approval of the applicant by the Village Board, the Village Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village. The full license fee shall be charged for the whole or fraction of any year. The fee shall be paid to the Village Clerk-Treasurer, who shall deposit the same in the general fund.

#### **§ 160-11. Transfer and lapse of license.**

- A. In accordance with the provisions of § 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Village Board. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer shall be set by the Village Board. Whenever a license is transferred, the Village Clerk-Treasurer shall forthwith notify the State Treasurer of such transfer.
- B. Whenever the agent of a corporate holder of a license is, for any reason, replaced, the licensee shall give the Village Clerk-Treasurer written notice of said replacement, the reasons therefore and the new appointment. Until the next regular meeting or special meeting of the Village Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village and the Wisconsin Department of Revenue.
- C. Whenever any licensee under this chapter shall not conduct his licensed business at the authorized location for a period of six consecutive months, the license issued to him shall lapse and become void, unless such six-month period shall be extended by the Village Board.

#### **§ 160-12. Numbering of license<sup>1</sup>.**

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. The Village Clerk-Treasurer shall affix to the license his affidavit.

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

**§ 160-13. Posting licenses.**

- A. Every person licensed in accordance with the provisions of this chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- B. It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

**§ 160-14. Conditions of license.**

All retail Class "A," Class "B," "Class A" and "Class B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the Village applicable thereto:

- A. **Consent to entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Village at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Village ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- B. **Employment of minors.** No retail Class "B" licensee shall employ any person under 18 years of age, but this shall not apply to hotels and restaurants. Notwithstanding the foregoing, a member of the licensee's immediate family under the age of 18 may serve alcoholic beverages where otherwise allowed to by state law.
- C. **Disorderly conduct prohibited.** Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at anytime on any licensed premises.
- D. **Licensed operator on premises.** There shall be upon premises operated under a Class "B" license, at all times, the licensee or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No member of the immediate family of the licensee under the age of 18 years shall serve as a waiter, or in any other manner, any fermented malt beverages to customers unless an operator 18 years of age or over is present upon and in immediate charge of the premises. No person other than the licensee shall serve fermented malt beverages in any place operated under a Class "B" license unless he possesses an operator's license, who is at the time of such service upon said premises.
- E. **Health and sanitation regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all Class "B" liquor licenses

issued under this chapter. No Class "B" license shall be issued unless the premises to be licensed conforms to such rules and regulations.

- F. Restrictions near schools and churches.** No retail Class "A" or Class "B" license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, 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. This subsection shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.
- G. Licenses prohibited in residence districts.**
- (1) No retail Class "B" license shall be issued in any residence district. Any premises shall be deemed to be included within a residence district if 2/3 of the buildings within a radius of 300 feet are used exclusively for residence purposes or uses incidental thereto.
  - (2) This subsection shall not apply to a bona fide club or hotel
- H. Beverages not purchased at licensed premises.** No person shall have in his or her possession or consume on the premises any fermented malt beverages or intoxicating liquors not purchased under the Class "A," Class "B," "Class A" or "Class B" licenses issued for the premises.

#### **§ 160-15. Closing hours.**

Closing hours for a retail "Class B" license shall be between 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday, except on January 1 when there shall be no closing hours

#### **§ 160-16. Special Class "B" fermented malt beverage license.**

Groups that have been granted a special Class "B" fermented malt beverage license shall comply with the following conditions of license:

- A.** There shall be at least one person properly licensed as an operator under the provisions of Article II of this chapter on the premises at all times to supervise the service of beverages.
- B.** Holders of special Class "B" fermented malt beverage licenses shall fully comply with all provisions of this Code and the state statutes.



- C. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.

**§ 160-17. Revocation and suspension of licenses.**

- A. **Procedure.** Except as hereinafter provided, the provisions of § 125.12(2) (ag), (ar), (b) and (c), Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this chapter. Revocation or suspension proceedings may be instituted by the Village Board upon its own motion by adoption of a resolution.
- 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 alcohol 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 Ch. 125, Wis. Stats., or any other state or federal alcohol beverage law or any felony.
- 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.

ARTICLE II  
**Operator's License**

**§ 160-18. License required.**

There shall be upon the premises operated under a "Class A" or "Class B" intoxicating liquor license or Class "B" fermented malt beverage license, at all times, the licensee or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the "Class A," "Class B" or Class "B" license unless he shall possess an operator's license or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be upon the premises at the time of such service.

#### **§ 160-19. Application for license.**

The Village Board may issue an operator's license, which license shall be granted only upon application in writing on blanks to be obtained from the Village Clerk-Treasurer only to persons 18 years of age. Operators' licenses shall be operative only within the limits of the Village.

#### **§ 160-20. Duration.**

Licenses issued under the provisions of this article shall be valid for a period of one year and shall expire on the 30th day of June of each calendar year.

#### **§ 160-21. Fee. [Amended 4-13-2000]**

The initial fee for an operator's license and any annual renewal thereof shall be as set by the Village Board, prepaid at the time of application or renewal.

#### **§ 160-22. Issuance of license.**

After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

#### **§ 160-23. Display of license.**

Each license issued under the provisions of this article shall be posted on the premises whenever the operator dispenses beverages.

#### **§ 160-24. Revocation of license.**

Violation of any of the terms or provisions of the state law or of this chapter relating to operators' licenses by any person holding such operator's license shall be cause for revocation of the license.

### **ARTICLE III Enforcement**

#### **§ 160-25. Violations and penalties<sup>2</sup>.**

- A.** The penalty for violation of any of the provisions of this chapter shall be the general penalty as provided in Chapter 1, § 1-5 of this Code, provided that no penalty imposed shall exceed the maximum allowed by §§ 125.10(1) and (3), 125.11(1), 125.12(2)(ag), (ar), (b) and (c), and 125.07(1)(b), Wis. Stats. A separate offense shall be deemed committed on each day on which a violation occurs or continues.

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

- B.** Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.