

ORDINANCE # 117

AN ORDINANCE TO REPEAL ALL PRIOR ORDINANCES  
DEALING WITH ALCOHOL BEVERAGES AND CREATE SECTION 12.03  
FOR THE MUNICIPAL CODE OF THE VILLAGE OF OCONOMOWOC LAKE  
ENTITLED INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

The Village Board of the Village of Oconomowoc Lake, Waukesha County, Wisconsin does ordain as follows:

SECTION 1: All prior ordinances dealing with alcohol beverages in the Village of Oconomowoc Lake are hereby repealed and Chapter 12 entitled Licenses and Permits, Section 12.03 entitled Intoxicating Liquor and Fermented Malt Beverages is hereby created to read as follows:

12.03 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) STATE STATUTES ADOPTED.

The current and future provisions of Chapter 125, WIS. STATS., defining and regulating the types, sale, procurement, dispensing, and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein, are intended to be made part of this Ordinance in order to secure uniform statewide regulations of alcohol beverages in this State.

(2) BASIC REQUIREMENTS.

(a) Occupancy Permit and/or Approved Plan of Operation Required. No person on any licensed premises, as defined in this Ordinance, shall conduct any transactions regulated by this Ordinance unless a Licensee holds a valid Occupancy Permit and/or an approved Plan of Operation, as may be required, issued by the Municipality. The Occupancy Permit and/or approved Plan of Operation shall be specific in detail as to what area of the premises shall be licensed for the sale of alcoholic beverages. Any violation is grounds for suspension or

revocation of any license or permit issued under this Chapter.

- (b) Seller's Permit Required. No person on any licensed premises, as defined in this Ordinance, shall conduct any transactions regulated under this section unless a licensee holds and maintains a valid Seller's Permit as required under 77.52 WIS. STATS., issued to the premises and licensee described in the license during the period of licensing. Any violation is grounds for suspension or revocation of any license or permit issued under this Chapter.

(3) APPLICATIONS.

A written application for any license or permit by the provisions of this Ordinance shall be on the form(s) provided by the Municipal Clerk.

- (a) Content. All applications other than operator's licenses shall contain all the information required under Section 125.04(3), WIS. STATS., and any other information required by the Municipal Clerk. Operator's license applications shall be on a form prescribed by the Municipal Clerk containing all information deemed necessary, including but not limited to name, residence, age, plus a written request of the holder of the alcohol beverage license hiring the applicant.
- (b) Filing. All applications for licenses and permits to sell alcohol beverages shall be filed with the Clerk of the Municipality in which the premises are located as required by State law. Operator's licenses and licenses issued under Section 125.26(6), WIS. STATS., for a picnic or other gathering lasting less than four (4) days must be filed with the Clerk at least 24 hours prior to granting of the license or permit.

(4) FEES.

- (a) Licenses and permits may be issued by the Municipal Clerk under the authority of the Governing Body after payment of the appropriate fees and satisfaction of all conditions, which when so issued shall permit the holder to sell, deal or traffic in alcoholic beverages as provided in Chapter 125.
- (b) Fees for the above-noted licenses and permits shall be in such amount as may be established by the Governing Body from time to time by separate resolution.
- (c) Any applicable publication fee and/or application fee and/or investigation fee shall be submitted with the

license or permit application as may be established by the governing body from time to time by separate resolution.

- (d) The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication fees and investigation fees.
- (e) Fees for partial licensing years may be prorated at the discretion of the Governing Body. In all cases when an alcohol beverage license is issued for a partial year, a minimum fee of \$25.00 and all actual publication fees and investigation fees must be paid.
- (f) Once any license or permit is issued, no return of any payment shall be made regardless or whether the license or permit is used for the entire year.

(5) INVESTIGATION.

Upon receipt of a license application under the provisions of this Ordinance, the Municipal Clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant(s) as set forth below.

- (a) All Alcoholic Beverage Licenses. The Police Department, Fire Department, Health Department, and Building Inspector and other persons authorized, may conduct an investigation and inspection of the premises mentioned in the applications, to determine if the premises comply with all applicable regulations, ordinances and laws. The Police Department shall investigate all persons included in the application to determine the suitability and character of the applicants.
- (b) Operator's Licenses. The Police Department shall conduct an investigation of all applicants to determine the suitability and character of the applicant.
- (c) Reports. Upon completion of all investigations, written reports shall be submitted to the Municipal Clerk. The Clerk will then forward the application to the Governing Body for action.
- (d) Review. The Governing Body may refer any and all licenses to the appropriate committee for review and recommendation prior to action by the Governing Body.

(6) OPERATOR'S LICENSE.

(a) Kinds of Licenses and Permits.

- 1. Regular Operator's License. Regular operator's licenses may be granted to individuals by the

Governing Body and thereafter issued by the Municipal Clerk for the purposes of complying with Section 125.32(2) and 125.68(2), WIS. STATS., and this Chapter. The fee for said license shall be set by Resolution.

2. Provisional Operator's License.

a. The Municipal Clerk upon authorization by the chief presiding officer, may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as death, disability, absence of the regular operator on the premises and the like. The chief presiding officer before authorizing such issuance, shall determine that the applicant has a satisfactory record, and probably would be issued a regular operator's license. The license shall be valid for a period of not to exceed 60 days unless sooner revoked by the Governing Body. The fee for said license shall be set by Resolution.

b. A Municipal Governing Body or its authorized designee may issue a provisional operator's license to a person who is enrolled in a training course and has applied for a regular operator's license pursuant to Section 125.17(6). The fee for said license shall be set by resolution.

3. Temporary Operator's Licenses. Temporary operator's licenses may be granted to individuals pursuant to Section 125.17(4), WIS. STATS., by the Governing Body for the purpose of allowing said individuals to dispense and serve alcohol beverages under a license issued under Section 125.26(6) or Section 125.51(10), WIS. STATS., to a non-profit organization. No person may hold more than one license of this kind per year. Any temporary operator's license issued under this section shall be valid for any period from one day to 14 days, and the period for which it is valid shall be on the license. The fee for said license shall be set by resolution.

(b) The Governing Body may grant operator's licenses pursuant to this section as it deems fit.

(c) All operator's licenses issued under this section shall expire on June 30 of each year.

(d) All operator's licenses issued under this section entitle the holder thereon to be an operator in any licensed premise in the municipality.

(7) RESTRICTIONS ON GRANTING LICENSES.

- (a) Statutory Requirements. Licenses and permits shall be issued only to those persons eligible under Chapter 125 WIS. STATS. Licenses and permits granted in error shall be void.
- (b) Health and Sanitation Requirements. No retail Class A or Class B alcohol beverage license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State of Wisconsin, Department of Industry, Labor, and Human Relations pertaining to buildings electrical and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants, if the premise is licensed to serve food, and to all such rules and regulations as to building, health and sanitation adopted by the Municipality, the County, the State or the Federal government.
- (c) Delinquent Taxes, Assessments, Claims, et al. - see Ord. 123
1. No initial or renewal alcohol beverage license shall be issued for any premises or property for which taxes, assessments, forfeitures, or claims for the Municipality are delinquent and unpaid.
  2. No initial or renewal license or permit shall be issued under this Code to any person who is:
    - a. Delinquent in the payment of any taxes, assessments, or other claims owed the Municipality.
    - b. Delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the Municipality.
    - c. Delinquent in the payment of any taxes to the State or County.
    - d. Who has any outstanding warrant or capias from any other municipal, state or federal court.
- (d) License Quota.
1. Class "A" Retail Fermented Malt Beverage Licenses. There shall be no more than one (1) Class "A" Retail Fermented Malt Beverage Licenses issued within any license year.
  2. Class "B" Retail Fermented Malt Beverage Licenses. There shall be no more than three (3) Class "B" Retail Fermented Malt Beverage Licenses issued within any license year.

3. "Class A" Retail Liquor Licenses. There shall be no more than one (1) "Class A" Liquor Licenses issued within any license year.
4. "Class B" Retail Liquor Licenses. There shall be no more than three (3) "Class B" Retail Liquor Licenses issued within any license year.

(8) CONDITIONS OF LICENSE.

- (a) Consent to Inspection. Every applicant obtaining a license thereby consents to the entry of the police or other authorized representatives of the Municipality or the State at any reasonable time for the purpose of inspection and search, and consents to the removal from said premises all things found in violation of Municipal Ordinances or State Law and consents to the introduction of such things as evidence in any prosecution that may be brought for such offenses.
- (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 being used.
- (c) Sales on Credit Prohibited. No retail licensee shall sell or offer to sell any alcohol beverage to any person on credit except by a hotel to a resident guest, by a restaurant to a patron, a club to a bona fide member, and by grocers and pharmacists who maintain a credit system in connection with other purchases. No licensee shall sell alcohol beverages on a passbook or store order, or receive goods, wares, or merchandise in exchange for alcohol beverages.
- (d) Orderly Conduct Required. Every licensed premises shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.
- (e) Gambling Prohibited. Gambling shall not be permitted on a licensed premises, unless authorized by State law. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless authorized by State Law.
- (f) Lewd, Obscene Performances, etc. Prohibited. No licensee shall advertise, produce, perform or allow any lewd, obscene, or indecent performance of any kind on the premises.
- (g) Sale to Intoxicated Persons Prohibited. No licensee, agent, operator or server shall sell, give, procure or

otherwise furnish any alcohol beverages to an intoxicated person.

(h) Underage Persons. No licensee shall employ any underage person to serve, sell, dispense, or give away an alcohol beverage unless authorized by State Law or the General Codes of the Municipality. The current and future provisions of Section 125.10(2), WIS. STATS., and Sections 125.07(4)(a), (b) or (bm), 125.08(3)(b) and 125.09(2), are adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this ordinance in order to secure uniform statewide regulations of alcohol beverages in this state.

(i) Controlled Substance Use Prohibited. Any licensee, partner, agent, authorized representative or employee who is convicted of the use, possession, delivery or intent to deliver, any controlled substance defined and regulated under Chapter 161, WIS. STATS., may be considered grounds for the revocation or suspension of any license provided for in this ordinance.

(j) Regulation of Entertainment and Entertainers. No Class B licensee shall employ or permit to perform on the premises any entertainer, except a member of a band, a vocalist, a piano or organ player or a comedian. All such entertainers shall be fully clothed in such a manner as is acceptable in all public places. No licensee shall allow any entertainment which makes an appeal to prurient interests. Dancing among patrons, but not between patron and employee is permitted upon permit and with the approval of location by the Fire Chief.

(K) Solicitation of Drinks Prohibited. No person shall solicit or be allowed to solicit drinks on a licensed premise.

(9) MISCELLANEOUS GENERAL PROVISIONS.

(a) Transfer of Licenses.

1. The transfer of every alcohol beverage license shall be governed by 125.04(12), WIS. STATS.
2. No transfer of operator's license is permitted.
3. If the transfer is approved by the Governing Body pursuant to 125.04(12)4, all conditions set forth under this Code shall be complied with.

4. Failure to conform with the terms of license transfer shall be grounds for denial, suspension or revocation of license.

(b) Non-Use of License.

If a license or permit issued under this ordinance is not used within sixty (60) days after its issuance or its usage is discontinued for a period of (60) days or more, such non-use shall be grounds for cancelation, suspension, revocation or non-renewal of the license or permit in accordance with the provisions of this ordinance and the laws of Wisconsin.

(c) Non-Renewal of Licenses.

Before renewal of any license or permit issued under this ordinance is refused, the licensee or permittee shall be given written notice of any charges or violations or reasons proposed for non-renewal, and shall have an opportunity to be heard before the Governing Body.

(d) Violations by Agents and Employees.

A violation of this ordinance by an authorized agent or employee of the licensee shall constitute a violation by the licensee.

(e) Closing Hours.

Closing hours shall be as set by State Statute with the following applicable local options:

1. If a wholesale license, between 5 p.m. and 8 a.m., except on Saturday when the closing hour shall be 9 p.m.
2. If a Retail Class "A" Fermented Malt Beverage License, between 9 p.m. and 8 a.m.
3. If a Retail "Class A" Intoxicating Liquor License, between 9 p.m. and 8 a.m.

(f) Local Option.

The holder of a Retail "Class B" Liquor License shall be permitted to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises and in the original packages or containers in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises. Off premise sales shall cease at midnight of each day. It is intended by this Section that the packaged sales from Class "B"

licensed premises will not be permitted after midnight under the option granted herein.

(10) REVOCATION AND SUSPENSION OF LICENSES.

- (a) Whenever the holder of any alcohol beverage license under this Ordinance violates any portion of this ordinance, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under Chapter 125.12, WIS. STATS. In addition, the Governing Body, by its own motion by adoption of a resolution may begin proceedings for the revocation or suspension of such license.
- (b) Whenever the Governing Body or the Municipal Clerk, as agent thereof, is made aware of an incompatibility in the operation of a licensed premises in relation to its surrounding or nearby environment or a licensed premises is in violation of any condition established or required at the issuance of the license or of this Code or the State law including all requirements regarding the duty to supervise employees, proceedings for the purpose of revoking, establishing new conditions, or continuing the license under previous conditions will be initiated under the same procedures as provided in sub. (a).
- (c) Operator's Licenses. Suspension or revocation of operator's licenses granted pursuant to this ordinance shall be governed as follows:
  - 1. Any committee as established by the Governing Body may revoke or suspend an operator's license following a hearing held by the Committee. Notice shall be mailed to the licensee not less than eight (8) days prior to the hearing or upon personal service of notice not less than (2) days prior to the hearing.
  - 2. Appeal from the decision of the Committee may be made by the licensee upon filing a petition for review by the full Governing Body by presenting the petition any paying a fee of \$100.00 to the Municipal Clerk. The Governing Body shall schedule a hearing not more than (30) days from the date the appeal is filed.
- (d) Automatic Revocation. Any license or permit issued under this ordinance may be revoked without further proceedings upon the conviction of the licensee, agent employee or representative thereof, pursuant to Section 125.11, WIS. STATS.

(11) PENALTIES.

Any person, firm, corporation or the employee or agent of any licensee under this ordinance, who shall violate any provisions set forth, shall upon conviction be punished by a forfeiture not less than \$20.00 nor more than \$400.00 plus costs of prosecution; and in default of payment of the forfeiture and costs, shall be imprisoned in the County Jail for not more than ninety (90) days. Each day of which the violation continues shall constitute a separate offense.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections, or portions thereof of the ordinance which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Passed and adopted this 19 day of August, 1991.

BY THE VILLAGE BOARD OF THE  
VILLAGE OF OCONOMOWOC LAKE:

Edmund O. Templeton  
EDMUND O. TEMPLETON, PRESIDENT

ATTEST:

Cheryl Wierdsma  
CHERYL WIERDSMA, VILLAGE CLERK

Ord. Repeal Prior Ord. No:  
Intro. LQ + FERM MALT BEV.  
8/91 MIN.

STATE OF WISCONSIN )  
COUNTY OF WAUKESHA ) SS

AFFIDAVIT OF POSTING  
ORDINANCE

The undersigned, being first duly sworn, on oath deposes and states that on SEPT. 4TH, 1991, at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the above ordinance in the following public places in said Village, to-wit:

- (1) Opposite the entrance to the Oconomowoc Lake Club on the northern side of the road in front of the Club;
- (2) At the entrance to the Village Hall on West Pabst Road;
- (3) At the northeast corner of the junction of County Trunk Highway "P" (West Beach Road) and the private drive (South Beach Road) leading into the Ibach, LaBelle, McNellis, et al properties,

Kevin Hehn

Subscribed and sworn to before me this 5th day of September, 1991

Donald G. Wheeler  
Notary Public, Waukesha County, Wisconsin

My Commission expires 1-17-93