

Chapter 163

ALCOHOL BEVERAGES

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[HISTORY: Adopted by the Village Board of the Village of Hales Corners as Ch. 10 of the Municipal Code; amended in its entirety 8-9-1999 by Ord. No. 99-05. Subsequent amendments noted where applicable.]

§ 163-1. Purpose and authority.

The regulations set forth under this chapter are enacted pursuant to § 125.10, Wis. Stats., to act for the good order of the Village and for the health, safety and welfare of the public and to protect against potential adverse secondary effects which may result from activities involving the sale of alcohol beverages, including the disruption of the peace, depreciation of the value of real property, injury to persons, damage to property, increased crime, harm to the economic welfare of the community and negative effects upon the quality of life within the Village.

§ 163-2. Statutes incorporated. [Amended 12-12-2016 by Ord. No. 16-16; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The following sections of Chapter 125 of the Wisconsin Statutes, as amended from time to time, excepting any terms or provisions therein specifying a penalty of imprisonment, are hereby incorporated by reference as if fully set forth herein:

- A. Section 125.02, Definitions.
- B. Section 125.03, Department rule making (and the rules adopted thereunder).
- C. Section 125.035, Civil liability exemption: furnishing alcohol beverages.
- D. Section 125.037, Civil liability exemption for municipalities.
- E. Section 125.04, General licensing requirements.
- F. Section 125.06, License and permit exceptions.

- G. Section 125.07, Underage and intoxicated persons; presence on licensed premises; possession; penalties.
- H. Section 125.075, Injury or death by providing alcohol beverages to a minor.
- I. Section 125.085, Proof of age.
- J. Section 125.09, General restrictions.
- K. Section 125.105, Impersonating an officer.
- L. Section 125.12, Revocations, suspensions, refusals to issue or renew.
- M. Section 125.17, Issuance of operators' licenses, including Subsection (4), Temporary license.
- N. Section 125.18, Issuance of managers' licenses.
- O. Section 125.185, Provisional retail licenses.
- P. Section 125.25, Class "A" licenses.
- Q. Section 125.26, Class "B" licenses.
- R. Section 125.28, Wholesalers' permits.
- S. Section 125.315, Evading provisions of law by giving away fermented malt beverages.
- T. Section 125.32, General restrictions and requirements.
- U. Section 125.33, Restrictions on dealings between brewers, brewpubs, wholesalers and retailers.
- V. Section 125.51, Retail licenses and permits [except Subsection (5)].
- W. Section 125.66, Sale without license; failure to obtain permit; penalties.
- X. Section 125.67, Evading provisions of law by giving away intoxicating liquor; penalties.
- Y. Section 125.68, General restrictions and requirements.
- Z. Section 125.69, Restrictions on dealings between manufacturers, rectifiers, wholesalers and retailers.
- AA. Section 125.70, Trade show samples.

§ 163-3. License required.

No person may sell, manufacture, rectify, brew or engage in any other activity:

- A. For which this chapter provides a license, permit or other type of authorization without holding the appropriate license, permit or authorization issued under this chapter; or
- B. In violation of any term or provision of this chapter.

§ 163-4. Types of licenses; fees. [Amended 11-15-2001 by Ord. No. 01-11; 1-10-2005 by Ord. No. 05-02; 11-21-2006 by Ord. No. 06-11; 12-12-2016 by Ord. No. 16-16; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

License fees for alcohol beverage licenses shall be paid to the Village within 15 days of the approval of

any license or such approval shall be void. The license fee amounts shall be as set by the Village Board.

- A. Class "A" license.
- B. Class "B" license.
- C. Temporary Class "B" license.
- D. Operator's license.
- E. Provisional operator's license.
- F. Temporary operator's license (one to 14 days).
- G. Manager's license.
- H. "Class A" license.
- I. "Class B" license.
- J. Reserve "Class B" license (initial issuance).
- K. "Class B" license issued under § 125.51(4)(v), Wis. Stats.
- L. Temporary "Class B" license.
- M. "Class C" license.
- N. Provisional retail license.

§ 163-5. Additional application requirements.

In addition to those application requirements set forth under Chapter 125 of the Wisconsin Statutes incorporated under § 163-2 of this chapter:

- A. An application for any license required under this chapter shall be filed with the Village Clerk at least 15 days prior to the granting of the license.
- B. Any application for a license which must be published prior to the issuance of the license shall be published in the official newspaper of the Village.
- C. The application for a manager's license and an operator's license shall be in such form and content as approved by the Village Board as reasonably necessary to obtain such information regarding the applicant to determine whether the applicant is qualified to be granted such license and that such determination may be efficiently administered pursuant to all of the terms and provisions of this chapter.
- D. The Village Clerk shall refer all applications to the Police Chief, and any applications pertaining to any premises or activities involving the scope of their respective duties shall be additionally referred to the Health Officer and Building Inspector for the review and investigation by such officer(s) to determine that the applicant, application and any premises comply in all respects with all terms and provisions of this chapter. Such officers shall report to the Village Board, in writing, the results of their respective review(s) and investigation(s). The provision of such written report shall not be a precondition to action upon the application by the Village Board.

- E. Operators' licenses shall be valid for a period of two years, expiring on June 30 of even-numbered years.
- F. The Village Clerk is designated as the municipal official having authority to issue operators' licenses, provisional operators' licenses and provisional retail licenses. A grant or denial of an application for a license by the Village Clerk shall be made pursuant to the applicable provisions and standards for grant or denial of license consideration by the Village Board as set forth within § 163-7 of this chapter. **[Amended 5-11-2020 by Ord. No. 20-02]**

§ 163-6. Quotas. [Amended 7-14-2008 by Ord. No. 08-03; 10-26-2015 by Ord. No. 15-9; 1-11-2016 by Ord. No. 16-1]

- A. No more than six "Class A" licenses may be granted or issued for concurrent license terms within the Village. No more than seven Class "A" licenses may be granted or issued for concurrent license terms within the Village. **[Amended 9-9-2019 by Ord. No. 19-06]**
- B. The quota for combination Class "B" beer and Class "C" wine licenses is hereby increased from four to five. **[Added 9-26-2016 by Ord. No. 16-14]**

§ 163-7. Grant or denial of license.

- A. The Village Board shall approve an application for a license required under this chapter, excepting those for which the Village Clerk is authorized pursuant to § 163-5F above, provided that the application, applicant and any premises to be licensed are qualified and comply in all respects with all of the terms and provisions of this chapter. The Village Clerk shall refer applications involving matters with regard to the qualifications of the applicant and/or application which may result in a denial of an application pursuant to the requirements of Ch. 125, Wis. Stats., and this chapter, to the Village Board, which shall proceed upon the application pursuant to this section. **[Amended 5-11-2020 by Ord. No. 20-02]**
- B. The Village Board may deny any application or condition the approval of the same should the application, applicant or any premises to be licensed under this chapter fail to qualify or otherwise meet any requirement of Chapter 125 of the Wisconsin Statutes incorporated under § 163-2 of this chapter or any additional term or provision of this chapter. In addition, the Village Board may deny or conditionally approve an application where it has determined that:
 - (1) The application is incomplete;
 - (2) The application is incorrect or contains false or misleading statements;
 - (3) Any premises to be licensed fail to comply in all respects with all applicable state and Village health, building, fire prevention, zoning, plumbing, electric, sanitation and safety codes, regulations and orders applicable to the premises;
 - (4) There exist any unpaid general property taxes or interest or penalties thereon, special assessments or special charges due to the Village, applicable to any premises to be licensed, then due and owing as provided by law;
 - (5) The applicant or any premises to be licensed have previously been in violation of any term or provision of Chapter 125 of the Wisconsin Statutes or this chapter; or
 - (6) Upon a renewal application, the applicant has not operated or the subject premises have not been open for business for at least 90 days within the six-month period immediately prior to the filing

of the application.

§ 163-8. Additional conditions of license.

In addition to all of the terms and provisions of Chapter 125 of the Wisconsin Statutes and this chapter, all premises subject to a license granted under this chapter shall be subject to the following:

- A. Inspection of premises. Every licensee under this chapter consents to the entry of any peace officer or any officer of the Village at all reasonable hours for the purposes of inspection to determine whether the same complies in all respects with all of the terms and provisions of this chapter and all other applicable laws, statutes, ordinances, rules, codes, regulations and orders.
- B. Conduct of premises. Each licensed premises shall at all times be conducted in an orderly manner; no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- C. Gambling prohibited. No gambling or games of chance of any sort shall be permitted in any form upon the licensed premises.

§ 163-9. Closing hours for off-premises consumption sales.

Pursuant to § 125.32(3)(d), Wis. Stats., between 9:00 p.m. and 8:00 a.m., no person may sell fermented malt beverages on Class "A" licensed premises and between 9:00 p.m. and 6:00 a.m., no person may sell fermented malt beverages on Class "B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises. Pursuant to § 125.68(4)(c)3, Wis. Stats., between 9:00 p.m. and 6:00 a.m., no person may sell intoxicating liquor, beer or wine on "Class B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises.

§ 163-10. Separate display area required for "Class A" licensed premises.

- A. If, upon initial application or upon application for renewal thereof, the affidavit of the license holder who has two or more checkout counters discloses that more than 50% of the holder's retail sales involve sales other than intoxicating liquor and fermented malt beverages, such license holder shall be required to provide a separate area for the display and sale of intoxicating liquors in accordance with this section. The Village Board may require such license holder to provide any and all data, including original copies of accounting and tax records, in order to support any representations by the license holder contained in the above-referenced affidavit. This requirement shall not apply to an applicant with only one checkout counter.
- B. Partition, checkout site and plan of operation.
 - (1) Partition. A license holder subject to the requirements of this section shall construct a partition between that portion of the premises used for display and sale of intoxicating liquor and that portion of the premises used for display and sale of other merchandise so as to separate such intoxicating liquor department from all other departments at which other merchandise is sold.
 - (2) Plan of operation.
 - (a) All intoxicating liquor license holders shall submit a plan of operation at the time of initial application or renewal thereof, with a diagram or photograph of the proposed or existing sale and display area for intoxicating liquor. Such plan of operation shall be reviewed by the Village Board, which shall approve or disapprove the same.
 - (b) In addition to other grounds for revocation as set forth in this chapter, failure to obtain

approval of the plan of operation required hereunder shall be grounds for license revocation.

§ 163-11. Book kept by licensees and permittees.

Every retail alcohol beverage licensee or permittee shall keep a book for the purposes of determining whether or not the licensee or permittee violated any restrictions relating to underage persons, pursuant to § 125.07(6), Wis. Stats. The licensee or permittee or employee thereof shall require those persons to sign the book as set forth under § 125.07(7)(a)1 and 2, Wis. Stats., and shall enter such information in the book as set forth under § 125.07(7)(b), Wis. Stats.

§ 163-12. Nude dancing in licensed establishments prohibited.

- A. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in, any live act, demonstrations, dance or exhibition on the premises of a licensed establishment which:
 - (1) Shows his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or
 - (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
 - (3) Shows the covered male genitals in a discernibly turgid state.
- B. Exemptions. The provisions of this section do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- C. Definitions. For purposes of this section, the term "licensed establishment" means any establishment licensed by the Village Board to sell alcohol beverages pursuant to this chapter. The term "licensee" means the holder of a retail "Class A", "Class B", Class "A", Class "B" or "Class C" license granted by the Village Board.

§ 163-13. License transfers. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- A. In addition to the requirements set forth under § 125.04(12), Wis. Stats., no license may be transferred to another person or to another place or premises unless an application for such transfer is filed with the Village Clerk at least 15 days prior to the approval of such transfer. Any applicant for a transfer to another place or premises shall pay an application fee as prescribed by § 125.04(12), Wis. Stats., and such application shall be published at least once in the official newspaper of the Village prior to the granting of such application by the Village Board. The form and content of such transfer applications shall be as approved by the Village Board pursuant to the standards set forth under § 163-5C of this chapter or otherwise as required by the Wisconsin Department of Revenue. The applicant shall pay the cost of such publication upon filing the application.
- B. Upon consideration of an application to transfer a license to another place or premises, in addition to

finding full compliance of the transferee premises with all terms and provisions of this chapter and all other applicable laws, statutes, ordinances, rules, codes, regulations and orders, the Village Board shall also find that such premises, if licensed, will not be detrimental to or endanger the public health or safety, will not impede the planned development of such premises and the surrounding area or have an adverse effect upon surrounding property values, and that the proposed use of such premises will not cause traffic congestion or adversely affect municipal services, with the burden of proof to such determination being upon the applicant.

§ 163-14. Licensee responsible.

A violation of any term or provision of this chapter by an agent or employee of a licensee or permittee shall constitute a violation by the licensee or permittee.

§ 163-15. Violations and penalties.

Any person who shall violate any term or provision of this chapter for which a specific forfeiture or monetary penalty has not been set forth shall be subject to the penalty provisions set forth under § 1-4 of this Code. Such penalties shall be in addition to all other Village actions or remedies available at law or in equity, which shall include, but not be limited to, license suspension or revocation or refusal to issue or refusal to renew a license.