

Chapter 325 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES¹

ARTICLE I. LICENSING

§ 325-1. Adoption by reference.

The provisions of Wis. Stats. ch. 125 are hereby adopted and by reference made a part of this section as if fully set forth herein. Any person violating any provisions of this article shall, upon conviction, be subject to the penalties set forth in Wis. Stats. ch. 125.

(Ord. of 4-12-2004)

§ 325-2. Issuance of licenses.

Restrictions on issuing alcohol beverage licenses shall be as follows:

- A. *Premises.* No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid.
- B. *Persons.* No initial or renewal alcohol license shall be granted to any person:
 - (1) Delinquent in payment of any taxes, assessments or other claims owed to the village.
 - (2) Delinquent in payment of a forfeiture resulting from a violation of any ordinance.
 - (3) Delinquent in payment to the state of any taxes owed.

(Ord. of 4-12-2004)

§ 325-3. Business continuation.

- A. As a condition of maintaining and keeping an alcohol beverage license in this village, any licensee must continue in business. Issuance or retention of a license by a party not doing business is hereby declared to be against public policy and lacking in usefulness.
- B. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Business continuation.

- (1) *Time of operation.* The applicant must maintain appropriately zoned premises and be open for the business of selling liquor at least 100 days of the license period, with each day consisting of at least six continuous hours in a 24-hour period. For each renewal application for licenses to take effect in July 2001 or thereafter, the applicant must have been open for the business of selling liquor for at least 100 days during the previous 12 months, except due to circumstances beyond its control, with each day consisting of at least six continuous hours in a 24-hour period.

¹Cross reference(s)—Drugs and drug paraphernalia, ch. 256; peace and good order, ch. 400.

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- (2) *Damage to business premises.* Any applicant whose place of business suffers damage that causes it to be nonoperable for a period of time shall make every reasonable effort to timely remedy the damage in order to resume normal operations in six months or less from the date of damage.

Open. Conducting business publicly at least six hours per calendar day.

- C. If any licensed party violates this section, the village board may take disciplinary action, including reprimand, license suspension for a specified number of days (up to 90 days) or revocation. Any license that has been revoked shall not be reinstated within the following 12 months. Any disciplinary action taken shall follow notice to the licensee prior to a hearing. The hearing notice, which will include the reason for the hearing, and later the hearing decision of the board, will be sent by first-class mail to the licensee's last known address, or personally served at the village president's option.
- D. If disciplinary action is taken against an alcohol licensee, the procedure mandated under present Wis. Stats. § 125.12 will be followed. At present, the procedure requires personal service of the hearing notice (summons) and complaint, and a hearing within three to ten days thereafter. If the licensee cannot be found, the summons may be published once in a newspaper of general circulation deemed most likely to provide notice to the license holder.
- E. There shall be no refund of any license fee paid to a party whose license is revoked.
- F. In lieu of a hearing, the village board may accept surrender of the license, and the board shall then determine the time period before another application for the same type of license will be accepted from the former licensee.
- G. Evidence and testimony at the hearing shall be done in open session. Pursuant to Wis. Stats. § 19.85(1)(a), the board may go into closed session to deliberate with regard to its decision, where that possibility has been listed on the hearing notice posted or published. The clerk shall see that the hearing notice is posted or published in a format acceptable to the president.
- H. When a tenant has not done business in the licensed premises for at least 30 consecutive days, voluntarily vacated the premises more than 30 days before the board decision, or was court ordered out of the premises with vacation to be at least 30 days before the board's decision, grounds for suspension or revocation exist. Testimony of any party, eviction notice, court documentation or other valid evidence of such actions may be presented. The board may issue a summons and set up the hearing date prior to the expiration of the thirty-day period, and may make its decision effective on a later date, in its discretion.
- I. Unless no disciplinary action, including reprimand or probation, is offered by the board, the license holder shall reimburse the village for costs of personal service, mailing, fax costs and any per diem paid for a village officer to attend the hearing or other meeting due to a license violation. Payment of the fees shall earn five-percent interest if unpaid within 30 days. Payment shall be required before any future license is issued or reinstated to the license holder.

(Ord. of 4-12-2004)

ARTICLE II. ADULT ENTERTAINMENT

§ 325-4. Legislative authority.

This article is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of the village, pursuant to the state constitution and laws of the state and the authority of the village in exercising its right to regulate the sale and consumption of alcohol beverages, pursuant to the 21st Amendment to the Constitution of the United States.

(Ord. of 10-26-2009)

§ 325-5. Findings of fact.

The board finds that evidence has been propounded that indicates that nudity and sexual conduct and their depiction, coupled with alcohol in public places, beget undesirable behavior, and that prostitution, attempted rape, rape, murder and assaults on police officers, and as further set forth in Resolution No. 2009-011 all have occurred in and around establishments dealing in alcohol beverages where nude and sexual conduct and their depiction are permitted.

(Ord. of 10-26-2009)

§ 325-6. Intent.

- A. It is found that the acts prohibited in section 325-8 encourage the conduct of prostitution, attempted rape, rape, murder, and assaults on police officers in and around establishments dealing in alcohol beverages, that actual and simulated nudity and sexual conduct and their depiction, coupled with alcohol in public places, beget undesirable behavior and conduct among patrons and employees with establishments dealing in alcohol beverages, which results in violation of law and dangers to the health, safety and welfare of the public.
- B. It is the intent of this article to prohibit nudity, gross sexuality, and their simulation and depiction in establishments dealing in alcohol beverages.

(Ord. of 10-26-2009)

§ 325-7. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Establishment dealing in alcohol beverages. Any business or commercial establishment (whether open to the public at large or where entrance is limited by cover charge or membership requirement), including those licensed by the state for sale and/or service of alcohol beverages, and any bottle club; hotel; motel; restaurant; nightclub; country club; cabaret; meeting facility utilized by any religious, social, fraternal or similar organization; business or commercial establishment where a product or article is sold, dispensed, served or provided with the knowledge, actual or implied, that they will be, or are intended to be mixed, combined with or drunk in connection or combination with an alcohol beverage on the premises of such business or commercial establishment; or business or commercial establishment where the consumption of alcohol beverages is permitted. A private residence, whether permanent or temporary in nature, is not an establishment dealing in alcohol beverages.

(Ord. of 10-26-2009)

§ 325-8. Prohibited acts.

- A. No person, partnership, corporation or other entity shall own, operate, manage, rent, lease, occupy, or exercise control of any building, structure, premises, or portion or part thereof, within which occurs the activities specified in this section.
- B. No person shall expose to public view the genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or their simulation in an establishment dealing in alcohol beverages.

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- C. No person shall expose to public view any portion of a female breast below the top of the areola or their simulation in the establishment dealing in alcohol beverages.
 - D. No person shall expose to public view the covered male genitals in a discernibly turgid state in an establishment dealing in alcohol beverages.
 - E. No person, partnership, corporation or other entity that maintains, owns or operates an establishment dealing in alcohol beverages shall suffer or permit any person to expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage or buttocks or their simulation within the establishment dealing in alcohol beverages.
 - F. No person, partnership, corporation or other entity that maintains, owns or operates an establishment dealing in alcohol beverages shall suffer or permit any female person to expose to public view any portion of her breasts below the top of the areola or their simulation within the establishment dealing in alcohol beverages.
 - G. No person, partnership, corporation or other entity that maintains, owns or operates an establishment dealing in alcohol beverages shall suffer or permit any exposure to public view the covered or uncovered male genitals in a discernibly turgid state within the establishment dealing in alcohol beverages.
 - H. No person shall engage in and no partnership, corporation or other entity that maintains, owns or operates an establishment dealing in alcohol beverages shall suffer or permit any sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act prohibited by law, touching, caressing, fondling of the breasts, buttocks, anus or genitals or their simulation within an establishment dealing in alcohol beverages.
 - I. No person, partnership, corporation or other entity that maintains, owns or operates an establishment dealing in alcohol beverages shall suffer or permit the exposition of any graphic representation, including pictures or the projection of film, that depicts human genitals, pubic area, vulva, anus, anal cleft or cleavage, buttocks, female breasts below the top of the areola, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, any sexual act prohibited by law, touching, caressing or fondling of the breasts, buttocks, anus or genitals or their simulation within any establishment dealing in alcohol beverages.
 - J. No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance, except for the taking of tips which must be taken on the hip or the side of the entertainer's G-string, T-bar or costume, or in a garter. All shall only occur on a stage, or on a table that is in a designated area within full and unrestricted view of the bar area, either of which is elevated at least 18 inches above the immediate floor level and removed a distance sufficient to prevent actual physical contact between the entertainer and another entertainer or any other person, employee or patron within any establishment dealing in alcohol beverages.
 - K. No person under the age of 18 years of age may be admitted to, may enter or remain on, may purchase goods or services at, or may work or be permitted to work as an employee in any capacity at an establishment dealing in alcohol beverages that is subject to the provisions of this section.
 - L. No person shall cause another to commit a violation of this section, nor shall any person permit such violation to occur on any premises under his/her control, tenancy, management or ownership.

(Ord. of 10-26-2009)

§ 325-9. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to Chapter 1, General Provisions, section 1-2, General penalty, of this Code. In addition any person, partnership, corporation

or other entity who maintains, owns or operates an establishment dealing in alcohol beverages may have their liquor license suspended or revoked for violation of this article.

(Ord. of 10-26-2009)