

Chapter 228

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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[HISTORY: Adopted by the Village Board of the Village of Lyndon Station as indicated in article histories. Amendments noted where applicable.]

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GENERAL REFERENCES

Peace and good order — See Ch. 283.

Smoking — See Ch. 334.

ARTICLE I

Licensing

[Adopted 12-30-1949 by Ord. No. 13]

§ 228-1. Adoption of statutory provisions.

All the provisions of Ch. 125, Wis. Stats., and all acts amendatory thereof and supplementary thereto relating to the sale, licensing and distribution of intoxicating liquors and fermented malt beverages are adopted as a part of this article so far as applicable and except as otherwise lawfully provided by this article.

§ 228-2. License required.

No person, firm or corporation shall vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor in any quantity whatever, or cause the same to be done, without having procured a license as provided in this article, nor without complying with all the provisions of this article and all statutes, ordinances and regulations applicable thereto. No license shall be issued to any person, firm or corporation for the purpose of possessing, selling or offering for sale any intoxicating liquor in any dwelling house, flat or residential apartment.

§ 228-3. Classes of licenses and fees.

- A. There shall be five classes of licenses: [Amended 6-21-1954 by Ord. No. 18; 9-19-1960 by Ord. No. 27; 4-9-1964 by Ord. No. 32]
- (1) Retail "Class A" liquor license. A retail "Class A" 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 only in original packages or containers, in quantities of not more than one wine gallon at any one time, and to be consumed off the premises so licensed. The fee for such retail "Class A" license shall be \$200 per year.
 - (2) Retail "Class B" liquor license. The holder of a retail "Class B" license to sell, deal, or traffic in intoxicating liquor in the Village of Lyndon Station, Juneau County, Wisconsin, is permitted to sell, deal and traffic in intoxicating liquor to be consumed by the glass only on the premises of the licensee and in the original package and container, in multiples not to exceed four liters at any one time, to be consumed off the premises so licensed, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the premises. The license fee to engage in the retail sale of intoxicating liquors ("Class B") in the Village of Lyndon Station, Juneau County, Wisconsin, shall be the sum of \$150 per year.
 - (3) Combination Class B intoxicating liquor and fermented malt beverage license. A combination Class B intoxicating liquor and fermented malt beverage license,

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

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 and fermented malt beverages either to be consumed on the premises where sold or away from such premises. Said license shall be posted in a conspicuous place in the room or place where said liquor or beverages are served and shall comply with all other provisions of this article applicable thereto. The fee for such combination Class B intoxicating liquor and fermented malt beverage license shall be \$200.

- (4) Class "A" fermented malt beverage license. A Class "A" fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall authorize sale of fermented malt beverages only for consumption away from the premises where sold and in the original package, container and bottle. The license fee for a Class "A" fermented malt beverage license shall not exceed \$100 per year or fractional part thereof.
- (5) Class "B" fermented malt beverage license. A Class "B" fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village Board, shall be issued only to a person of good moral character who shall be a citizen of the United States and of the State of Wisconsin and shall have resided in this state continuously for not less than 90 days prior to the date of the filing of the application. Said license shall permit its holder to sell, deal and traffic in fermented malt beverages either to be consumed on the premises where sold or away from such premises. All Class "B" licenses shall be posted in a conspicuous place in the room or place where fermented malt beverages are drawn for service or sale. The license fee for a license to engage in the retail sale of fermented malt beverages (Class "B") in the Village of Lyndon Station shall be the sum of \$100 per year.
- B. All persons who sell, deal or traffic in the sale of soft drinks or carbonated beverages within the Village limits must first obtain a license from the Village Clerk-Treasurer. The fee for such soft drink license shall be \$5.

§ 228-4. Application for license.

Application for a license to sell or deal in intoxicating liquors or fermented malt beverages shall be made in writing on the form prescribed by law and shall be sworn to by the applicant as provided in §§ 887.01 to 887.03, Wis. Stats., and shall be filed with the Village Clerk-Treasurer not less than 15 days prior to the granting of such license.

§ 228-5. Operator's license. ²

- A. The Village Board may issue a license known as an "operator's license" which shall be granted only upon an application in writing. Said operator's license shall be issued only to persons of good moral character. Such license shall be operative only within the limits of the Village, and for the purpose of this subsection any member of the immediate

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

family of the licensee who has reached the age of 18 years shall be considered as holding an operator's license.

- B. There shall be upon premises operated under a license issued pursuant to this article at all times the licensee or some person who shall have an operator's license and who shall be responsible for the dispensing of any beverages within the licensed premises. Any licensee who fails to have some person with an operator's license on the premises at all times shall be subject to the penalties provided in this article. The fee for an operator's license be \$15 per year; the operator's license shall be issued for one year and shall expire on the 30th day of June of each calendar year. Any violations of any of the terms of this section by any person holding an operator's license shall be cause for revocation of said license. No license shall be granted to any person under 18 years of age.
- C. A provisional operator's license may be issued by the Village Clerk-Treasurer in accordance with § 125.17(5), Wis. Stats., only to a person who has applied for an operator's license. A provisional license may not be issued to any person who has been denied a license by the Village Board. A provisional license expires 60 days after its issuance or when a regular operator's license is issued to the holder, whichever is sooner. The fee for a provisional operator's license shall be \$15.

§ 228-6. Location restricted; license denial for delinquent taxes.

- A. No retail Class "B," "Class B," Class "A" or "Class A" license shall be granted for any premises within 150 feet of any school or church nor in any resident district. Any premises shall be termed to be included within a resident district if 2/3 of the buildings within a radius of 150 feet are used exclusively for resident purposes or for the uses incidental thereto.³
- B. Delinquent taxes and assessments. **[Amended 5-9-1983 by Ord. No. 73]**
- (1) 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.
 - (2) Persons. No initial or renewal alcohol license shall be granted to any person:
 - (a) Delinquent in payment of any taxes, assessments or other claims owed to the Village.
 - (b) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village.
 - (c) Delinquent in payment to the state of any state taxes owed.

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

§ 228-7. Duties of licensees.

- A. No person shall sell, dispense, give away or traffic in any intoxicating liquor or fermented malt beverage in any quantity whatever without having procured a license as provided in this article and all statutes, ordinances and regulations applicable thereto.
- B. No owner or licensee shall permit anyone coming within the provision of the above subsection to operate on his or her premises unless he is properly licensed under the provisions of this article. Anyone violating this provision shall be subject to the penalties herein provided. The violation of this article by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder. Whenever the holder of any license or permit under this article shall violate any portion of this article or any regulation adopted pursuant thereto, proceedings for the revocation of said license or permit may be instituted in the manner and under the procedure established by the various sections of the Wisconsin Statutes, and the provisions therein relating to granting a new license shall likewise be applicable.

§ 228-8. Violations and penalties.

Any person who, himself or by his agent or employee, shall violate any of the provisions of this article shall upon conviction thereof be punished as follows:

- A. If for a violation of any provision enacted by inference, by a penalty the same as provided by statute.
- B. If for selling intoxicating liquor without a license or permit, by a forfeiture of not less than \$100 nor more than \$500, together with the costs, and upon default in the payment of the forfeiture and costs shall be imprisoned in the county jail of Juneau County, Wisconsin, until such forfeiture and costs are paid but not exceeding 30 days.⁴
- C. If for a violation of any other provision of this article, by a forfeiture of not more than \$500 together with costs, and upon default in the payment of the forfeiture and costs shall be imprisoned in the county jail of Juneau County, Wisconsin, until such forfeiture and costs are paid but not exceeding 30 days.⁵

§ 228-9. Closing hours. [Added 9-19-1960 by Ord. No. 27⁶]

- A. Premises licensed for the retail sale of intoxicating liquor and fermented malt beverages in the Village of Lyndon Station shall comply with the closing hours prescribed by §§ 125.32(3) and 125.68(4), Wis. Stats.
- B. The licensee or any employee or other person in charge of such premises so licensed who shall violate any of the provisions of this section shall be subject to a forfeiture of not more than \$100 and the costs of the action and upon default of the payment of such

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

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

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

forfeiture and costs shall be imprisoned in the county jail of Juneau County until such forfeiture and costs are paid, but not exceeding 30 days.

§ 228-10. Quota. [Added 4-21-1975 by Ord. No. 51; amended 12-13-1976 by Ord. No. 57]

A. Definitions. As used in this section, the following words shall be defined as follows:

LICENSE — Class "A" retail fermented malt beverage licenses and "Class A" retail intoxicating liquor licenses.

POPULATION — The number of inhabitants of the Village of Lyndon Station as determined by the last federal census in the Village.

QUOTA — The number of licenses which the Village Board may grant.

- B. The Village Board may set such quotas as it deems appropriate to protect the health, safety and welfare of the citizens of the Village and may change that quota as it sees fit. **[Amended by Ord. No. 51A⁷]**
- C. Annexation of territory containing licensed premises increases the quota, if necessary, to the relicensing of all existing licensed premises in the municipality after such annexation.

§ 228-11. Underage and intoxicated persons. [Added 10-13-1986 by Ord. No. 77]

- A. The statutory provisions of § 125.07, Wis. Stats., describing and defining regulations with respect to the availability and use of alcoholic beverages by underage and intoxicated persons, the presence of such persons on licensed premises, and the possession of alcoholic beverages are adopted and, by reference, made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by § 125.07, Wis. Stats., is required or prohibited by this section. Any future amendments, revisions or modifications of § 125.07, Wis. Stats., is intended to be made part of this section in order to secure uniform statewide regulation of alcoholic beverages.
- B. Any forfeiture for a violation of § 125.07, Wis. Stats., as adopted in Subsection A above shall conform to the forfeiture permitted to be imposed for the violation of such statute as set forth in § 125.07, Wis. Stats., including any variation or increase for subsequent offenses, and the penalty schedule of § 125.07, Wis. Stats., is hereby adopted by reference.

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

ARTICLE II
Possession and Consumption in Public Areas
[Adopted 10-13-1975 by Ord. No. 52]

§ 228-12. Prohibited acts.

Whoever shall commit any of the following offenses may be fined not more than \$200:

- A. No person shall consume any intoxicating liquor, wine, or fermented malt beverage while in or upon public streets, alleys, sidewalks, parking lots, or other public ways.
- B. All purchases of wine, alcoholic or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed to thoroughfares, streets, parking lots, or sidewalks in the Village.
- C. No person shall be in possession of any glass or open container containing wine, alcoholic or fermented malt beverages on any thoroughfare, street, sidewalk, alley, parking lots, or any other public way.

§ 228-13. Permits.

Fraternal and service organizations and clubs may apply for a permit to have meetings, festivals and activities held on the public streets or in a public area so that alcoholic beverages and fermented malt beverages may be consumed during the time permitted as designated on the permit.

§ 228-14. Notice.

All premises licensed for the sale of fermented malt beverages, wine, or intoxicating liquor shall post a notice at each exit stating that "No beer, liquor, or wine may be carried in an open container off these premises."

ARTICLE III
Nude Dancing in Licensed Establishments
[Adopted 12-13-1999 by Ord. No. 108B]

§ 228-15. Prohibited acts.

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, demonstration, dance or exhibition on the premises of a licensed establishment which:

- A. Shows his or her genitals, pubic area, vulva, anus, anal clef or cleavage with less than a fully opaque covering;
- B. Shows any portion of the female breast below a point immediately above the top of the areola; or

C. Shows the covered male genitals in a discernibly turgid state.

§ 228-16. Exemptions.

The provisions of this article 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.

§ 228-17. Definitions.

For purposes of this article, the following terms shall have the meanings indicated:

LICENSED ESTABLISHMENT — Any establishment licensed by the Village Board of the Village of Lyndon Station to sell alcohol beverages pursuant to Ch. 125, Wis. Stats.

LICENSEE — The holder of a retail "Class A," "Class B," "Class "B," Class "A" or "Class C" license granted by the Village Board of the Village of Lyndon Station pursuant to Ch. 125, Wis. Stats.

§ 228-18. Violations and penalties.

Any person, partnership or corporation who or which violates any of the provisions of this article shall be subject to a forfeiture of not less than \$100 and not more than \$500 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, the violation of this article constitutes sufficient grounds for suspending, revoking or nonrenewing an alcohol beverage license under § 125.12, Wis. Stats.

ARTICLE IV

Live Entertainment or Music

[Adopted 5-29-2001 by Ord. No. 101]

§ 228-19. Purpose.

The purpose of this article is to establish certain rules and regulations with respect to the operation of facilities for which liquor licenses are issued by the Village. It is the intent of this article and any subsequent amendments to protect the health, safety and welfare of the public and the orderly and peaceful dispensation of alcoholic beverages within the Village.

§ 228-20. Outside noise prohibited at licensed premises.

It shall be unlawful for the holder of a Class B liquor and/or malt beverage license to permit live entertainment or music in nonenclosed areas either within or adjoining a licensed

premises. License owners may apply for one special permit per year which the Board may grant after taking into consideration the public's right to be free of unreasonable and/or unnecessary noise. The Board may place such restrictions on the permit as it deems fit and may require a bond where necessary. Hours shall be determined by the Board.

§ 228-21. Violations and penalties.

Any violation of this article shall constitute a basis for the suspension or revocation of an alcoholic beverage license and shall also entitle the Village to a forfeiture of not less than \$500 plus costs per occurrence.