

TOWN OF SEVASTOPOL
Door County, Wisconsin

ORDINANCE REGULATING
ALCOHOL BEVERAGES and LICENSING
No. 2007 – 01

The Town Board of Supervisors of the Town of Sevastopol (“Town Board”), Door County, Wisconsin, does ordain as follows:

Section 1 – Authority

This ordinance is adopted pursuant to the authority granted under Wis. Stats. §§ 60.22 and 125.10, to regulate the sale at retail or wholesale of alcohol beverages at premises located in the Town of Sevastopol (“Town”), to the extent that Town regulations are not in conflict with State Statute.

Section 2 – Purpose

The Town Board finds that it is in the best interests of the public to regulate the sale and use of alcohol beverages within the Town. Further, the adoption of this ordinance for such regulation will promote the health, welfare and safety of the public within the Town.

Section 3 – Definitions

The definitions contained in Wis. Stats. §125.02 are hereby adopted and made a part of this ordinance by reference. “Town Board”, “Town Treasurer” and “Town Clerk” refer to the Town Board and Town Clerk/Treasurer of the Town of Sevastopol.

Section 4 – Licenses Required

No person, except as authorized by this ordinance and Chapter 125 of the Wisconsin Statutes, shall sell or keep for sale at wholesale or retail, or permit to be sold or kept for sale at wholesale or retail, within the Town, any alcohol beverages, without a license and without complying with the provisions of this ordinance and Chapter 125 of the Wisconsin Statutes.

Section 5 – License Classifications and Fees

There shall be the following classes of licenses, which when issued by the Town Clerk under the authority of the Town Board after the payment of the appropriate fee, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Chapter 125 of the Wisconsin Statutes. Fees for the following classes of license shall be as established by resolution of the Town Board.

(1) Retail Class “A” Fermented Malt Beverage License (in original packages or containers for off-premises consumption only).

(2) Retail Class “B” Fermented Malt Beverage License (for on-premises or off-premises consumption).

(3) Temporary Class “B” (picnic) License for bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months, and to veterans’ organizations, etc.

(4) Retail “Class A” Intoxicating liquor (only in original packages or containers for off-premises consumption).

(5) Retail “Class B” Intoxicating Liquor License (for on-premises consumption). The Town Board has elected to come under the provisions of Wis. Stats. §125.51(3)(b), which also authorizes the holder of a Retail “Class B” License to sell intoxicating liquor in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off-premises in the original package or container in any quantity.

(6) “Class C” Retailer’s License for the Sale of Wine (for consumption on-premises).

(7) Wholesaler’s Fermented Malt Beverage License.

(8) Operator’s License.

(9) Reserve “Class B” Liquor License and “Site Specific Reserve Class B” Liquor and Wine License.

Section 6 – License Requirements and Restrictions

A. Application Procedure. All applications for a license authorized under this ordinance and Chapter 125 of the Wisconsin Statutes shall be made in writing on forms prescribed by the Wisconsin Department of Revenue, as approved by the Town Board. The application shall describe the physical premises, including every room and storage space, to be covered by the license. All applications shall be signed and sworn to by the applicant as provided by Wis. Stats. § 887.01.

B. Filing of Application. All applications shall be filed with the Town Clerk. At the time of filing, the applicant shall pay to the Town Clerk the cost of publication of the application and the fee for the license as established in Section 5 of this ordinance. All applications must be on file with the Town Clerk at least fifteen (15) days before the Town Board may grant or deny the application.

C. Qualifications of Applicants. Individuals, all partners (including limited partners), officers, directors and agents of Wisconsin corporations, the members, managers and agents of limited liability companies and the officers, directors and agents of nonprofit organizations must meet the following qualifications:

(1) Must be of legal drinking age, except that a person may obtain an operator’s license if he/she is at least 18 years of age.

(2) Be a Wisconsin resident continuously for at least ninety (90) days immediately prior to the date of application.

(3) May not have an arrest or conviction record subject to Wis. Stats. §§ 111.321, 111.322, 111.335, 125.04(5)(a)1.) and 125.12(1)b).

(4) All officers and directors of corporations and the members or managers of limited liability companies are not subject to the 90-day state residency requirement.

(5) All corporations and limited liability companies applying for an alcohol beverage license must appoint an agent pursuant to Wis. Stats. § 125.04(6). The agent must meet the qualifications of Section 6.C. (1) and (3) stated above and must, with respect to character, record and reputation, be satisfactory to the Department of Revenue. Each corporate agent must have full written authority and control of the premises.

D. Qualifications for Renewal of Licenses. All applicants for renewal of Retail Class “A” or Class “B” licenses shall, before such application is approved by the Town Board, furnish to the Town Board proof of operation of a business by the applicant requiring such a license. The minimum period of operation of such business shall be at least 1,040 hours during the license period, with at least 180 days of documented alcohol beverage sales during said license period.

In the situation where the applicant has held the license for a period of time less than the license year, the minimum period of operation shall be pro-rated.

This subsection shall become effective for all renewal licenses to be issued as of July 1, 2007.

E. Inspection of Premises. The Town Clerk shall notify the Building Inspector and Fire Chief of all license and permit applications. The officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, codes, ordinances and laws applicable thereto and the applicant’s fitness for the trust to be improved. These officials shall furnish to the Town Board in writing the information derived from such investigation. No license or renewal of license provided for in this ordinance shall be issued without an inspection or re-inspection of the premises and report as herein required.

F. Health and Sanitation Requirements. No license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the Department of Commerce pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health and Family Services applicable to restaurants and to all such ordinances, codes and regulations adopted by the Town.

G. Delinquent Taxes, Assessments and Claims. No license or license renewal shall be issued for any premises or person for which taxes, assessments or other claims of the Town or the State of Wisconsin are delinquent and non-paid. Included within the definition of delinquent

taxes, assessments or claims due the Town shall be any delinquency (unpaid) for special assessments, personal property taxes, real estate taxes, motel or hotel taxes, failure to pay any adjudicated fines or penalties, or failure to pay current any fees or monies due to the Town of any kind or nature.

In the event of the sale of a premises or transfer of a license during a license year, the Town Board may condition the granting of a license upon payment of real estate or personal property tax pro-rated to the date of sale. The Town Clerk shall estimate the rate to be used.

H. Location of Premises.

(1) No retail Class "A", Class "B", "Class A" or "Class B" fermented malt beverage license or liquor license shall hereafter be issued for premises less than 300 feet from any established public or parochial school, hospital or church. Such distance is to be measured by the shortest route along the highway from the main entrance of the church, school or hospital to the main entrance of the licensed premises.

(2) No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling, house, flat, residential apartment or other building which is not a tavern, supper club, store or other type of building where alcohol beverages are normally sold or consumed by the public.

I. Federal Special Occupational Tax Stamp. No license or permit to sell alcohol beverages may be issued to any person until the person has provided proof of application for a federal special tax stamp appropriate to the business covered by the license or permit. When the federal special tax stamp is obtained, the stamp or a copy thereof shall be shown to the issuing authority. If within 90 days of the issuance of the license or permit, a federal special tax stamp has not been shown to the issuing authority, the license or permit shall become invalid unless the holder shows cause why the federal special tax stamp has not been obtained.

Section 7 - Regulation of Licensed Premises and Licenses

A. Posting Licenses. Licenses issued under this ordinance shall be posted and displayed as provided by Wis. Stats. §125.04(10). Failure to post a license as required herein shall be a presumption of operating without a license.

B. Gambling and Disorderly Conduct Prohibited. Each licensed premises shall at all times be conducted in an orderly manner; and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time or on any such premises.

C. Employment of Underage Persons. No retail Class "B" or "Class B" licensee shall employ any person under 18 years of age to serve, sell, dispense or give away any alcohol beverage.

D. Safety and Sanitation Requirement. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which it is used.

E. Opening and Closing Hours. Establishments with Class “A”, “Class A”, Class “B”, “Class B” or “Class C” licenses are prohibited from selling alcohol or cannot be open for business during those hours as established by Wis. Stats. §§ 125.32(3) and 125.68(4), and any subsequent amendments thereto.

Hotels and restaurants whose principal business is furnishing of food and lodging to patrons, bowling alleys and golf courses, may remain open for the conduct of their regular business but may not sell intoxicating liquors or fermented malt beverages during prohibited hours referenced above.

F. Quotas. The number of persons and places that may be granted a retail “Class B” liquor license under this ordinance in the Town is limited as provided in Wis. Stats. § 125.51(4).

G. Violations of Agents and Employees. A violation of this ordinance by an authorized agent or employee of a licensee shall constitute a violation of the license.

Section 8 - Form and Expiration of Licenses

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 and, unless sooner revoked, shall expire on June 30th of each year, except as otherwise provided. The Town Clerk shall affix his or her affidavit as required by Wis. Stats. § 125.04(4).

Section 9 – Transfer of License

A. From Place to Place. Every alcohol beverage license may be transferred to another place or premises within the same municipality. Transfers shall be approved by the Town Board upon application on forms furnished by the Wisconsin Department of Revenue and the payment of the fee prescribed by Wis. Stats. § 125.04(12)(a). Proceedings considering such transfer shall be conducted in the same manner and form as the original application. No retail license is entitled to more than one transfer during the license year.

B. From Person to Person. Licenses issued under this ordinance may be transferred to another person only under the terms and conditions as provided by Wis. Stats. § 125.04(12)(b).

Section 10 - Revocation and Suspension of Licenses

A. Grounds for Revocation or Suspension. A license issued under this ordinance may be suspended or revoked by the Town Board under the procedures described herein upon the finding of a violation of this ordinance or Chapter 125 of the Wisconsin Statutes.

B. Procedure. Any licensee who violates this ordinance shall be subject to disciplinary action by the Town Board, including reprimand, suspension of the license for up to ninety (90) days, or revocation of the license. The Town Board shall follow procedures found in Wis. Stats. § 125.12, or any amendments thereto, in disciplining a licensee under this ordinance. In lieu of discipline, the Town Board may accept surrender of the license belonging to a licensee who has violated this ordinance. The Town Board may determine a minimum amount of time that must

pass before another application for the same type of license may be accepted by the licensee who has surrendered a license under this ordinance. Evidence and testimony at the hearing shall be done in open session. Pursuant to Wis. Stats. § 19.85(1)(a), the Town Board may go into closed session to deliberate with regard to its decision, where that possibility has been noticed. The Town Clerk shall see that the hearing notice is posted or published.

C. Automatic Revocation. Any license issued under this ordinance shall stand revoked without further proceedings upon the conviction of a licensee or employee, agent or representative thereof for a second offense under this section or violation of Chapter 125 of the Wisconsin Statutes or any other State or Federal alcohol beverage law.

D. Effect of Revocation or Surrender of License. When a license is revoked under this section, the revocation shall be recorded by the Town Clerk and no other license issued under this ordinance may be granted within twelve (12) months of the date of revocation to the person whose license was revoked. There shall be no refund of any license fee for a license that is revoked or surrendered under this ordinance.

E. Repossession of License. Whenever any license under this section shall be revoked or suspended, the licensee shall surrender the license to the Town Clerk. The Town Clerk shall have the right to take physical possession of the suspended or revoked license wherever it may be found and file it in the clerk's office.

Section 11 - State Statute Relating to Underage Persons Adopted

The prohibitions, provisions, exceptions and penalties set forth in Chapter 125 of Wisconsin Statutes, as from time to time amended, as to underage and intoxicated persons, proof of age, general restrictions and prohibition of alcohol beverages on school grounds, are hereby adopted and by reference made a part of this ordinance.

Section 12 - Severability of Provisions

Should any section or provision of this ordinance be declared invalid, such decisions shall not affect the validity of the remaining portions of this ordinance.

Section 13 - Repeal of Ordinances

All ordinances adopted by the Town prior to the adoption of this ordinance which are in conflict, are hereby repealed.

Section 14 - Effective Date

This ordinance shall take effect upon passage and proper notice as provided by law.

Dated this 19th day of February, 2007.

Submitted by:

/S/ Leo W. Zipperer, Chairman

| Board Members | Aye | Nay | Exc. |
|----------------|-----|-----|------|
| Tom Girman | | | x |
| John Staveness | x | | |
| Chuck Tice | x | | |
| Dan Woelfel | x | | |
| Leo Zipperer | x | | |

Certification:

I, Linda Wait, Clerk of the Town of Sebastopol, hereby certify that the above is a true and correct copy of an ordinance that was adopted on the 19th day of February, 2007, by the Town Board of Supervisors.

/S/ Linda Wait, Clerk
Town of Sebastopol