

## Chapter 220

### INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

**[HISTORY: Adopted by the Town Board of the Town of Erin as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

#### ARTICLE I

**[Adopted 11/13/2017 by Ord. No. 2017-11]**

#### GENERAL REFERENCES

Adult-oriented establishments — See Ch. 360-44(A)(3)

#### **§220-1. State statutes adopted.**

Pursuant to the statutory authority granted to the Town by § 125.10, Wis. Stats., the provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing, consumption and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this chapter by reference. A violation of any of such provisions shall constitute a violation of this chapter.

#### **§ 220-2. Licenses, permits, and authorizations required.**

A. When required. Except as provided by § 125.06, Wis. Stats., no person shall, within the Town, serve, sell, manufacture, rectify, brew or engage in any other activity for which this chapter or Ch. 125, Wis. Stats., requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this chapter. See § 125.04(1), Wis. Stats.

B. Unenclosed premises.

- (1) No licensee shall permit the consumption of fermented malt beverages or intoxicating liquor on any part of the licensed premises not enclosed within the building, except under permit granted by the Town Board. Application for a permit may be made at the time of application for the fermented malt beverage or intoxicating liquor license or may be made at any time during the license year. Such permit may be revoked by the Board at its pleasure at any time.

- (2) No person shall consume or have in his possession fermented malt beverages or intoxicating liquor on any unenclosed part of the licensed premises which is not described in such permit.
- (3) Separate license required for each place of sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See § 125.04(9), Wis. Stats.
- (4) Sign restricting consumption of alcohol beverages beyond licensed premises. Each license holder shall be required to have a sign posted at the exit door or doors of the premises stating that open alcohol beverages shall not be allowed outside of the premises. This shall not apply to licenses issued to hotel or resort facilities where there is not a door leading directly to the outside from the portion of the building used for the sale of intoxicating liquor or fermented malt beverages.

**§ 220-3. Classes of licenses; fees.**

The following classes and denominations of licenses may be issued by the Town Clerk under the authority of the Town Board upon compliance with law and payment of the fee herein specified, which, when so issued, shall permit the holder to sell, deal or traffic in alcohol beverages as provided in the referenced state statute.

A. Class "A" fermented malt beverage retailer's license. See § 125.25, Wis. Stats.

B. Class "B" fermented malt beverage retailer's license. See § 125.26, Wis. Stats.

- (1) Six months. A Class "B" license may be issued at any time for six months in any calendar year, for 100% of the applicable license fee. Such license shall not be renewable during the calendar year in which issued. See § 125.26(5), Wis. Stats.

- (2) Special event (picnic). See § 125.26(6), Wis. Stats.

C. Wholesaler's fermented malt beverage license: may not exceed \$2500 per year or fraction thereof. See § 125.28, Wis. Stats.

D. Brewers. See § 125.29, Wis. Stats.

E. Brewpub. See § 125.295, Wis. Stats.

F. Retail "Class A" liquor license. See § 125.51(2), Wis. Stats.

G. Retail "Class B" license liquor license. See § 125.51(3).

- (1) A license may be issued after July 1 in any license year, which shall expire on the following June 30. The fee for the license shall be the full price of the license.

- (2) The fee for such license shall be 100% of the annual license fee. The license may not be renewed during the calendar year in which issued. See § 125.51(9), Wis. Stats.
- (3) A retail “Class B” license issued to a winery authorizes the sale of wine to be consumed by the glass or in opened containers only on the premises where sold and also authorizes the sale of wine in the original package or container to be consumed off the premises where sold, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine. No “Class B” license may be issued to a winery under this subsection unless the winery has been issued a permit under s. [125.53](#) and the winery is capable of producing at least 5,000 gallons of wine per year in no more than 2 locations.
- (4) A retail “Class B” license authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, 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 the premises in the original package or otherwise in any quantity. This paragraph does not apply to a winery that has been issued a “Class B” license.
- (5) Notwithstanding pars. [\(a\)](#) and [\(b\)](#) and s. [125.04 \(3\) \(a\) 3.](#) and [\(9\)](#), a “Class B” license authorizes a person operating a hotel to furnish a registered guest who has attained the legal drinking age with a selection of intoxicating liquor in the guest's room which is not part of the “Class B” premises. Intoxicating liquor furnished under this paragraph shall be furnished in original packages or containers and stored in a cabinet, refrigerator or other secure storage place. The cabinet, refrigerator or other secure storage place must be capable of being locked. The cabinet, refrigerator or other secure storage place shall be locked, or the intoxicating liquor shall be removed from the room, when the room is not occupied and when intoxicating liquor is not being furnished under this paragraph. A key for the lock shall be supplied to a guest who has attained the legal drinking age upon request at registration. The hotel shall prominently display a price list of the intoxicating liquor in the hotel room. Intoxicating liquor may be furnished at the time the guest occupies the room, but for purposes of this chapter, the sale of intoxicating liquor furnished under this paragraph is considered to occur at the time and place that the guest pays for the intoxicating liquor. Notwithstanding s. [125.68 \(4\) \(c\)](#), the guest may pay for the intoxicating liquor at any time if he or she pays in conjunction with checking out of the hotel. An individual who stocks or accepts payment for alcohol beverages under this paragraph shall be the licensee, the agent named in the license if the licensee is a corporation or limited liability company or the holder of a manager's or operator's license or be supervised by one of those individuals.

H. Retail “Class C” License. See § 125.51(3m), Wis. Stats.

I. Operator's license. See § 125.17, Wis. Stats.

- (1) Operator's licenses may be granted to individuals by the Town Board for the purpose of complying with § 125.32(2) and § 125.68(2), Wis. Stats.
- (2) Operator's licenses may be issued only on written application on forms provided by the Clerk.
- (3) Applicant must provide all information required on the form, and provide copies of any documentation required.
- (4) All information must be factual, and truthful. Criminal history and other checks will be performed, and the police department/emergency management/clerk shall make a recommendation to the board if the requirements of § 125.04(5), Wis. Stats, have been met as to whether or not a license should be issued.
- (5) Operator's licenses shall be valid for one year and shall expire on June 30 of each year.
- (6) The town can require the applicant for an operator's license be fingerprinted prior to the issuance of the license.

J. Temporary license. See § 125.17(4)(a).

- (1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
- (2) No person may hold more than 2 licenses of this kind per year.
- (3) Operator's licenses may be issued only on written application on forms provided by the Clerk.
- (4) Applicant must provide all information required on the form, and provide copies of any documentation required.
- (5) All information must be factual, and truthful. Criminal history and other checks will be performed, and the police department shall make a recommendation to the board if the requirements of § 125.04(5), Wis. Stats, have been met as to whether or not a license should be issued.
- (6) The license is valid for any period from one day to 14 days, and the period for which it is valid shall be stated on the license.

K. Provisional operator's license. See § 125.17(5), Wis. Stats.

- (1) Requirements. The Town Clerk may grant a provisional operator's license to an individual who complies with § 125.04(5), Wis. Stats., and has also applied for a regular operator's license and who has not been previously denied a license under this chapter, subject to the following restrictions:
  - (a) The applicant for a provisional operator's license must furnish an affidavit stating that he has not been a habitual law offender or been convicted of a felony, unless pardoned.
  - (b) A written statement must be provided by a sponsor for the applicant who must have an alcohol license issued under Ch. 125, Wis. Stats., stating the length of time the sponsor has known the applicant, that the applicant has a place of employment and that the sponsor shall reimburse the Town for any expenses incurred by the Town in revoking the applicant's provisional operator's license.
  - (c) Evidence that the applicant has either completed or enrolled in a training course required by § 125.17(6), Wis. Stats., must be submitted. In the event the applicant fails to successfully complete such course, the provisional operator's license shall be revoked.
- (2) Restrictions.
  - (a) No provisional operator's license may be issued to a person who has been denied an operator's license by the Town Board.
  - (b) The provisional operator is limited to working for the sponsor unless and until a regular operator's license is issued by the Town Board.
  - (c) The town can require the applicant for a provisional operator's license be fingerprinted prior to the issuance of the license.
  - (d) The provisional operator's license shall expire 60 days after its issuance or when a regular operator's license is issued, whichever is sooner.
  - (e) The Town Clerk may revoke the provisional operator's license if it is discovered that the licensee of the provisional license made a false statement on the application.

**§ 220-4. License application.**

A. Form. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the Wisconsin Department of Revenue under § 125.04, and filed with the Town Clerk at least 15 days prior to issuance. The premises shall be physically described, including every room and storage space to be covered by

the license and including all rooms joined by connecting entrances or not separated by a solid wall.

B. Application to be notarized. The application shall be signed and sworn to by the applicant as provided by § 887.01, Wis. Stats.

C. Publication. Prior to issuance of a license under this chapter, the Town Clerk shall publish notice of the application in the official Town newspaper.

D. List of licensees. By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this chapter, except a picnic, manager's or operator's license.

E. Inspection of premises.

(1) Upon the filing of each application, the Chief of Police (or Director of Emergency Management), the Fire Chief, the Building Inspector and the Health Department shall inspect or cause to be inspected each application and the premises, together with any other investigation necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and whether the applicant is a proper recipient of a license. Such officials shall furnish the Town Board in writing a report on such investigation, accompanied by a recommendation as to whether a license should be granted or refused.

(2) No license shall be renewed without reinspection of the premises and a report as originally required.

F. Fingerprinting. Any applicant for a license under this chapter can be ordered to submit fingerprints.

#### **§ 220-5. License restrictions.**

A. Statutory requirements. Licenses shall be issued only to persons eligible therefor under § 125.04, Wis. Stats.

B. Location.

(1) No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than 500 feet from the main entrance of any established public school, parochial school, hospital, or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to the premises covered by the license.

(2) This subsection shall not apply to premises licensed as such on the date of adoption of this ordinance, nor shall it apply to any premises licensed as such prior to the

occupation of real property within 500 feet thereof by any school, hospital, or church building.

C. Violators of liquor or beer laws or ordinances. No retail Class A or Class B license shall be issued to any person who has been convicted of a violation of any federal or state liquor or fermented malt beverage law or the provisions of this chapter or whose license has been revoked under § 125.12, Wis. Stats., during one year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for one year.

D. Health and sanitation requirements. No retail Class B license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State Department of Safety and Professional Services pertaining to buildings and plumbing, to the rules and regulations of the State Department of Health Services applicable to restaurants and to all such ordinances and regulations adopted by the Town Board.

E. License quota. The number of persons and places that may be granted a retail "Class B" liquor license under this chapter is limited as provided in § 125.51(4), Wis. Stats.

F. Corporations. No corporation organized under the laws of this state or of any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of § 125.04(6), Wis. Stats.

G. Age requirement. No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.

H. Effect of revocation of license. Twelve months shall elapse before another license shall be granted to the person whose license was revoked.

I. Delinquent taxes, assessments and claims. No license shall be granted for any premises for which taxes, assessments or other claims of the Town are delinquent and unpaid, or to any person delinquent in payment of such claims, including unpaid forfeiture judgments, to the Town.

J. Issuance for sales in dwellings prohibited. 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 or residential apartment.

#### **§ 220-6. 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 30 thereafter except as otherwise provided by law. The Clerk shall affix her affidavit as required by § 125.04(4), Wis. Stats.

**§ 220-7. Transfer of licenses; fee.**

A. As to person. No license shall be transferable as to licensee except as provided by § 125.04(12), Wis. Stats.

B. As to place. Licenses issued under this chapter may be transferred to another premises once during any license year as provided in § 125.04(12), Wis. Stats. Application for such transfer shall be made on blanks furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application. The fee for such transfer shall be \$10.

**§ 220-8. Posting and care of licenses.**

Every license or permit required under this chapter shall be framed and posted and at all times displayed as provided in § 125.04(10), Wis. Stats. No person shall post such license or permit any other person to post it upon premises other than those mentioned in the application, or knowingly deface or destroy such license.

**§ 220-9. Regulation of licensed premises and licenses.**

A. Operators Licenses Class "A" or Class "B" premises. Except as provided under ss. 125.07 (3) (a) 10. and 125.26 (6), no premises operated under a Class "A" or Class "B" license or permit may be open for business unless there is upon the premises the licensee or permittee, the agent named in the license or permit if the licensee or permittee is a corporation or limited liability company, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers.

B. No person, including a member of the licensee's or permittee's immediate family, other than the licensee, permittee or agent may serve fermented malt beverages in any place operated under a Class "A" or Class "B" license or permit unless he or she has an operator's license or is at least 18 years of age and is under the immediate supervision of the licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of the service.

C. Employment of underage person. No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.

D. Gambling and disorderly conduct prohibited. Each licensed and permitted 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 on any such premises.

E. Sales by clubs. No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

F. 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 for which used.



G. Noise control. Each licensed premises shall be maintained and the business authorized therein shall be conducted in a manner that shall not cause unusual and extraordinary noise to emanate therefrom so as to disturb the residents of the neighborhood in which the premises are located. There shall be no loudspeakers outside the licensed premises in use after 10:00 PM. There shall be no outdoor activities including the consumption of alcohol after 10:00 PM. Windows and doors to the licensed premises shall be kept closed at all times, except when doors are being used for ingress or egress.

H. It is unlawful for any firm, person, entity, or licensee to violate any condition granted to a licensee by a Conditional Use Permit from the Town.

I. No person responsible for selling or serving alcoholic beverages may be intoxicated while working or serving in that capacity.

J. Safety and security plan for St. Patrick's Day events must be approved by the Police Chief or Director of Emergency Management. Cost is the responsibility of licensee.

K. No overnight camping is permitted on the property or in conjunction with any activity on the property.

**§ 220-10. Miscellaneous provisions.**

A. The consumption of fermented malt beverages by passengers on a commercial quadricycle within the Town is prohibited.

B. The possession of open intoxicants is prohibited in:

- (1) The public roads and Right of Ways
- (2) Parking lots

C. The consumption of open intoxicants is prohibited in:

- (1) The public roads and Right of Ways
- (2) Parking lots

D. § 220-10(B)(1)&(C)(1) does not apply on St. Patrick's Day, on the parade route, up to the ending time of the parade.

E. § 220-10 (B)(2)&(C)(2) does not apply on St. Patrick's Day.

**§ 220-11. Closing hours.**

No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages:

A. If a wholesale license, between 5:00 p.m. and 8:00 a.m., except on Saturday when the closing hour shall be 9:00 p.m.

B. If a retail Class "A" license, between 9:00 p.m. and 6:00 a.m. Licensee may remain open as long as no alcohol sales are made during prohibited times.

C. If a retail Class "B" license, between 2:00 a.m. and 6:00 a.m. on weekdays and between 2:30 a.m. and 6:00 a.m. on Saturdays and Sundays. On January 1, premises operating under a Class B license are not required to close. No package, container or bottle sales shall be made after 12:00 midnight.

D. Hotels and restaurants whose principal business is the furnishing of food or lodging to patrons, bowling alleys and golf courses may remain open for the conduct of their regular business, but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

E. Any person who is not an employee of the licensee who remains on the premises after the designated closing hour is subject to the penalties as provided in this chapter. Any person, while on the premises after closing hours, must be actively engaged in bona fide business activities and may not consume alcoholic beverages.

**§ 220-12. Revocation, suspension, and nonrenewal of licenses.**

**The enforcement of § 220-12(A)(2) through (S) will commence July 1, 2018.**

A. Procedure.

(1) Except as otherwise provided herein, the provisions of § 125.12, Wis. Stats., shall be applicable to proceedings for the revocation, suspension or nonrenewal of all intoxicating liquor or fermented malt beverage licenses or permits granted under this chapter. Revocation or suspension proceedings may be instituted as set forth below. The Town's policy and procedure for disciplinary actions relative to all retail intoxicating liquor and/or fermented malt beverage licenses, operator's licenses, agents, and other licenses and permits authorized in connection with the sale, distribution and possession of intoxicating liquor and/or fermented malt beverages shall be as set forth herein.

(2) The Town Board retains the authority and will conduct review hearings.

B. License investigations. Any of the following may initiate requests for investigations before the Town Board which may result in orders, suspensions, nonrenewals or delay in license issuance or revocation: Town Board Chairman, any Supervisor, the Police Chief, the DOEM,

the Town Attorney, the State of Wisconsin acting through any state agency, or any Town resident by written complaint pursuant to § 125.12, Wis. Stats.

C. Requests for investigations. Requests for investigations shall be in writing, addressed to the Clerk, and shall contain a brief statement of the alleged misconduct. The Clerk shall promptly forward the request to the Town Board for consideration. The Clerk shall issue a summons requiring the licensee to attend the hearing at which the matter will be considered. Documents which form a basis for a request for an investigation shall be available for the inspection of the licensee.

(1) The Town Board shall comply with the procedural requirements of § 125.12, Wis. Stats., and may consider any evidence or argument presented or made before it, whether or not obtained in or related to the written request for an investigation.

(2) The Town Board, on requesting and receiving any opinion or recommendation from the Town Attorney's office as it considers appropriate, may take any of the following actions:

(a) No action;

(b) Suspension, revocation or nonrenewal of the license, following statutory notice and opportunity to be heard, where the criteria for such action in Subsection D of this section are met;

(c) The issuance and service on the licensee of an order requiring that certain action be taken as a condition of maintaining such license and providing notice that revocation may be the penalty for failure to strictly comply with such order; or

(d) Transfer of the license to the owner of the licensed premises in accordance with applicable law, where the licensee leases or holds the licensed premises under a land contract or other seller-financed sale transaction.

(3) The Clerk shall have the obligation of notifying the licensee of any further proceedings before the Town Board.

D. Criteria for license revocation, nonrenewal or suspension. A point system is hereby established to guide the Town Board in considering the issuance, suspension, revocation, nonrenewal and transfer of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or Town of Erin ordinances and to take consistent action against such licensees. The following demerit points are assigned for each type of violation:

<b>Violation</b>	<b>Number of Demerit Points Assigned</b>
Refusal to allow police/deputies/town officers to inspect the license portion of premises or resisting or obstructing an officer, pursuant to § 139.08, Wis. Stats.	150
Hindrance or obstruction of the Fire Chief or his designee	150
Conducting unlawful business, either pursuant to town ordinances or Wisconsin Statutes	150
Violation of nude dancing restrictions	150
Sale of controlled substances by a licensee or the licensee's employee, pursuant to § 961.41(3g), Wis. Stats.	150
Exceeding the posted occupancy capacity on the premises	80
Sale to any person under the age of 21 years on the premises, pursuant to §220-1 of this chapter	80
Sale to an intoxicated person, pursuant to §220-1 of this chapter adopting § 125.07(2), Wis. Stats., by reference	80
Submission of a false statement on a license application	70
Failure to maintain order, fights, or disorderly conduct occurring in a licensed establishment where the Police Department/Sheriff's Office is not notified by the licensee or an employee of the licensee, pursuant to §220-9 of this chapter	50
Failure to maintain order, fights, or disorderly conduct occurring in a licensed establishment where the Police Department or Sheriff's Office is notified by the licensee or an employee of the licensee, pursuant to §220-9 of this code	25
Excessive noise coming from a licensed business, pursuant to §220-9G of this chapter	45
Licensee or licensee's employee permitting the public consumption of alcoholic beverages off the licensed premises	45
Operation of a licensed business after hours, pursuant to §220-10C of this	50

<b>Violation</b>	<b>Number of Demerit Points Assigned</b>
chapter	
Failure to maintain a licensed operator on the licensed premises	80
Possession or operation of unlicensed amusement devices on the licensed premises	30
After-hour carry-outs, pursuant to §220-11 of this chapter	50
Failure to properly display licenses, pursuant to §220-8 of this chapter	25
Violation of the Washington County Health Code, pursuant to §220-9D of this chapter, where that violation does not endanger the safety and health of the public	30
Critical violation of the Washington County Health Code, pursuant to §220-9D of this chapter, where that violation endangers the safety and health of the public	80

E. Penalty enhancement for severe offenses. The Town Board may assign additional demerit points, not to exceed a maximum of 150, as a penalty enhancement where the conduct:

- (1) Results in bodily harm to any individual;
- (2) Creates a substantial risk of death or serious bodily harm;
- (3) Involves the use of a firearm or other dangerous weapon; or
- (4) Demonstrates an ongoing disregard for the requirements of state or municipal ordinances.

F. Calculating violations. In determining the accumulated demerit points, the date of the violation is used as the basis for assigning demerit points per incident. A conviction for a violation is not necessary to assign points.

G. Suspension and revocation of license.

- (1) The Police/(Emergency Management) Department shall notify the Town Board of any convictions which result in the assessment of demerit points against any licensee.

Following this notification or the filing of a complaint pursuant to § 125.12, Wis. Stats., the committee may hold a hearing if required by § 125.12, Wis. Stats., or this chapter and may take the following action after first determining the number of demerit points to be assessed against the licensee:

- (a) For demerit points totaling 25 to 149 within a twelve-month period, a warning to the licensee of the consequences of additional violations.
  - (b) For demerit points totaling 150 to 199 within a twelve-month period, suspension of the license for a period of not less than 10 days nor more than 90 days.
  - (c) For demerit points totaling 200 or more within an eighteen-month period, revocation of the license. Whenever any license is revoked, at least six months from the time of such revocation shall elapse before another license shall be granted for the same premises, and 12 months shall elapse before any other license shall be granted to the person whose licensed was revoked.
- (2) The Town Board shall take such action, absent compelling mitigation factors. If the Town Board shall determine that such factors exist, it shall refer the matter to the Town Attorney for recommendation regarding a probationary period of continuation for the license holder. The Town Attorney, after consultation with the Police Department and such other person the Town Attorney deems appropriate, may recommend probationary provisions to the Town Board, which shall be deemed sufficient to ensure future compliance with state statutes and this chapter. Pending such recommendation and further action by the Town Board, the license shall be suspended unless the Town Board shall determine such suspension would result in extreme and undue hardship.

H. Scope. Nothing in this chapter shall be construed to conflict with, abridge or modify the rights or procedures established for revocation or suspension of licenses in § 125.12, Wis. Stats. Notwithstanding the requirements of this chapter, the Town Board may require the appearance before it of any licensee at any time.

I. Transfer or sale of licensed business.

- (1) On the transfer or sale of a licensed business, all accumulated demerit points shall be canceled unless any of the following applies:
  - (a) The new licensee is related to the former licensee by blood, adoption or marriage.
  - (b) The new licensee held a business interest in the previous licensed business, real estate or equipment.

- (c) The former licensee retains an interest in the business, real estate or equipment used by the business.
  - (d) The new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.
- (2) If any of the above applies, the new licensee shall inherit the demerit points previously assessed and be subject to the penalties set forth in this chapter.
- J. Effect of criminal charge dismissed without trial. A dismissal without trial of a criminal charge or civil forfeiture case on a violation which is also the subject of demerit points shall not, as a matter of law, nullify such charge for the purpose of review herein due to the differing burdens of proof and procedural requirements.
- K. Delay in license issuance. Any person or party who performs a licensed activity without first having obtained a proper license, or who, during a period of license suspension, or who, after license revocation or nonrenewal, unlawfully engages in a licensed activity, shall be barred from applying for the required license for a period of six months from the date of such offense.
- L. Time for action. Disciplinary action need not be commenced and completed in the same license year as the offense occurred. Where disciplinary actions are not commenced and completed within a license term, a license shall be granted subject to a "nonrenewal revocation hearing" to be held as soon as is practical.
- M. Disciplinary hearings. Disciplinary hearings, including nonrenewal, suspension and revocation hearings, shall be held before the Town Board including findings of fact and a recommendation as to what action, if any, the Town Board should take with respect to the license. The Town Board shall provide the complainant, licensee and Town Clerk with a copy of the report. Either the complainant or licensee may make an objection, orally or in writing, to the report and shall have the opportunity to present arguments supporting the objection to the Town Board. The Town Board shall determine whether the arguments shall be presented orally or in writing, or both. If the Town Board, after considering any arguments presented by the complainant and licensee, finds the complaint to be true, or if there is no objection to a report recommending a suspension, revocation or nonrenewal, the license shall be suspended, revoked or not renewed as provided by law. If the Town Board finds the complaint untrue, the proceedings shall be dismissed without cost to the licensee. The Clerk shall give notice of each suspension, revocation or nonrenewal to the party whose license is affected.
- N. Judgment of conviction as prima facie proof of violation. The judgment of conviction of any licensee, or employee or agent thereof, in any municipal, state or federal court, irrespective of whether obtained following a plea agreement or bond forfeiture, shall be prima facie proof of such violation for purposes of this chapter. However, in the instance of any judgment of conviction entered pursuant to a no contest plea or considered in law

to be rendered pursuant to a no contest plea, such judgment of conviction as a prima facie case may be rebutted. Further, mitigating circumstances may be introduced with respect to any judgment of conviction.

- O. Application for determination of demerit points. Any licensee or party entitled to initiate a request for an investigation under this chapter may at any time request the Town Board to determine whether or not conduct which has occurred constitutes a basis for demerit points and a report of outstanding demerit points. Any licensee may appeal imposition of demerit points. Hearings concerning such appeals shall be conducted as provided in § 125.12, Wis. Stats., and this chapter.
- P. Violations by agents or employees. A violation of this chapter by an authorized agent or employee of a licensee acting in the course of his or her employment shall constitute a violation by the licensee. The licensee shall be notified of such violation by copy of the citation or other written notice personally served or mailed to the licensee at the licensed premises.
- Q. Commencement of penalties. Penalties shall commence the day after they have been imposed by the Town Board, unless the Board establishes a different date. Days of suspension shall run consecutively, or as determined by the Town Board.
- R. Periodic reports by the Police Chief or DOEM. The Police Chief or DOEM shall file periodic reports with the Clerk of conduct by any licensee, or employees thereof, which may constitute a basis for demerit points. The Clerk shall provide each licensee with a summary of demerit points affecting the license annually at the time an application for renewal is received, or on request. The Town Board, at license renewal time or at any earlier time deemed appropriate, may bring such matters to the attention of the Town Attorney and make a request for a recommendation on disciplinary action.
- S. Repossession of license or permit. Whenever any license or permit under this chapter shall be revoked or suspended by the Town Board, the Clerk shall notify the licensee of such suspension or revocation and shall notify the Chief of Police, and DOEM, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk office.

#### **§ 220-13. Wearing Apparel.**

- A. All persons involved in the operation of any licensed premises under this section, whether as licensee, member of the immediate family of the licensee, licensed operator, unlicensed operator under the supervision of the licensee or licensed operator, waiter, waitress, entertainer, dance or other employee, shall observe the following applicable minimum standards for such licensed premises:
  - (1) The costume, uniform or attire, wet or dry, of any female shall be



of nontransparent material and must completely cover the breasts at all times. The lower portion of such costume, uniform or attire must be of nontransparent material and completely cover the mons pubis genitals and the buttocks at all times.

- (2) The costume, uniform or attire, wet or dry, of any male shall be of nontransparent material and must completely cover the pubis area, genitals and buttocks at all times.

#### B. Nude Dancing in Licensed Establishments.

- (1) Prohibited. 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; or
  - (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.

#### **§ 220-14 Notice prior to nonrenewal of license.**

Before renewal of any license issued under this chapter is refused, the licensee shall be given written notice of any charges or violations or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Town Board.

#### **§ 220-15 Violations by agents and employees.**

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

#### **§ 220-16. Severability Clause.**

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

#### **§ 220-17. Effective Date.**

This ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

#### **§ 220-18. Violations and penalties; enforcement.**

A. Any person who violates, or refuses to comply with this chapter, shall be subject to forfeiture of not less than \$30, and shall be responsible for all costs and expenses incurred in prosecution. In default of the payment thereof, said person shall be imprisoned in the County Jail of Washington County for a period not to exceed nine months or until such fine and subsequent costs have been paid.

B. Any authorized Town official or his/her designee is empowered to enforce this chapter.