

Ordinance No. 2020- 03
State of Wisconsin
County of Washington
Town of Farmington

**AN ORDINANCE REPEALING AND RECREATING
INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES OF THE
MUNICIPAL CODE OF THE TOWN OF FARMINGTON**

WHEREAS, the Town Board hereby determines that it is necessary to update the Municipal Code to adopt current intoxicating liquor and fermented malt beverages standards in the Town of Farmington.

NOW, THEREFORE, the Town Board of the Town of Farmington, Washington County, Wisconsin, does ordain as follows:

Section 1. **Repealing Code.** Ordinances pertaining to Intoxicating Liquor and Fermented Malt Beverages of the Municipal Code of the Town of Farmington are hereby repealed.

Section 2. **Recreating Code.** Intoxicating Liquor and Fermented Malt Beverages is hereby recreated to read as attached.

Section 3. **Severability.** Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Section 4. **Effective Date.** This Ordinance shall take effect upon publication or posting by the town clerk as required, pursuant to Wis. Stat. § 60.80.

Adopted by the Town of Farmington Town Board of Supervisors this 10th day of November, 2020.

Ayes 3 Noes 0 Absent 0

TOWN OF FARMINGTON

By Chris Elbe
CHRIS ELBE, Town Chairperson

Date Approved: 11-10-2020

Date Published/Posted: 11-17-2020

Attest:

Patty Hoerig
PATY HOERIG, Town Clerk

Chapter 133

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

<p style="text-align: center;">ARTICLE I Licensing</p> <p>§ 133-1. State statutes adopted.</p> <p>§ 133-2. Licenses, Permits.</p> <p>§ 133-3. Classes of Licenses and fees.</p> <p>§ 133-4. License application.</p> <p>§ 133-5. License restrictions.</p> <p>§ 133-6. Form and expiration of licenses.</p> <p>§ 133-7. Transfer of licenses.</p> <p>§ 133-8. Posting and care of license.</p> <p>§ 133-9. Closing hours.</p> <p>§ 133-10. Revocation and suspension of licenses.</p> <p>§ 133-11. Nonrenewal of licenses.</p> <p>§ 133-12. Licensee accountable for violations by agents and employees.</p>	<p>§ 133-13. Additional conditions, regulations and prohibitions.</p> <p>§ 133-14. Alcohol beverages; sale, possession or drinking in public places.</p> <p>§133-15. License required in public place; Exceptions.</p> <p>§133-16. Possession of alcohol beverages on school grounds prohibited.</p> <p>§133-17. Penalties.</p> <p style="text-align: center;">ARTICLE II Reserve "Class B" Licenses</p> <p>§ 133-18. Increase in number of Reserve "Class B" Licenses.</p> <p>§ 133-19. Increase in available licenses for Town.</p> <p>§ 133-20. Reserve "Class B: license fee.</p>
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[HISTORY: Adopted by the Town Board of the Town of Farmington as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Licensing

§ 133-1. State statutes adopted.

The provisions of Ch. 125, Wis. Stats., defining and regulating the sale, procurement, dispensing and transfer of beverages, excluding provisions the violation for which results in a criminal penalty, are adopted and made a part of this section by reference. A violation of any of such provision shall constitute a violation of this section. Any future amendments, revisions or modifications of the statutory regulations in Wis. Stat. Ch. 125, incorporated herein are intended to be made part of this code in order to secure to the extent legally practicable uniform statewide regulation of alcohol beverages in the State of Wisconsin.

§ 133-2. Licenses, Permits.

- A. When Required. No person except as provided by s. 125.06, Wis. Stats., shall within the Town of Farmington, 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 section.

- B. Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where intoxicating liquor or fermented malt beverages are stored, sold, or offered for sale.

§ 133-3. Classes of Licenses and fees.

The following classes and denominations of licenses may be issued by the Town Clerk under the authority of the Town Board after payment of the fee set forth in the Town's Fee Schedule, which license when so issued shall permit the holder to sell, deal, or traffic in alcohol beverages as provided in ss. 125.17, 125.25, 125.26, 125.28 and 125.51, Wis. Stats. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

- A. Class "A" Fermented Malt Beverage Retailer's License. Class "A" fermented malt beverage retailer's licenses shall be issued by the Town Board and signed by the Town Clerk.
- B. Class "B" Fermented Malt Beverage Retailer's License. Class "B" fermented malt beverage retailer's license shall be issued by the Town Board and signed by the Town Clerk.
 - (1) Class "B" licenses may be issued at any time for six (6) months in any calendar year, for which three-fourths of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued.
 - (2) Class "B" licenses may also be issued to bona fide clubs, state, county, or local fair associations or agricultural societies, lodges, or societies that have been in existence for at least six (6) months before the date of application and posts of the veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or agricultural society.
- C. Retail "Class A" Liquor License. Retail "Class A" liquor licenses shall be issued by the Town Board and signed by the Town Clerk.
- D. Retail "Class B" Liquor License. Retail "Class B" liquor licenses shall be issued by the Town Board and signed by the Town Clerk. A Retail "Class B" liquor license shall permit the holder thereof to sell intoxicating liquor in the original package or container to be consumed off the licensed premises. Wine may be sold for consumption off the premises in the original package or otherwise in any quantity.
 - (1) Retail "Class B" liquor licenses may be issued after July 1 in any license year. The license shall expire on the following June 30th. The license fee shall be prorated according to the number of months or fractions thereof remaining until the following June 30th.
 - (2) Retail "Class B" liquor licenses valid for six (6) months may be issued at any time. The fee for the license shall be 50% of the annual license fee. The license may not be renewed during the calendar year in which issued.
- E. Retail "Class C" License. Retail "Class C" licenses authorize the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold pursuant to s. 125.51(3m). Retail "Class C" licenses shall be issued by the Town Board and signed by the Town Clerk.

- F. Operators' Licenses. Operators' licenses shall be issued by the Town Board and signed by the Town Clerk and shall be granted to individuals for the purposes of complying with ss. 125.32(2) and 125.68(2), Wis. Stats. Operators' licenses may be issued only on written application on forms provided by the Town Clerk. Operators' licenses shall be valid for a maximum period of two (2) years.
- G. Fees. Fees for each license category described above shall be set forth in s. 1-4 of the Town of Farmington Code of Ordinances.

§ 133-4. License application.

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 State Department of Revenue, or, in the case of operators' licenses, on forms prescribed by the Town of Farmington, and filed with the Town Clerk. 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 where not separated by a solid wall.

§ 133-5. License restrictions.

- A. Statutory Requirements. Licenses shall be issued only to persons eligible under ss. 125.04 and 125.33(3)(b), Wis. Stats.
- B. Location. No retail "Class A" or "Class B" license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital, church or residence district. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, hospital, church, or residence to the main entrance to the premises covered by the license.
- C. Violators of Liquor or Beer Laws or Ordinances. No retail license referred to in this chapter 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 during one year prior to such application. The 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" or "Class B" license shall be issued for any premises which do 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 Agriculture, Trade and Consumer Protection applicable to restaurants and to all ordinances and regulations adopted by the Town of Farmington.
- E. License Quota. The number of persons and places that may be granted a retail "Class B" liquor license under this section is limited as provided in s. 125.51(4), Wis. Stats.

- F. Corporations. No license shall be granted to any corporation when more than 50% of the voting stock interest, legal interest, or beneficial interest is held by any person or persons not eligible for a license under this section.
- G. Age Requirement. No license under this chapter shall be granted to any person under 21 years of age; however, an operator's license may be issued to a person 18 years or older pursuant to s. 125.04(5)(d)2, Wis. Stats.
- H. Effect of Revocation of License. Whenever any license has been revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises and twelve (12) months shall elapse before another license shall be granted to the person whose license was revoked.
- I. Delinquent Local and State Taxes, Assessments, and Claims. No license shall be granted or renewed under this chapter or under ch. 125, Wis. Stats., for any premises for which taxes, assessments, or other claims of the Town of Farmington are delinquent and unpaid, or to any person delinquent in payment of any taxes, assessments or other claims owed to the Town of Farmington, or any person delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Town of Farmington, or any person delinquent in payment to the State of Wisconsin of any state taxes owed.
- 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.

§ 133-6. Form and expiration of licenses.

All licenses shall state clearly the specific premises for which granted, the date of the issuance, the fee paid, and the name of the licensee and, unless sooner revoked, shall expire on June 30th thereafter except as otherwise provided. The Town Clerk shall affix his or her affidavit to the license as required by s. 125.04(4), Wis. Stats.

§ 133-7. Transfer of licenses.

- A. Person to Person. No license shall be transferable by a licensee except as provided by s. 125.04(12), Wis. Stats.
- B. Place to Place. Licenses issued pursuant to this section may be transferred from place to place as provided by s.125.04(12), Wis. Stats. Application for such transfer shall be made on forms furnished by the State Department of Revenue. Proceedings for transfer shall be had in the same manner and form as the original application.

§ 133-8. Posting and care of license.

Every license or permit required under this chapter shall be framed and posted and at all times displayed as provided in s. 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, or remove the same without permission of the license holder. Whenever a license shall be lost or destroyed without fault on the part of the holder or his or her employees, a duplicate in lieu thereof under the original application shall be issued by the

Town Clerk on satisfying himself or herself as to the facts and upon the payment of a fee of \$1.00.

§ 133-9. Closing hours.

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

Type of License	Off-Premises (carry-outs)	On-Premises Consumption
Class "A" Beer	Midnight to 6 a.m.	Not permitted
Class "B" Beer	Midnight to 6 a.m.	Mon-Fri 2 a.m.to 6 a.m. Sat-Sun 2:30 a.m. to 6 a.m.
"Class A" Liquor	9 p.m. to 6 a.m.	Not permitted
"Class B" Liquor and "Class C" Wine	Midnight to 6 a.m.	Mon-Fri 2 a.m. to 6 a.m. Sat-Sun 2:30 a.m. to 6 a.m.

- A. If a retail Class "B" or "Class B" license, except during that portion of each year when the standard of time is advanced under s. 175.095, Wis. Stats., the closing hours shall be between 3:30 a.m. and 6:00 a.m. and except on January 1 of each year when the premises are not required to close.
- B. Hotels and restaurants the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, movie theaters, painting studios 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.

§ 133-10. Revocation and suspension of licenses.

- A. Procedure. Whenever the holder of any license under this chapter violates any portion of this chapter, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by ss. 125.12 and 125.13, Wis. Stats., and the provisions therein relating to granting a new license shall likewise be applicable.
- B. Automatic Revocation.
 - (1) Any license issued under the provisions of this chapter shall stand revoked without further proceedings on the conviction of a licensee or employee, agent or representative thereof for a second offense under this chapter or for a violation of ch. 125, Wis. Stats., and ch. 139, Wis. Stats., or any other state or federal liquor or fermented malt beverage laws.
 - (2) Cessation of Operations. If any licensee shall suspend or cease doing business for six consecutive months or more, his Class B intoxicating liquor license and fermented malt beverage license shall be subject to revocation by the Board after a public hearing. The Board may, for good cause shown, extend such six month period.
- C. Effect of Revocation. The effect of a revocation under this section shall be the same as set forth in s. 133-5.H. of this Ordinance.

§ 133-11. Nonrenewal of licenses.

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.

§ 133-12. Licensee accountable for 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.

§ 133-13. Additional conditions, regulations, and prohibitions.

In addition to all other conditions of these ordinances and subject to all other ordinances and regulations of the Town of Farmington applicable thereto, all classes of licenses granted, issued, or renewed hereunder shall be granted, issued, or renewed subject to the following conditions, regulations, and prohibitions:

- A. Consent to Entry, Search and Seizure. Every applicant procuring a license consents to the entry of police or other duly authorized representatives of the Town of Farmington at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of city ordinances or state law, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- B. Unobstructed View; Maximum Height of Booth Backrests Restricted. The windows and doors of all premises on which a "Class B" or Class "B" liquor license is held, shall be unobstructed by screens, partitions, blinds, plants, curtains, shades, advertising material, paint, or other articles or substances and shall be kept in such condition at all times so as to permit a clear and unobstructed view of all of the interior of said premises from the outside. Backrests of booths shall not exceed a maximum height of 30 inches from the seat to the top of the booth.
- C. Proper Lighting. All licensed premises shall be at all times, when opened to the public, clearly and sufficiently lighted by proper illuminating fixtures of an intensity of not less than five footcandles.
- D. Band Music One Hour Before Closing Prohibited. It shall be unlawful for the owner, licensee, or operator of any premises licensed under this section to furnish or have on said premises any orchestra or persons playing musical instruments for the purpose of dancing later than one hour before the official closing time for said licensed premises.
- E. Loud Noise Prohibited.
 - (1) It shall be unlawful for any licensee or operator of any premises licensed under this chapter or ch. 125, Wis. Stats., to permit or allow the use or operation of sound amplifying equipment on the licensed premises in such manner that the sound emanating from said equipment through any open window, open doorway, or other opening of the licensed premises is unreasonably loud so as to disturb the peace and quiet of any

- neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.
- (2) In this section, "sound amplifying equipment" shall mean any machine or device for any amplification of the human voice, music, or any other sound.

F. Premises to be Promptly Vacated at Closing Hour. No alcohol beverage shall be sold or consumed upon any licensed premises after the official closing hour for said licensed premises, and said premises shall be promptly vacated at such closing hour by all persons except the owner and regular employees of the licensed premises, except that licensed premises, whose principle business is the furnishing of some other commodity or services, may remain open during such closing periods solely for the furnishing of such other commodity or services, provided that all intoxicating liquor contained in such premises be placed in padlocked cases promptly at the closing hour and be kept padlocked during official closed hours.

§ 133-14. Alcohol beverages; sale, possession or drinking in public places.

- A. It shall be unlawful to sell, serve, vend, deal or traffic or offer to sell, serve, vend, deal or traffic any alcohol beverage upon any public place, or from a motor vehicle or other vehicle when the vehicle is on a public place in the Town of Farmington.
- B. No person shall drink alcohol beverages upon any public place within the Town of Farmington.
- C. No person shall possess upon any public place within the Town of Farmington any open container which contains any alcohol beverage.
- D. No person shall drink alcohol beverages while in or on any motor vehicle, motorcycle or other vehicle when the vehicle is upon a public place within the Town of Farmington.
- E. No person shall possess while in or on any motor vehicle, motorcycle or other vehicle when the vehicle is upon a public place within the Town of Farmington, any open container which contains any alcohol beverages.
- F. The owner of any motor vehicle, or the driver of the vehicle if the owner is not present in the vehicle, shall not keep, or allow to be kept, in the motor vehicle when it is upon a public place within the Town of Farmington any open container which contains any alcohol beverages. This subsection does not apply if the bottle or receptacle is kept in the trunk of the vehicle or, if the vehicle has no trunk, in some other area of the vehicle not normally occupied by the driver or passengers. A utility compartment or glove compartment is considered to be within the area normally occupied by the driver and passengers.
- G. It shall be unlawful for any person, firm or corporation, to whom a license has been granted pursuant to this chapter or ch. 125, Wis. Stats. to permit any person to leave the licensed premises with any open container which contains any alcohol beverage.
- H. In this section, the following shall apply:
- (1) "Public place" means any street, public tree bank, public parking lot, or public sidewalk.

- (2) "Container" means any glass, cup, can, bottle or other receptacle of any kind.
- (3) A bottle, can or receptacle shall be considered open if the same has been or is opened, the seal has been broken, or the contents thereof have been partially removed.

I. Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, be subject to a forfeiture of not more than \$500.00 for each offense, provided, however, that in the event that proceedings are commenced against a minor for a violation of this ordinance, the provisions of s. 938.344, Wis. Stats., shall be applicable.

§133-15. License required in public place; Exceptions.

No owner, lessee, or person in charge of a public place may permit the consumption of alcohol beverages on the premises of the public place, unless the person has an appropriate retail license or permit. This subsection does not apply to municipalities, buildings, and parks owned by counties, regularly established athletic fields and stadiums, school buildings, churches, or clubs.

§133-16. Possession of alcohol beverages on school grounds prohibited.

A. Definitions. In this section:

- (1) "Motor vehicle" means a motor vehicle owned by, rented by, or consigned to a school.
- (2) "School" means a public, parochial, or private school which provides an educational program for one or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
- (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
- (4) "School premises" means premises owned, rented or under the control of a school.

B. Except as provided by subsection C. no person may possess or drink alcohol beverages:

- (1) On school premises;
- (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
- (3) While participating in a school-sponsored activity.

C. Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

D. Any person who violates this section shall forfeit not more than \$200.00 except that disposition in proceedings against a person under eighteen (18) years of age shall be as provided by ss. 125.07(4)(c) and 938.344, Wis. Stats.

§133-17. Penalties.

Any person who violates any provision of this chapter for which a specific penalty is not provided, shall forfeit not more than \$500.00 and pay the costs of prosecution. Any license or permit issued to a person under this chapter may be revoked or suspended by the Court.

ARTICLE II
Reserve "Class B" Licenses

§ 133-18. Increase in number of Reserve "Class B" Licenses.

The Town of Farmington, Washington County, Wisconsin has gained two (2) Reserve "Class B" Licenses, one (1) at the population increase of 3,410 and one (1) at the population increase of 3,910.

§ 133-19. Increase in available licenses for Town.

An additional Reserve "Class B" License will become available for issuance by the Town of Farmington, Washington County, Wisconsin, for every population increase of 500 people after that is determined by the annual Department of Administration population estimate.

§ 133-20. Reserve "Class B" license fee.

The fee for the initial issuance of a reserve "Class B" license shall be \$10,000.00 as required by Wis. Stat. § 125.51(3)(e)2.