

ORDINANCE 2020-07 AMENDING THE VILLAGE OF FREDONIA CODE OF ORDINANCES
SECTION 339 TITLE 19 PERTAINING TO AUTHORITY OVER ISSUING OPERATOR LICENSES

The Village Board of the Village of Fredonia do ordain as follows:

1. Section 339 Title 19 is amended to read as follows:

§ 339-19 **Operator's license.**

A. Operator's license required.

- (1) Operator's licenses; Class "A," Class "B" or "Class C" premises. Except as provided under §§ 125.32(3)(b) and 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A," Class "B," or "Class C" 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 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. 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," Class "B," or "Class C" 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 person holding an operator's license, who is on the premises at the time of the service.
- (2) Use by another prohibited.
 - (a) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
 - (b) The license or permit of a person who violates Subsection A(2)(a) above shall be revoked.

B. Procedure upon application.

- (1) The Village Board or Clerk-Treasurer may issue an operator's license, which license shall be granted only upon application, in writing, on forms to be obtained from the Village Clerk-Treasurer only to persons 18 years of age or older. Operator's licenses shall be operative only within the limits of the Village.
- (2) All applications are subject to an investigation by the Village Marshal and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant, including, but not limited to, requesting information from the state, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

C. Duration. Licenses issued under the provision of this chapter shall be valid for a period of one year and shall expire on the 30th day of June.

D. Operator's license fee; provision or licenses.

- (1) Fee. The fee for an operator's license shall be as set forth on the Village's Schedule of Fees. The fee for a provisional license shall be as set forth in the Schedule of Fees. There shall be no fee for a temporary operator's license. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (2) Provisional license. The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with § 125.17(5), Wis. Stats. The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Village Marshal shall submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in a responsible beverage server training course established pursuant to § 125.17(1), Wis. Stats. The Village Clerk-Treasurer may, upon receiving an application for a provisional license, issue such a license without requiring the successful completion of the responsible beverage server training course, as described herein. However, such license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the responsible beverage server training course, and the applicant shall also apply for a regular operator's license. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his operator's license revoked or suspended within the preceding 12 months, or who previously held an operator's license and who failed to complete the responsible beverage server training course without first successfully completing the program. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (3) Temporary license. The Clerk-Treasurer may issue a temporary operator's license, provided that:
 - (a) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.
 - (b) No person may hold more than one license of this kind per year.
 - (c) 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.

E. Issuance or denial of operator's licenses.

- (1) After the Village Board or Clerk-Treasurer approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expirations of such license.
- (2) Denial.
 - (a) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to,

or served upon, the applicant at least 10 days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

- (b) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant, in writing, of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to § 125.12(2)(d), Wis. Stats., for review.
- (3) Criteria for granting or denying license.
 - (a) Consideration for the granting or denial of a license will be based on:
 - [1] Arrest and conviction record of the applicant, subject to the limitations imposed by §§ 111.321, 111.322, and 111.335 Wis. Stats.;
 - [2] The financial responsibility of the applicant; and
 - [3] Generally, the applicant's fitness for the trust to be reposed.
 - (b) If a licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.
 - (4) An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two offenses which are substantially related to the licensed activity within the five years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two or more offenses which are substantially related to the licensed activity within the five years immediately preceding, act to suspend such license for a period of one year or more. Upon denial of an operator's license, such denial may be reconsidered by the Board upon the request of the applicant.
- F. Training course.
 - (1) Except as provided in Subsection **F(1)(b)** below, the Village Board or Clerk- Treasurer may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the Board of Vocational, Technical and Adult Education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:
 - (a) The person is renewing an operator's license.

- (b) Within the past two years, the person held a Class "A," Class "B," "Class A," "Class B," or "Class C" license or permit or a manager's or operator's license.
 - (c) Within the past two years, the person has completed such a training course.
 - (2) The Village Board or Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in a training course under Subsection **F(1)** above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
 - (3) The Village Board or Clerk-Treasurer may not require that applicants for operators' licenses undergo training in addition to that under Subsection **F(1)**, but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection **F(1)**.
 - G. Display of license. Each license issued under the provisions of this chapter shall be posted on the premises whenever the operator dispenses beverages or be in his possession, or carry a license card.
 - H. Revocation of operator's license. Violation of any of the terms of provisions of the state law or of this chapter relating to operators' license shall be cause for revocation of the license.
2. This ordinance shall take effect and be in force one day after its passage and posting as provided by law.

PASSED AND ADOPTED by the Village Board of the Village of Fredonia, Ozaukee County, Wisconsin, this 2nd day of July, 2020.

Donald Dohrwardt, Village President

ATTEST:

Sandra Tretow, Village Clerk