

TOMAHAWK MUNICIPAL CODE

Chapter 6

Alcoholic Beverages\*

**Article I. In General..... 2**  
    Section 6-1. State Statutes Adopted..... 2  
    Section 6-2. Underage Possession or Consumption..... 2  
    Section 6-3. Public Consumption..... 2  
    Section 6-4. Authorized Presence of Underage Persons in Licensed Premises..... 2  
    Sections 6-5 – 6-30. Reserved. .... 3  
**Article II. Licenses and Permits..... 3**  
    Section 6-31. Required..... 3  
    Section 6-32. Classes..... 3  
    Section 6-33. Application..... 5  
    Section 6-34. Restrictions..... 5  
    Section 6-35. Quotas..... 6  
    Section 6-36. Age Requirement..... 6  
    Section 6-37. Effect of Revocation of License..... 6  
    Section 6-38. Delinquent Taxes, Assessments and Claims. .... 6  
    Section 6-39. Issuance for Sales in Dwellings Prohibited..... 6  
    Section 6-40. Style, Expiration..... 6  
    Section 6-41. Transfer. .... 7  
    Section 6-42. Posting and Care. .... 7  
    Section 6-43. Regulation of Licensed Premises and Licensees. .... 7  
    Section 6-44. Issuance of Picnic License..... 7  
    Section 6-45. Closing Hours. .... 8  
    Section 6-46. Revocation and Suspension. .... 8  
    Section 6-47. Nonrenewal. .... 8  
    Section 6-48. Violations by Agents and Employees..... 8  
    Section 6-49. Minimum Business Requirement. .... 8

\*Cross References – Businesses, Chapter 22; Intoxicated Snowmobiling Operation, § 94-212.

# TOMAHAWK MUNICIPAL CODE

## Article I. In General

### Section 6-1. State Statutes Adopted.

The provisions of Wisconsin Statute, Chapter 125, defining and regulating the sale, procurement dispensing and transfer of alcohol beverages, including provisions relating to persons under the legal drinking age, are adopted and made a part of this section by reference. A violation of any of such provisions shall constitute a violation of this section. (Code 1989, § 12.05(1))

### Section 6-2. Underage Possession or Consumption.

(a) No person, age 13 to 20, inclusive, shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Wisconsin Statute, Chapter 125.

(b) A violation of this section shall be punishable according to Wisconsin Statute § 938.343.  
(Code 1989, § 9.18)                    **Cross Reference** – Minors, § 62-131 et seq.

### Section 6-3. Public Consumption.

(a) No person shall consume or possess in any open container, any intoxicating liquor, wine or fermented malt beverage while in or upon the public streets, alleys, sidewalks, parking lots or other public ways within the city.

(b) It shall be unlawful for any person to sell, give away, possess, or consume any alcohol beverages as defined in Wis. Stat. chapter 125.02, on any of the following City properties:  
a. Any part of Washington Square Park

(c) Open containers shall be defined as the unsealed bottle or can in which the licensee received the material or any container to which it has been subsequently transferred.

(d) Fraternal and service organizations and clubs may apply for a permit to have meetings, festivals and activities held on public streets and in public areas so that alcohol beverages, wine and fermented malt beverages may be consumed from open containers during the time permitted as designated on the permit. Such permit applications shall be made to the city clerk-treasurer. Permits shall specify the exact dates that such activities shall be allowed. Permits shall be made to the city clerk-treasurer in a timely manner so as to permit the common council to act.

(e) Each premise licensed for the sale of intoxicating liquor, wine or fermented malt beverages shall post a notice at each exit stating that no intoxicating liquor, wine nor fermented malt beverages may be carried in an open container out of the premises. Such notice shall be in a form approved by the chief of police.

### Section 6-4. Authorized Presence of Underage Persons in Licensed Premises.

Underage persons may enter and remain on Class "B" or "Class B" premises when no alcoholic beverages are being sold nor served on specified dates as provided in this ordinance upon conditions as follows:

(1) The licensee shall obtain the written authorization from the city police department permitting the presence of underage persons for the specified date and times of the event.

## TOMAHAWK MUNICIPAL CODE

- (2) In issuing such authorization, the police department may impose such conditions as it deems necessary to assure that the presence of underage persons will not endanger their health, welfare or safety nor that of other members of the community.

### Sections 6-5 – 6-30. Reserved.

## Article II. Licenses and Permits

### Section 6-31. Required.

- (a) *Authorization.* Except as provided by Wisconsin Statute § 125.06, no person shall, within the city, serve, sell, manufacture, rectify, brew or engage in any other activity for which this article or Wisconsin Statute, Chapter 125, requires a license, permit or other authorization without holding the appropriate license, permit or other authorization as provided in this article. See Wisconsin Statute § 125.04(1).
- (b) *Separate License Required for Each Place of Sale.* Except for licensed public warehouses, a license shall be required for each location or premises which is in direct connection or communication to each other where intoxicating liquor or fermented malt beverages are stored, sold or offered for sale. See Wisconsin Statute § 125.04(9).

(Code 1989, § 12.05(2))

### Section 6-32. Classes.

The following classes and denominations of licenses may be issued by the city clerk under the authority of the common council after payment of the fee specified in this section, when so issued shall permit the holder to sell, deal or traffic in alcohol beverages as provided in Wisconsin Statute §§ 125.17, 125.25, 125.26, 125.28, 125.51 and 125.57. Except as otherwise provided in this section, the full license fee shall be charged for the whole or fraction of any year.

- (1) *Class A Fermented Malt Beverage Retailer's License.* See Wisconsin Statute § 125.25.
- (2) *Class B Fermented Malt Beverage Retailer's License.* See Wisconsin Statute § 125.26.
  - (a) Six months. A license may be issued at any time for six months in any calendar year, for which 50 percent of the applicable license fee shall be paid; but such license shall not be renewable during the calendar year in which issued. See Wisconsin Statute § 125.26(5).
  - (b) Picnic. See Wisconsin Statute § 125.26(6).
- (3) *Wholesaler's Fermented Malt Beverage License.* See Wisconsin Statute § 125.28.
- (4) *Retail Class A Liquor License.* See Wisconsin Statute § 125.51(2).
- (5) *Retail Class B Liquor License.* A retail class B liquor license shall permit its holder to sell liquor in original packages or containers in multiples not to exceed four liters at any one time to be consumed off the licensed premises. Wine may be sold in original packages or otherwise in any quantity to be consumed off the premises. See Wisconsin Statute § 125.51(3).

## TOMAHAWK MUNICIPAL CODE

- (a) A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.
- (b) Licenses valid for six months may be issued at any time. The fee for such license shall be 50 percent of the annual license fee. The license may not be renewed during the calendar year in which issued. See Wisconsin Statute § 125.51(9).

(6) *Retail Class C License for Wine* as set out in Wisconsin Statute § 125.51 (3m).

(7) *Pharmacists*. See Wisconsin Statute § 125.57.

(8) *Operator's License*. See Wisconsin Statute § 125.17.

- (a) Operator's licenses may be granted to individuals by the common council for the purposes of complying with Wisconsin Statutes §§ 125.32(2) and 125.68(2).
- (b) Operator's licenses may be issued only on written application on forms provided by the clerk.
- (c) Operator's licenses may be issued on a one-year or two-year basis. However, all licenses shall expire June 30 of the appropriate year even though this may be less than one or two calendar years as the case may be. The fee for the license shall not be prorated.

(Ordinance Number 1989-5, § II, 7-11-1989)

(9) *Provisional Operator's License*.

- (a) A provisional operator's license may be issued only to a person who has applied for an operator's license under authority of Wisconsin Statute § 125.17(1).
- (b) A provisional operator's license may not be issued to any person who has been denied an operator's license under Wisconsin Statute § 125.17(1) by the common council.
- (c) A provisional operator's license expires 60 days after its issuance or when an operator's license under Wisconsin Statute § 125.17(1), is issued to the holder, whichever is sooner.
- (d) The city clerk shall be authorized to issue provisional operator's licenses.
- (e) The city clerk may revoke the provisional operator's license if he or she discovers that the holder of the license made a false statement on the application.

(10) *Temporary Operator's License*.

- (a) A temporary operator's license may be issued upon written application to the common council.
- (b) This license may be issued only to operators employed by or donating their services to nonprofit corporations.
- (c) No person may hold more than one license of this kind per year.

## TOMAHAWK MUNICIPAL CODE

(d) This 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) The license will be issued for a fee as provided in Section 22-31.

(Code 1989, § 12.05(3))

### Section 6-33. 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 state department of revenue or governing body and filed with the city 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 or not separated by a solid wall.

(b) *To be Notarized.* Applications shall be signed and sworn to by the applicant as provided by Wisconsin Statute § 887.01.

(c) *Duplicate.* Upon approval, a duplicate copy of each application shall be forwarded by the city clerk to the state department of revenue.

(Code 1989, § 12.05(4))

### Section 6-34. Restrictions.

(a) *Statutory Requirements.* Licenses shall be issued only to persons eligible therefor under Wisconsin Statute § 125.04.

(b) *Location.*

(1) 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 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 June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.

(3) This section shall not apply to a restaurant located within 300 feet of a church or school. This subsection applies only to restaurants in which the sale of alcohol beverages accounts for less than 50 percent of their gross receipts.

(c) *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 industry, labor and human relations pertaining to buildings and plumbing, to the rules and regulations of the state department of health and social services applicable to restaurants and to all such ordinances and regulations adopted by the common council.

(Code 1989, § 12.05(5))

## TOMAHAWK MUNICIPAL CODE

### Section 6-35. Quotas.

All licenses within each class below shall be limited to the number shown opposite:

- |  |     |
|--|-----|
| (1) Class "A" Fermented Malt (package only)  | 12; |
| (2) Class "B" Fermented Malt on premise  | 8;  |
| (3) "Class A" Intoxicating Liquor (package only)   | 8;  |
| (4) Combination "Class B" Intoxicating Liquor and Class "B" Fermented Malt, 125.51(3)(f) | 18; |
| (5) Class "C" Wine – no limit  |     |

### Section 6-36. Age Requirement.

No license hereunder, except an operator's license, shall be granted to any person who has not attained the age of 21. Operator's licenses may be issued only to applicants who have attained the age of 18.

### Section 6-37. Effect of Revocation of License.

Whenever any license has been 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 another license shall be granted to the person whose license was revoked.  
(Code 1989, § 12.05(5) (f))

### Section 6-38. Delinquent Taxes, Assessments and Claims.

No license shall be granted for any premises for which taxes, assessments or other claims of the city are delinquent and unpaid, or to any person delinquent in payment of such claims to the city.  
(Code 1989, § 12.05(5) (g))

### Section 6-39. Issuance for Sales in Dwellings Prohibited.

No license shall be issued to any person for the purpose of possessing or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.  
(Code 1989, § 12.05(5) (h))

### Section 6-40. Style, Expiration.

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 city clerk shall affix his or her affidavit as required by Wisconsin Statute § 125.04(4).  
(Code 1989, § 12.05(6))

## TOMAHAWK MUNICIPAL CODE

### Section 6-41. Transfer.

- (a) *Persons.* No license shall be transferable as to licensee except as provided by Wisconsin Statute § 125.04(12).
- (b) *Premises.* Licenses issued pursuant to this section may be transformed to another premises once during any license year as provided in Wisconsin Statute § 125.04(12). 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.

(Code 1989, § 12.05(7))

### Section 6-42. Posting and Care.

Every license or permit required under this section shall be framed and posted and at all times displayed as provided in Wisconsin Statute § 125.04(10). 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.

(Code 1989, § 12.05(8))

### Section 6-43. Regulation of Licensed Premises and Licensees.

- (a) *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.
- (b) *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.
- (c) *Sales by Clubs.* No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.
- (d) *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 it is used.
- (e) *Certain Costumes Prohibited.* No retail licensee for on-premises consumption shall suffer or permit any person to appear on licensed premises in such a manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals or any simulation thereof; nor shall suffer or permit any female to appear on licensed premises in such manner or attire as to expose to view any portion of the breast below the top of the areola or any simulation thereof.

(Code 1989, § 12.05(9))

### Section 6-44. Issuance of Picnic License.

A Temporary Class B License (Picnic License) may be issued as follows:

- (a) *Application for License.* A license shall be applied for on the form provided by the city clerk's office.

## TOMAHAWK MUNICIPAL CODE

- (b) *Review by the Police Department.* Prior to the clerk's issuing a temporary license under this section, the clerk shall transfer the completed application form to the city police department for review and a recommendation to the clerk's office as to the appropriateness of the issuance of the license.
- (c) *Issuance of License.* Upon receipt of an approval by the city police department, the completion of all licensing requirements, and payment of the fee, the clerk may issue the license to the applicant immediately. If the city clerk believes that the matter is not appropriate for immediate licensing, the clerk shall refer the matter to the license and permits committee for its review and, if necessary, for council action.

### **Section 6-45. Closing Hours.**

No premises for which an alcohol beverage license has been issued shall remain open for the sale of alcohol beverages, except during those hours and times prescribed by the state statutes then in effect and applicable to the type of license on that premises.

(Code 1989, § 12.05(10))

### **Section 6-46. Revocation and Suspension.**

- (a) *Procedure.* Whenever the holder of any license under this article violates any portion of this article, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Wisconsin Statute § 125.12, and the provisions therein relating to granting a new license shall likewise be applicable.
- (b) *Effect of Revocation.* Whenever any license has been 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 another license shall be granted to the person whose license was revoked.

(Code 1989, §§ 12.05(11), 12.05(5) (f))

### **Section 6-47. Nonrenewal.**

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

(Code 1989, § 12.05(12))

### **Section 6-48. Violations by Agents and Employees.**

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

(Code 1989, § 12.05(13))

### **Section 6-49. Minimum Business Requirement.**

- (a) Within two years after initial issuance of any license for intoxicating liquor or fermented malt beverages, the licensee shall be open for business with stock and equipment.
- (b) Thereafter, the licensee shall be open for business in each licensing period.



## TOMAHAWK MUNICIPAL CODE

(c) The phrase “open for business”, as used in this section, means 150 days of full use and operation.

(d) This shall be effective for all licenses issued hereafter except those currently being issued under the five-year requirement and as to those, it shall be effective upon issuance of the first license following the termination of the five-year period.

(e) This article shall be effective upon its passage and publication.

(Ordinance Number 1989-7, § 12.05(14), 8-8-1989)