

**CHAPTER 9**  
**Intoxicating Liquor and Fermented Malt Beverages**

**9.09 Restrictions on Granting Licenses**

(1) RESIDENCY RESTRICTIONS. (Am. #57-86) (Am. #12-09) Except as permitted under section 125.28(1)(b), Wis. Stats., no license shall be issued to a person or agent for a corporation unless such person or agent resides within the County of Waukesha.

(2) PROHIBITED LOCATIONS. (Am. #23-76) (Am. #63-02) No Class A or Class B license or permit may be issued for a premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church except that this prohibition may be waived by a majority vote of the Common Council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:

- (a) A premises covered by a license or permit on June 30, 1947;
- (b) Premises covered by a license or permit prior to occupation of real property within 300 thereof by any school, hospital or church building;
- (c) A restaurant located within 300 feet of a church or school. This paragraph applies only to restaurants in which the sale of alcoholic beverages accounts for less than 50% of their gross receipt.

(3) DELINQUENT TAXES AND CHARGES. (Am. #51-86) No license shall be granted for any premises upon which taxes or assessments payable to the City are delinquent and unpaid. Any applicant or licensee who wishes to contest the Clerk's determination that all local taxes and assessments have not been paid may request a hearing before the Common Council as provided for in §8.26 of this Municipal Code.

(4) RESTRICTIONS TO CLASS A PREMISES. (Rep. #19-92, Recr. #57-94) (Am. #14-05) No Class A Intoxicating liquor license may be granted for any premises where another business is conducted in connection with the premises. This restriction does not apply if intoxicating liquor is displayed and sold in a room separate from the remainder of the premises where the other business is conducted. All checkouts and purchases shall be made in the room in which the intoxicating liquor is displayed. The restrictions and requirements of this subsection do not apply to the display and sale of wine.

(5) STREET LEVEL ONLY. Except for bona fide clubs or hotels, no license shall be issued for premises which are not at street level.

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(6) LICENSE FOR SALES ON PUBLIC PROPERTY PROHIBITED; EXCEPTION.  
(Am. #11-88) (Am. #18-01)

(a) No license shall be issued for the sale of intoxicating liquor or fermented malt beverages in public parks or any other City owned property.

(b) Exceptions.

1. A fermented malt beverage license may be issued in Saratoga Park. No intoxicating liquor or fermented malt beverage shall be brought or carried into Saratoga Park after having purchased it outside of Saratoga Park. Rules and regulations concerning the sale of fermented malt beverages in Saratoga Park are established by resolution.

2. (Am. #37-93) A license for the sale of fermented malt beverages may be issued for use in Frame Park and another license may be issued for use in Lowell Park on an annual basis, each for the duration of the Waukesha Winter Janboree, which shall be held on a date specified by the Waukesha Winter Janboree Committee. No intoxicating liquor or fermented malt beverage shall be brought or carried into Lowell Park or Frame Park during the Waukesha Winter Janboree, except those individuals authorized by the City to sell and dispense beverages, at Lowell Park or Frame Park, during the Waukesha Winter Jamboree.

3. (Am. #17-90) (Am. #31-96) (Am. #39-02) A license for the sale of fermented malt beverages and wine may be issued for public special events for use in Frame Park and Cutler Park upon application and review by the Parks, Recreation & Forestry Board, Ordinance and License Committee and Common Council approval. No intoxicating liquor or fermented malt beverage shall be brought or carried into Frame Park or Cutler Park after having purchased it outside of Frame Park or Cutler Park, except by those individuals authorized by the City to sell and dispense beverages at Frame Park and Cutler Park.

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(c) (Cr. #39-02) Hours for sale, consumption and possession of fermented malt beverages and wine must adhere to permitted hours as stated in sec. 11.27(4)(b). Only bonafide non-profit community based public special events that qualify for a temporary license under secs. 125.26(6) or 125.51(10), Wis. Stats., may request for a variance of permitted hours upon application and review by the Parks, Recreation & Forestry Board, Ordinance & License Committee and Common Council approval.

(7) LIMITED INTERESTS. (Cr. #15-71) No Class A or Class B intoxicating liquor or fermented malt beverage license shall be granted to any person who has a direct or indirect interest in more than one other Class A or Class B intoxicating liquor or fermented malt beverage license issued by the City.

(a) Direct interest means that the person is the licensee.

(b) Indirect interest means any interest either as a partner or stockholder in any corporation that is the licensee irrespective of how minor the interest may be.

(c) Any false statement made on any application for a license relative to the interest of the applicant in other Class A or Class B intoxicating liquor or fermented malt beverage licenses shall be sufficient reason for revocation of any license granted to any person making a false statement.

(d) If a licensee holding a current license acquires an interest in an additional Class A or Class B license, contrary to the provisions of this section, the current license may be revoked forthwith by the Common Council.

(8) RESTRICTIONS ON THE ISSUANCE OF CLASS C LICENSES (Cr. #4-18)

(a) Class C Retail Wine licenses may be issued only to retail businesses that prepare food for their customers, serve food to their customers, or sell food to their customers. For purposes of this subsection, "food" means any product intended for consumption by humans, but does not include soft drinks, ice cream, milk, milk drinks, ices, candy, or confections, and cannot consist solely of snack foods such as potato chips, tortilla chips, corn chips, nuts, pretzels, popcorn, cheese, crackers, or any items that are served solely through vending machines.

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(b) Regardless of subsection (a), Class C Retail Wine licenses may not be issued to the following entities:

- (i) Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.
- (ii) Churches, religious, fraternal, youth or patriotic organizations, service clubs, and civic organizations that occasionally prepare, serve, or sell meals to transients or the general public.
- (iii) Any public or private school lunchroom at which food service is directly provided by the school, or a private individual selling food from a movable or temporary stand at a public farm sale.
- (iv) Any bed and breakfast establishment, as defined in Wis. Stats. §97.01(1g), that serves breakfasts only to its lodgers.
- (v) Any college campus as defined in Wis. Stats. §36.05(6m), institution as defined in Wis. Stats. §36.51(1)(b), or technical college, that serves meals only to the students enrolled in the college campus, institution, or technical college or to authorized elderly persons under Wis. Stats. §36.51 or §38.36.
- (vi) A concession stand at a locally-sponsored sporting event, such as a little league game.
- (vii) A potluck event, as defined in Wis. Stats. §97.01(13g).