

CHAPTER 2

Fermented Malt Beverages and Intoxicating Liquor

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ARTICLE A

Fermented Malt Beverages and Intoxicating Liquor

SEC. 7-2-1 STATE STATUTES ADOPTED.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

SEC. 7-2-2 DEFINITIONS.

As used in this Chapter the terms “Alcoholic Beverages,” “Intoxicating Liquors,” “Principal Business,” “Legal Drinking Age,” “Premises,” “Sell,” “Sold,” “Sale,” “Restaurant,” “Club,” “Retailer,” “Person,” “Fermented Malt Beverages,” “Wholesalers,” “Retailers,” “Operators,” and “Non-Intoxicating Beverages” shall have the meaning given them by Chapter 125, Wisconsin Statutes.

SEC. 7-2-3 LICENSE REQUIRED.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

SEC. 7-2-4 CLASSES OF LICENSES.

- (a) **Retail "Class A" Intoxicating Liquor License.** A retail "Class A" intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.

- (b) **Retail "Class B" Intoxicating Liquor License.** A retail "Class B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.
- (d) **Class "B" Fermented Malt Beverage Retailer's License.**
- (1) License. A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percent of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.
 - (2) Application. Class "B" licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class "B" license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class B licenses may not be issued to brewers or fermented malt beverages wholesalers.
- (e) **Temporary Class "B" Fermented Malt Beverage License.**
- (1) License. As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class "B" fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. Such license is valid for dates as approved by the Town Clerk.

- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association, making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class B license for one (1) year. The license shall specify the hours and dates of license validity. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.
- (f) **Temporary "Class B" Wine License.**
- (1) License. Notwithstanding Sec. 125.68(3), Wis. Stats., temporary "Class B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class "B" beer license under Sec. 125.26(6), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than six percent (6%) alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than six percent (6%) alcohol by volume from the stands while the fair is being held.
- (2) Application. Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a temporary Class B wine license for one (1) year. The license shall specify the hours and dates of license validity. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.
- (g) **Class "E" Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Town Clerk under authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

Cross Reference: Section 7-2-17.

SEC. 7-2-5 LICENSE FEES.

The following license fees shall be charged for licenses issued by the Town Board for the sale of intoxicating liquors and fermented malt beverages within the Town. The annual fee for licenses shall be paid on or before the 15th day of June of each license year, excluding Retail Class B Picnic Licenses. All such fees are payable after approval of the application by the Town Board and prior to the release of the license being delivered to the licensee, with the exception of Special Class B Picnic Licenses, for which the fee shall be paid at the time application is submitted.

- (a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be Fifty Dollars (\$50.00). The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (b) **Class "B" Fermented Malt Beverage License.** The annual fee for this license shall be One Hundred Dollars (\$100.00). This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
- (c) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be Ten Dollars (\$10.00) per event or Fifty Dollars (\$50.00) for a club license.
- (d) **Temporary "Class B" Wine License.** The fee for this license shall be Ten Dollars (\$10.00) per event. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
- (e) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be Twenty-five Dollars (\$25.00).
- (f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be \$500.00.
- (g) **"Class B" Intoxicating Liquor Retailer's License.** The annual' fee for this license shall be \$500.00.

SEC. 7-2-6 APPLICATION FOR LICENSE.

- (a) **Contents.**
 - (1) Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04, Wis. Stats., and shall be filed with the Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
 - (2) The contents of each application shall contain all of the following information:
 - a. A history of the applicant relevant to the applicant's fitness to hold a license or permit.

- b. The kind of license or permit for which the applicant is applying.
 - c. The premises where alcohol beverages will be sold or stored.
 - d. Any other pertinent information required by the Town Board.
- (b) **Corporation.** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
- (c) **Publication.** The Town Clerk shall publish each application for a Class "A," Class "B," "Class A" or "Class B" license. There is no publication requirement for temporary Class "B" picnic beer licenses under Sec. 125.26, Wis. Stats., or temporary "Class B" picnic wine licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats. The publication fee shall be Twenty Dollars (\$20.00).
- (d) **Amending Application.** Whenever anything occurs to change any fact set out in the application of any licensee, such licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
- (e) **Bond.** Whenever a bond is required by the Wisconsin Statutes, the same shall not be acceptable unless approved by the Town Chairperson and Town Attorney, either of whom may require such evidence as they deem necessary as to the eligibility and justification of the sureties.
- (f) **Limitation as to the Number.**
- (1) The number of Class B Intoxicating Liquor Licenses shall be the maximum allowed under Section 125.51(4), Wis. Stats.
 - (2) Not more than two (2) of any one (1) type of Retail Class A or Class B license shall be issued in the State to any one (1) corporation or person, except in the case of hotels or clubs.
 - (3) The Town may utilize the annual population estimate received from the Wisconsin Department of Administration Demographic Service Center or the Bureau of Census of the United States Government in determining quotas.
- (g) **Issuance of Temporary Class "B" Fermented Malt Beverage and/or Wine Picnic Licenses by Clerk.**
- (1) To increase efficiency and flexibility, the Board delegates limited power to the Town Clerk to issue Temporary Class "B" Fermented Malt Beverage and/or Wine Picnic Licenses. The Clerk is hereby authorized to approve and issue such a license without Town Board approval, provided the following standards are present:
 - a. The applicant has not held a suspended license or had a revocation of license within the year prior to application;
 - b. There is no history of criminal convictions, to the Clerk's knowledge (the Clerk is authorized to verify this information);
 - c. The application has been completed to the Clerk's satisfaction;
 - d. The license fee established by the Town Board has been paid.
 - (2) In this Subsection, the term "Clerk" consistently includes the Deputy Clerk office, if one exists, in the Clerk's absence, unavailability, or because the Deputy is so authorized by the Clerk.

SEC. 7-2-7 QUALIFICATIONS OF APPLICANTS AND PREMISES.

- (a) **Residence Requirements.** A retail Class "A" or Class "B" fermented malt beverage or "Class A" or "Class B" intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of the application.
- (b) **Applicant to have Malt Beverage License.** No retail "Class B" intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class "B" retailer's license to sell fermented malt beverages.
- (c) **Right to Premises.** No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **Age of Applicant.** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
- (e) **Corporate Restrictions.**
 - (1) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats, unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualification under Sec. 125.04(a)2. The requirement that the corporation meet the qualifications under Sec. 125.04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - (3) Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or under the state law.
- (f) **Sales Tax Qualification.** All applicants for retail licenses shall provide proof, as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
- (g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (h) **Licensed Premises.** Licenses issued by the Town shall be for the structure itself and shall not confer any license or right to property outside of the licensed structure. All sales of

intoxicating liquors and fermented malt beverages within the Town of Caledonia shall be limited to and shall be made upon the premises described within the license granted by the Town Board. Specifically restricted by this Section is the sale and delivery of alcoholic beverages by food delivery services. A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication to where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

(i) **Delinquent Taxes, Assessments, Etc.**

- (1) Premises. No initial or renewal alcohol beverage licenses shall be granted for any premises for which Town taxes, assessments, utility bills, refuse collection fees, sewer and water bills or other assessments or other claims to the Town are delinquent and unpaid.
- (2) Persons. No initial or renewal alcohol license shall be granted to any person:
 - a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owed to the Town.
 - b. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Town.

(j) **Previously Licensed Premises.** In the event an application is filed for an alcohol beverage license for the same premises for which a license has been issued to another person, no license shall be issued unless:

- (1) The previously licensed person files a written agreement to surrender his or her license for the premises; or
- (2) The Town Board is satisfied that the previously licensed person has no right to possession or control of the licensed premises.

SEC. 7-2-8 INVESTIGATION.

- (a) The Town Clerk shall notify the Fire Inspector, Chief of Police, Health Officer, Plumbing Inspector, HVAC Inspector and Building Inspector of each new application, and the Chief of Police and Health Officer only for renewals, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. The Police Department 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. These officials shall furnish to the Town Clerk in writing, who shall forward to the Town Board, the information derived from such investigation, accompanied by a recommendation as whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.
- (b) If the inspecting officials recommend the denial of the application, the applicant shall be notified by the Town Clerk at least fifteen (15) days prior to the Board meeting at which the application is to be considered. The notice shall set forth the bases for such recommendation and inform the applicant of the opportunity to appear before the Town

Board and to provide evidence as to why the application should be approved. In addition, the applicant shall be notified that the consideration of the application may be held in closed session, pursuant to Section 19.85(1)(b) of the Wisconsin Statutes, unless the applicant requests such consideration be held in open session.

SEC. 7-2-9 APPROVAL OF APPLICATION.

- (a) No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.
- (b) No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and local Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Town.
- (c) 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 Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - (2) The financial responsibility of the applicant;
 - (3) The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - (4) Generally, the applicant's fitness for the trust to be reposed.
- (d) 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 (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town 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 Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one year or more.

SEC. 7-2-10 GRANTING OR DENIAL OF LICENSE.

- (a) Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town Treasurer.
- (b) (1) If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. In addition, the notice shall inform the applicant that the reconsideration of the application shall be held in

closed session, pursuant to Sec. 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Town Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Town Board meeting at which the application is to be reconsidered. In the event any application for a license is denied, any fees, other than publication fees, required to be submitted with the application shall be returned to the applicant upon due demand.

- (2) If, upon reconsideration, the Board again denies the application, the Town Clerk shall notify the applicant in writing of the reasons therefor. An applicant who is denied any license upon reconsideration of the matter may apply to Circuit Court pursuant to Section 125.12(2)(d), Wis. Stats., for review.

SEC. 7-2-11 TRANSFER AND LAPSE OF LICENSE.

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

SEC. 7-2-12 NUMBERING OF LICENSE.

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. The Town Clerk shall affix to the license his affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

SEC. 7-2-13 POSTING LICENSES; DEFACEMENT.

- (a) Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- (b) It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

SEC. 7-2-14 CONDITIONS OF LICENSE.

All retail Class "A", Class "B", "Class A" and "Class B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Town applicable thereto.

- (a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Town 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 Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- (b) **Employment of Minors.** No retail "Class B" or Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (d) **Licensed Operator on Premises.** There shall be upon premises operated under a "Class B" or Class "B" license, at all times, the licensee, members of the licensee's family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class B" or Class "B" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- (e) **Health and Sanitation Regulations.** The rules and regulations of, the State Board of Health governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this Chapter. No "Class B" license shall be issued unless the premises to be licensed conform to such rules and regulation.
- (f) **Restrictions Near Schools and Churches.** No retail Class "A," Class "B," "Class A" or "Class B" license shall be issued for premises, the main entrance of which is less than three hundred (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 maintenance entrance of such school, church or hospital to the main entrance to such premises. 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 three hundred (300) feet thereof by any school building, hospital building or church building.

- (g) **Consumption on Premises.** All purchase of intoxicating liquor or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed therefrom to any thoroughfare, street, alley or sidewalk unless authorized by the Town Board.
- (h) **Gambling Prohibited.** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin, except the Wisconsin State Lottery.
- (i) **Credit Prohibited.** No retail Class “A,” Class “B,” “Class A” or “Class B” liquor or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- (j) **Licensee or Permittee Responsible for Acts of Help.** A violation of this Chapter by a duly authorized agent or employee of a licensee or permittee under this Chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- (k) **Operational Telephone Required.** All premises located within the Town which are licensed to sell alcoholic beverages shall, during hours they are open, be equipped with a functioning telephone which shall be available to the operators and/or patrons of the establishment.
- (l) **Sale to Intoxicated Person Prohibited.** No keeper of a place for the sale of intoxicating liquor may sell, vend or in any way deal or traffic in or the purposed of evading this ordinance or any law of the State of Wisconsin relating to the sale of intoxicating liquor, give away intoxicating liquor in any quantity to any person intoxicated or bordering on a state of intoxication.
- (m) **Procuring Liquor for Persons Under the Legal Drinking Age.** No person, firm or corporation shall procure intoxicating liquor for a person under the legal drinking age.
- (n) **Stamped Liquor.** Licensees under this Chapter shall sell or possess only properly stamped liquor, and shall not have defaced labels on empty bottles.
- (o) **Draught Beer.** The brand of draught beer indicated on a tap shall conform with the brand dispensed from that tap.
- (p) **Invoices.** All invoices for liquor, beer and tobacco products shall be properly maintained and be in sequence.

Annotation: See Colonnade Catering Corp. v. United States, 397 U.S. 72, 90 S. Ct. 774 (1970); and State v. Erickson, 101 Wis. 2d 224 (1981), for guidelines for warrantless searches of licensed premises.

SEC. 7-2-15 CLOSING HOURS.

Closing hours shall be established in conformance with Sec. 125.32(3) and Sec. 125.68(4), Wis. Stats., and further restricted as follows:

(a) **Class “B” Licenses.**

- (1) No premises for which a retail “Class B” liquor or Class “B” fermented malt beverage license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
- (2) Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.
- (3) The licensee or permittee and one (1) employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning. Under no circumstances shall the consumption of alcohol beverages be permitted after closing hours. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning during closed hours. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Chief of Police or his designee for any variance to the above.
- (4) Between 9:00 p.m. and 6:00 a.m., no person may sell intoxicating liquor or fermented malt beverages on Class “B” licensed premises in an original unopened package, container or bottle for consumption away from the premises.

(b) **Class “A” Licenses.** No premises holding a Class “A” intoxicating liquor or fermented malt beverages license(s), nor the holder of a license permitting such premises or holder to sell, deal and traffic in fermented malt beverages, nor any person on such premises, whether or not such person holds an operator’s license pursuant to Sec. 125.17 of the Wisconsin Statutes, as amended, shall sell, vend, barter, exchange, offer for sale, give away, or otherwise furnish to any person any fermented malt beverages or intoxicating liquor in original packages, intending to mean aluminum/tin can, bottles, barrels or other containers in which the beverages have been delivered to the premises, and to be removed from the premises, between 9:00 p.m. and 8:00 a.m.

(c) **Wholesale License.** No premises for which a wholesale license has been issued shall be permitted to remain open for the sale of intoxicating liquors or fermented malt beverages between 5:00 p.m. and 8:00 a.m., except on Saturday, when the closing hour shall be 9:00 p.m.

SEC. 7-2-16 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Town-owned property or privately-owned property within the Town of

Caledonia, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Town Board in accordance with Wisconsin statutes and as set forth in this Section. A temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Town-owned property or privately-owned property may be authorized by the Town Board provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall, meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 11-4-1.
- (b) **Posting of Signs and Licenses.** All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.
- (c) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- (d) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.
- (e) **Waiver.** The Town Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- (f) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of Caledonia. The applicant may be required to furnish a performance bond prior to being granted the license.

Cross Reference: Section 11-4-1.

SEC. 7-2-17 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 4, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Cancellation of Premised Licenses.**
 - (1) Grounds for Cancellation for Nonuse of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor Licenses granted under this Chapter for which the subject premises:
 - a. Is not open for business within ninety (90) days of the granting of such license; or
 - b. Is not open for business for a period of ninety (90) consecutive days or more; or

- c. Is not open for business at least fifty percent (50%) of the days within any twelve (12) month period, either within a licensing year or overlapping two (2) licensing years.

shall be cancelled unless, after notice and hearing as provided in Subsection (2) hereof, the Town Board shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Town Board may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license(s).

- (2) Notice and Hearing. Prior to cancellation of any license, the Town Clerk shall notify the licensee in writing of the Town's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than fifteen (15) days after the date of the notice. Such hearing shall be conducted as provided in accordance with Section 125.12(2)(b) of the Wisconsin Statutes, or any amendments thereto.

- (c) **License Revocation or Suspension.** License revocation or suspension procedures shall be as prescribed by Chapter 125, Wis. Stats.

- (d) **Other Provisions.** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Town Board by amendment to this Section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations, his license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

SEC. 7-2-18 NON-ALCOHOL EVENTS FOR UNDERAGE PERSONS ON LICENSED PREMISES.

The presence of underage persons on a licensed premises as provided under Sec. 125.07(3)(a)10, Wis. Stats., shall be subject to the following:

- (a) The licensee or agent of a corporate licensee shall notify the Police Department at least forty-eight (48) hours in advance of the date of any event at which underage persons will be present on the licensed, premises. Each such non-alcohol event notice shall specify the date(s) on which the event is to occur and the time(s) of commencement. All notices shall be filed with the Police Department during normal working hours (8:00 a.m. to 5:00 p.m., Monday through Friday) and shall be given forms, prescribed by the Department. After a non-alcohol event notice has been given, the licensee may cancel an event(s) only by giving like notice to the Department in accordance with the provisions of this subsection. Regardless of the date given, all notices shall expire and be deemed cancelled no later than the date of expiration or revocation of the applicable retail Class "B" license.
- (b) During the period of any non-alcohol event a notice card prescribed by the Police Department shall be posted at all public entrances to the licensed premises notifying the general public that no alcohol beverages may be consumed, sold or given away on or

carried into the licensed premises during the event. Such notice cards shall be made available by the Town to a requesting licensee.

- (c) Once a non-alcohol event has commenced, no alcohol beverages may be consumed, sold or given away on or carried into the licensed premises until the next day following the closing hours of the licensed premises.
- (d) During the period of any non-alcohol event alcohol beverages shall be stored in a locked portion of the licensed premises in a secure place out of the sight and physical reach of any patron present and shall be under the direct and immediate control and supervision of the licensee or a licensed bartender in the employ of the licensee. All beer taps and automatic dispensers of alcohol beverages ("speed guns") shall be either disconnected, disabled or made inoperable.

SEC. 7-2-19 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.

ARTICLE B

Operator's License

SEC. 7-2-30 OPERATOR'S LICENSE REQUIRED.

- (a) **Operator's Licenses; Class "A" or Class "B" Premises.** Except as provided under Sec. 125.32(3)(b) and Sec. 125.07(3)(a)10, Wis. Stats., 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 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. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any person holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. 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" licensee or permit unless he or she has an operator's license or is at least eighteen (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.
- (b) **Use by Another Prohibited.**
 - (1) No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
 - (2) The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

State Law Reference: Secs. 125.17 and 125.32, Wis. Stats.

SEC. 7-2-31 PROCEDURE UPON APPLICATION.

- (a) **Application.** The Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Town.
- (b) **Investigation.** The Police Department 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 Chief of Police shall recommend, in writing, to the Town Board approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reasons for such recommendation. Upon receipt of recommendation from the Chief of Police, the Town Clerk shall cause the name of the applicant to be placed on the agenda of the Town Board for action to either grant or deny such license application.

Cross-Reference: Section 7-2-5.

SEC. 7-2-32 DURATION.

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June of each even year.

SEC. 7-2-33 OPERATOR'S LICENSE FEE.

- (a) **Operator's License Fee.** A nonrefundable annual application fee of Thirty Dollars (\$30.00) shall be charged for operators licenses, plus a Ten Dollar (\$10.00) record check fee for first time applicants, which shall be payable at the time of application.
- (b) **Temporary Operator's License Fee.** The annual fee for a temporary operator's license for operators of non-profit organizations shall be Ten Dollars (\$10.00) for the term or part thereof.

SEC. 7-2-34 PROVISIONAL LICENSE ISSUANCE.

- (a) **Issuance.** The Town Clerk shall issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats., provided the following conditions are met:
 - (1) A provisional operator's license may be issued only to a person who has submitted an application for an operator's license on the form provided by the Town Clerk.
 - (2) A provisional license may not be issued to any person who has been denied an operator's license by the Town Board or whose operator's license has been revoked or suspended within the preceding twelve (12) months
 - (3) The Clerk is provided with written verification that the applicant has completed or is enrolled in a responsible beverage server training course or comparable course as required by law.
 - (4) The provisional license fee of Ten Dollars (\$10.00) has been paid.

- (b) **Expiration.** The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever occurs first.
- (c) **Revocation.** The provisional license may be revoked by the Town if it is discovered that the holder of the license made a false statement on the application.

SEC. 7-2-35 ISSUANCE OR DENIAL OF OPERATOR'S LICENSES.

- (a) **Issuance of Approved Licenses.** After the Town Board approves the granting of a new operator's license or the Town Board or its authorized designee approves of the granting of a renewal of an operator's license, the Town Clerk 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 expiration of such license. The Town Clerk shall issue each license approved by the Town Board and shall make the same available at the Town Clerk's office in the Town Hall, upon payment of the fees provided herein.
- (b) **Denial; Appeals.**
 - (1) An application shall only be denied by the Town Board.
 - (2) An application for renewal shall only be denied pursuant to the procedures as set forth in Sec. 125.12(3), Wis. Stats.
 - (3) If a new application is denied by the Town Board, the Town Clerk 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 Town Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (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. If, upon reconsideration, the Board again denies the application, the Town Clerk 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 Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) **Basis for Granting or Denial.**
 - (1) Consideration for the granting or denial of a license will be based on:
 - a. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.;
 - b. The financial responsibility of the applicant;
 - c. The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - a. Violations of Chapter 125, Wis. Stats., or ordinances adopted pursuant thereto; and
 - b. Generally, the applicant's fitness for the trust to be reposed.
 - (2) If a licensee is convicted of an offense substantially related to the licensed activity, the Town Board may act to revoke or suspend the license
 - (3) 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, "habitual been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed

activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board the Town Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant or deny a license. Further, the Town Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

SEC. 7-2-36 TRAINING COURSE.

- (a) Except as provided in Subsection (b) below, the Town Board 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 unless the applicant fulfills one of the following requirements:
 - (1) The person is renewing an operator's license.
 - (2) Within the past two (2) years, the person held a Class "A", Class "B", "Class A" or "Class B" license or permit or a manager's or operator's license.
 - (3) Within the past two (2) years, the person has completed such a training course.
- (b) The Town Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (c) The Town Board may not require that applicants for operators' licenses undergo training in addition to that under Subsection (a), but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under Subsection

NOTE: This Section shall take effect July 1, 1991.

SEC. 7-2-37 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. A wallet size license shall be available for a Five Dollar (\$5.00) fee.

SEC. 7-2-38 REVOCATION OF OPERATOR'S LICENSE.

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

SEC. 7-2-39 MANAGERS' LICENSES.

- (a) **Application.** A manager's license shall only be issued after a written application has been filed with the Town Clerk which states that the applicant qualifies as a manager under Secs.

125.32(1) or 125.68(1), Wis. Stats., and is otherwise qualified as a licensee under this Chapter.

- (b) **Investigation.** Prior to the issuance of a manager's license, the Police Department shall conduct an investigation as provided in Sec. 7-2-31(b).
- (c) **Issuance.** Managers licenses may be issued by the Town Board to managers of Class B premises for the sale of alcohol beverages pursuant to Sections 125.18, 125.32(1) and 125.68(1), Wis. Stats., and this Section.
- (d) **Fee.** As a prerequisite to the issuance of a manager's license, the applicant shall pay an annual fee of Twenty-five Dollars (\$25.00).
- (e) **Expiration.** A manager's license shall be valid in the Town of Caledonia for a period of one (1) year and shall expire on June 30 of each year.
- (f) **Appeal.** In the event of the denial of a manager's license, the applicant shall have the same appeal rights as provided in Section 7-2-24.

ARTICLE C

Penalties

SEC. 7-2-40 PENALTIES.

- (a) Forfeitures for violations of Secs. 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 7-2-1 of the Code of Ordinances of the Town of Caledonia, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including any variations or increases for subsequent offenses
- (b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Town of Caledonia, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Town of Caledonia.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.