

Title 7 - LICENSING AND REGULATION

Chapter 2 - INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

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7.2.1 State Statutes Adopted.

The provisions of Ch. 125, Wis. Stats., 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 article 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 article. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made a part of this article in order to secure uniform statewide regulation of alcohol beverage control.

7.2.2 Definitions.

As used in this article, the terms "alcoholic beverages," "intoxicating liquors," "principal business," "legal drinking age," "premises," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages," "wholesalers" and "operators" shall have the meaning given them by Ch. 125, Wis. Stats.

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 article nor without complying with all the provisions of this article and all statutes and regulations applicable thereto, except as provided by Secs. 125.16, 125.27, 125.28 and 125.51, Wis. Stats.

7.2.4 Classes Of Licenses.

7.2.4.01 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.

7.2.4.02 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 liters at any one 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.

7.2.4.03 Class "A" Fermented Malt Beverage Retailer's License

A Class "A" 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 only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1. The license shall expire on the following June 30.

7.2.4.04 Class "B" Fermented Malt Beverage Retailer's License.

- (A) 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 0.5% of alcohol by volume without obtaining a special license to sell such beverages. Such license may be issued after July 1. The license shall expire on the following June 30.
- (B) 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 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 article. Except as provided in Sec. 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

7.2.4.05 Temporary Class "B" Fermented Malt Beverage License

- (A) License.
As provided in Secs. 125.26(1) and 125.26(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 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 Board.
- (B) 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 \$200 and will be ineligible to apply for a temporary Class "B" license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

7.2.4.06 Temporary "Class B" Wine License

(A) 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 months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than 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 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 6% alcohol by volume from the stands while the fair is being held.

(B) 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 \$200 and will be ineligible to apply for a temporary "Class B" wine license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Town Board at which the application will be considered for events of more than three consecutive days. If the application is for a license to be used in a Town park, the applicant shall specify the main point of sale facility.

7.2.4.07 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.

7.2.4.08 Retail Reserve "Class B" Intoxicating Liquor License

See Sec. 125.51(4)(a)4., Wis. Stats. A retail reserve "Class B" intoxicating liquor license is a license available under the quota system existing before December 1, 1997, that was not granted or issued by the Town Clerk as of December 1, 1997. The number of retail reserve "Class B" intoxicating liquor licenses available to a municipality is determined by a series of calculations described in Sec. 125.51(4)(b)1m., Wis. Stats. A retail reserve "Class B" intoxicating liquor license, when issued by Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic 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 liters at any one 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.

7.2.5 License Fees.

There shall be the following classes of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the license fee (See Sec. 1.3.4, TGO for the current fee schedule) and publication costs hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Section 7.2.4 of this Chapter and Ch. 125, Wis. Stats.:

7.2.5.01 Retail Reserve "Class B" Intoxicating Liquor License

(A) Fee.

(1) The initial fee for the issuance of this license shall be \$10,000, to be paid in addition to the regular Class "B" and "Class B" fee, upon approval of a reserve "Class B" intoxicating liquor license, except that the fee for an initial issuance of a retail reserve "Class B" intoxicating liquor license to a bona fide club or lodge situated and incorporated in the state for at least six years shall be the annual license fee as set forth in Subsections 7.2.4.02 and 7.2.4.04 of this section, as applicable thereto.

(2) Grants for certain retail reserve "Class B" intoxicating liquor licenses.

(a) Whereas Sec. 125.51(3)(e)2., Wis. Stats., establishes a new alcohol license called a reserve "Class B" license (herein referred to as "retail reserve 'Class B' intoxicating liquor license") and requires that all who are granted such a license pay an initial license fee of \$10,000 in addition to the regular Class "B" and "Class B" license fees, the Town Board finds:

1. That businesses such as restaurants, hotels and taverns make important contributions to the Town's economy and serve an important public purpose, including but not limited to increasing the Town's property tax base, providing employment and promoting tourism.
2. That the new initial fee for a retail reserve "Class B" intoxicating liquor license far exceeds the actual cost of licensing the activity and
3. that excessive license fees deter new business and are contrary to economic growth.
4. It is the purpose of this Subsection to utilize the excess revenue generated by state statutes identified hereinabove to assist new retail reserve "Class B" intoxicating liquor licensees in the establishment of new businesses and serve the important public purposes identified herein.

(b) The Town Board may provide a grant to a retail reserve "Class B" intoxicating liquor licensee if the following conditions are met:

1. A retail reserve "Class B" intoxicating liquor license is granted to the licensee;
2. The retail reserve "Class B" licensee applicant properly completes, executes and submits an application for a grant to the Town Board on a form provided by the Town Clerk at the same time the applicant submits the application for a retail reserve "Class B" intoxicating liquor license; and

- 3. The retail reserve "Class B" intoxicating liquor licensee pays the initial fee of \$10,000 to the Town, in addition to the regular fees for the "Class B" and "Class B" licenses.
- (c) In making its determination whether to award any grant to a retail reserve "Class B" liquor licensee under this Subsection, the Town Board shall make such findings and establish such conditions as it deems necessary to ensure that any funds awarded hereunder serve the important public purposes identified in Subsection 7.2.5.01(A)(2)(a).

7.2.6 Application for License.

7.2.6.01 Renewal Deadlines

To comply with the provisions of Sec. 125.51(1)(c)1., Wis. Stats., the following deadlines are established:

- (A) All applications for renewal of an existing license shall be filed with the Town Clerk prior to April 15 together with all the applicable fees and costs.
- (B) The Town Board shall meet prior to May 15 to consider the applications described above.

7.2.6.02 Contents

- (A) 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 887.03, Wis. Stats., and shall be filed with the Town Clerk not less than 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.
- (B) Corporations.
Such application shall be filed and sworn to 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(6), 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.
- (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 10 days after the occurrence thereof.
- (E) License quotas. Retail intoxicating liquor and fermented malt beverage licenses issued by the Town Board shall be limited in number to the quota prescribed by state law.

7.2.7 Qualifications of Applicants and Premises.

7.2.7.01 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

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United States and who have been residents of the State of Wisconsin continuously for at least 90 days prior to the date of the application.

7.2.7.02 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 who is not issued a Class "B" retailer's license to sell fermented malt beverages.

7.2.7.03 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.

7.2.7.04 Age of Applicant

Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.

7.2.7.05 Corporate Restrictions

- (A) No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(5)(c).
- (B) 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 48 hours after such transfer of stock.
- (C) 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 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 article or under the state law.

7.2.7.06 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.

7.2.7.07 License Limited to Described Premises

Intoxicating liquors or fermented malt beverages shall be kept, sold or offered for sale only on those premises specifically described as to building and/or land area in the license application. 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.

7.2.8 Investigation.

The Town Clerk shall notify the building, electrical, plumbing, fire and other inspectors of all license and permit applications, 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. 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 to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required.

7.2.9 Considerations For Grant or Denial of License.

7.2.9.01 Delinquent Town Claims

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.

7.2.9.02 Sanitary, Safety and Health Requirements.

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 Department of Health and Family Services 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.

7.2.9.03 Other Considerations

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
- (D) Generally, the applicant's fitness for the trust to be reposed.

7.2.9.04 Arrest and Conviction Record

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 Town Board, the Town Board reserves the right to consider the severity and the 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 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.

7.2.9.05 Action on Application; Appeals.

- (A) Public hearing. Opportunity shall be given by the Town Board 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.
- (B) Appeal denial. 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 10 days prior to the Town Board meeting at which the application is to be reconsidered.

7.2.10 Transfer and Lapse of License.

7.2.10.01 Transfer 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 shall be as prescribed by Sec. 125.04(12), Wis. Stats. 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) Corporate agent replaced. 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.

7.2.11 Numbering and Contents 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.

7.2.12 Posting Licenses; Defacement.

7.2.12.01 License Posted Conspicuously

Every person licensed in accordance with the provisions of this article 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.

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- 7.2.12.02 License on Described Premises Only; Not Defaced or Destroyed**
It shall be unlawful for any person to post such license or permit it to be posted upon premises other than those mentioned in the application or knowingly to deface or destroy such license.
- 7.2.13 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 article, and subject to all other ordinances and regulations of the Town applicable thereto:
- 7.2.13.01 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.
- 7.2.13.02 Employment of Minors**
No retail "Class B" or Class "B" licensees 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.
- 7.2.13.03 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.
- 7.2.13.04 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 immediate 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.
- 7.2.13.05 Health and Sanitation Regulations**
The rules and regulations of the State Department of Health and Family Services governing sanitation in restaurants shall apply to all "Class B" liquor licenses issued under this article. No "Class B" license shall be issued unless the premises to be licensed conform to such rules and regulations.
- 7.2.13.06 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 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 such premises. This

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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 building, hospital building or church building.

7.2.13.07 Clubs

No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.

7.2.13.08 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 article or the laws of the State of Wisconsin.

7.2.13.09 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, wares, merchandise or other articles in exchange for alcohol beverages.

7.2.13.10 Licensee or Permittee Responsible For Acts of Help

A violation of this article by a duly authorized agent or employee of a licensee or permittee under this article shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this article shall violate any portion of this article, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this article.

7.2.14 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 Grafton, 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 that the following requirements are met:

7.2.14.01 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. Members of an organization which is issued a temporary license and who are issued operators' licenses for the event shall attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

7.2.14.02 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.

7.2.14.03 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.

7.2.14.04 Licensed Operator Requirement

A licensed operator shall be stationed at all points of sale at all times.

7.2.14.05 Permitted Cups or Cans Only

Intoxicants will be sold only in paper, foam or plastic cups or cans.

7.2.14.06 Additional Requirements

In addition, requesting organizations shall comply with the following:

- (A) When the event sponsored by the requesting organization is to take place on Town park property, the organization shall work closely with the Town officials in locating, setting up and identifying the size of the snow fence area. Such information shall be made part of the temporary Class "B" permit application.
- (B) When the event sponsored by the requesting organization is to take place on Town-owned property other than park property and/or privately owned property, the organization shall work closely with the Building Inspector in locating and setting up the snow fence area. The Building Inspector shall work closely with the requesting organization in identifying the size of the fenced-in area and the exact location. Such information shall be made part of the temporary Class "B" permit application. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It shall contain adequate sanitary facilities to accommodate the size of the group.

7.2.14.07 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 Grafton. The applicant may be required to furnish a performance bond prior to being granted the license.

7.2.15 Revocation and Suspension of Licenses; Nonrenewal.

7.2.15.01 Procedure

Whenever the holder of any license under this article violates any portion of this chapter, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section.

7.2.15.02 Abandonment of Premises

Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol

beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the terms of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.

7.2.15.03 License Revocation or Suspension

License revocation or suspension procedures shall be as prescribed by Ch. 125, Wis. Stats.

7.2.16 Operator's License.

7.2.16.01 Operator's License Required

- (A) Class "A" or Class "B" premises.
Except as provided under Secs. 125.32(3)(b) and 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 member of the licensee's or permittee's immediate family who has attained the age of 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" 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 a person holding an operator's license who is on the premises at the time of the service.
- (B) Use by another prohibited.
No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
- (C) Penalty.
The license or permit of a person who violates Sec. 7.2.16.01, above shall be revoked.

7.2.16.02 Procedure Upon Application

- (A) Issue of license.
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 18 years of age or older. Operators' licenses shall be operative only within the limits of the Town.
- (B) Investigation.
All applications are subject to an investigation by an appropriate authority to determine whether the applicant and/or premises to be licensed comply with all regulations, ordinances and laws applicable thereto. The Clerk 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

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resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Clerk shall recommend, in writing, to the Town Board approval or denial of the application.

(C) Duration.

Licenses issued under the provisions of this article shall be valid for a period of one year and shall expire on the 30th day of June of each year.

7.2.16.03 Operator's License Fee

Fee. The annual fee for an operator's license shall be as set forth in Sec. 1.3.4, TGO.

7.2.16.04 Provisional Operator's License

(A) Provisional license permitted.

(1) Standards. A provisional operator's license is issued for purposes of compliance with Sec. 125.17(5), Wis. Stats. The Town Clerk or the Clerk's designee is hereby designated to have the authority to issue said provisional operator's license if the following conditions have been met:

- (a) The applicant has filed a completed application for an operator's license pursuant to Sec. 125.17(1), Wis. Stats., and the Town of Grafton Code;
- (b) The Town Board has not previously denied, revoked or suspended an application by the applicant for an operator's license pursuant to Sec. 125.17(1), Wis. Stats., and the Town of Grafton Code;
- (c) The Ozaukee Sheriff's Office has reviewed the applicant's application for an operator's license and has reported back to the Town Clerk that he has determined that the applicant has no prior record or criminal convictions (whether the offense is a felony or a misdemeanor) or ordinance violations which involve in any way the possession, distribution, use or control of alcoholic beverages or controlled substances [as that term is defined in Sec. 961.01(4), Wis. Stats.]; and
- (d) At the time the applicant applies for the provisional operator's license, no meeting of the Town of Grafton Town Board during which the applicant's application for an operator's license could be considered is scheduled to occur within the next seven days.

(2) Expiration. A provisional operator's license shall expire upon the earlier of:

- (a) Sixty days after its issuance; or
- (b) The applicant's application for an operator's license being considered and either approved or denied by the Town Board.
- (c) Fee. See Sec. 1.3.4, TGO.
- (d) Revocation. If, after issuance of a provisional operator's license, the Town Clerk or the Clerk's designee discovers that the holder of said license made a false statement on his application for an operator's license, the Town Clerk shall immediately revoke the provisional operator's license.

7.2.16.05 Issuance or Denial of Operator's Licenses

(A) Issued by Town Clerk. After the Town Board approves the granting 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.

(B) Appeal of denial.

- (1) If the application is denied by the Town Board, the Town Clerk shall, in writing, inform the applicant of the denial and the reasons therefor 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 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.
 - (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 Sec. 125.12(2)(d), Wis. Stats., for review.
- (C) Considerations.
Consideration for the granting or denial of a license will be based on:
- (1) The arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322 and 111.335, and Sec. 125.12(1)(o), 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.

7.2.16.06 Revocation for Conviction

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.

7.2.16.07 Convictions Considered

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 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 Town 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

7.2.16.08 Training Course

- (A) Training course required.

Except as provided 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 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 years, the person has completed such a training course.
- (4) Provisional license. The Town Board may issue a provisional operator's license to a person who is enrolled in a training course and shall revoke that license if the applicant fails successfully to complete the course in which he or she enrolls.
- (5) Additional training. The Town Board may not require that applicants for operators' licenses undergo training in addition to that above but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course.

7.2.16.09 Display of License

Each license issued under the provisions of this section shall be posted on the premises whenever the operator dispenses beverages or be in his possession, or the licensee shall carry a license card.

7.2.16.10 Revocation of Operator's License

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

7.2.17 Violations and Penalties.

Except as otherwise provided herein, any person who shall violate any provision of this article, 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 Sec. 1.1.6, TGO. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

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