Title 7 ▸ Chapter 2

Fermented Malt Beverages and Intoxicating Liquor

Article A — Fermented Malt Beverages and Intoxicating Liquor

7-2-1	State Statutes Adopted
7-2-2	Definitions
7-2-3	License Required
7-2-4	Classes of Licenses
7-2-5	License Fees
7-2-6	Application for License
7-2-7	Qualifications of Applicants and Premises
7-2-8	Investigation
7-2-9	Approval of Application
7-2-10	Granting or Denial of License
7-2-11	Transfer and Lapse of License
7-2-12	Numbering of License
7-2-13	Posting Licenses; Defacement
7-2-14	Conditions of License
7-2-15	Closing Hours
7-2-16	Restrictions on Temporary Fermented Malt Beverage or Wine Licenses
7-2-17	Revocation and Suspension of Licenses; Non–Renewal
7-2-18	Non–Alcohol Events for Underage Persons on Licensed Premises
7-2-19	Outdoor Sports Activities and Beer Gardens Regulated
7-2-20	Nude Dancing in Licensed Establishments Prohibited
7-2-21 through 7-2-29	Reserved for Future Use

Article B — Operator's License

7-2-30	Operator's License Required
7-2-31	Procedure Upon Application

7-2-32 Duration
7-2-33 Operator's License Fee; Provisional or Temporary Licenses
7-2-34 Issuance or Denial of Operator's Licenses
7-2-35 Training Course
7-2-36 Display of License
7-2-37 Revocation of Operator's License
7-2-38 through
7-2-39 Reserved for Future Use

Article C Penalties

7-2-40 Penalties

Article A: Fermented Malt Beverages and Intoxicating Liquor

Sec. 7-2-1 State Statutes Adopted.

The provisions of Chapter 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 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, Wis. Stats.

Sec. 7-2-3 License Required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her 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, Wis. Stats.

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 Village Clerk-Treasurer under the authority of the Village 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 Village Clerk-Treasurer under authority of the Village 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) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Village on December 1, 1997, and that is counted under Sec. 125.51(4)(br), Wis. Stats., which, if granted or issued, authorizes the sale of intoxicating liquor to be consumed by the glass only on the premises where sold, and also authorizes the sale of intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time, to be consumed off premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

(d) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Village Clerk-Treasurer under the authority of the Village 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.

(e) **Class "B" Fermented Malt Beverage Retailer's License.**

(1) ***License.*** A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk-Treasurer under the authority of the Village 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 percentum 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.

(f) **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 Village Board.

(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 Village Clerk-Treasurer 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. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(g) **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 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 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 from the stands while the fair is being held. Not more that two (2) such licenses may be issued under this Subsection to any club, county or local fair association, agricultural association, church, lodge, society or veteran's post in any twelve (12) month period.

(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 Village Clerk-Treasurer 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. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Village Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.

(h) **Wholesaler's License.** A wholesaler's fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village 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.

(i) **Retail "Class C" Licenses.**

(1) In this Subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

(2) A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(3) A "Class C" license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality's quota prohibits the municipality from issuing a "Class B" license to that person. A "Class C" license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

(4) A "Class C" license shall particularly describe the premises for which it is issued.

Cross Reference: Section 7-2-17.

Sec. 7-2-5 License Fees.

All license fees shall be due on or before June 30th in the year of renewal or in the event of a transfer during the license year within five (5) days of the Village Board granting of such transfer. Non-payment of license fees within the required time shall be grounds for revocation. There shall be the following classes of licenses which, when issued by the Village Clerk-Treasurer under the authority of the Village Board after payment of the license fee 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 Code of Ordinances and Chapter 125, Wis. Stats.:

(a) **Class "A" Fermented Malt Beverages Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. 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 as prescribed in Section 1-3-1. 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 as prescribed in Section 1-3-1 per event.

(d) **Temporary "Class B" Wine License.** The fee for this license shall be as prescribed in Section 1-3-1 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 as prescribed in Section 1-3-1.

(f) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1.

(g) **"Class B" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1. 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.

(h) **Reserve "Class B" Intoxicating Liquor License.** The fee for an initial issuance of a Reserve "Class B" license shall be as prescribed in Section 1-3-1, except that the fee for the initial issuance of a Reserve "Class B" license to a bona fide club or lodge situated and incorporated in the state for at least six (6) years is the fee established in Section 7-2-5(g) for such a club or lodge. The annual fee for renewal of a Reserve "Class B" license is the fee established in Section 7-2-5(g).

(i) **"Class B" License for Full-Service Restaurants and Hotels.** The initial annual fee for a "Class B" license for a full-service restaurant that has a seating capacity of three hundred (300) or more persons, or a hotel that has one hundred (100) or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of one hundred fifty (150) or more persons or a banquet room which will accommodate four hundred (400) or more persons, is as prescribed in Section 1-3-1. Thereafter, the annual renewal fee is as prescribed in Section 1-3-1.

(j) **"Class C" Wine License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for less than twelve (12) months shall be prorated.

Sec. 7-2-6 Application for License.

(a) **Contents.** 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 Village Clerk-Treasurer 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.

(b) **Corporations.** 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 Village Clerk-Treasurer shall publish each application for a Class "A", Class "B", "Class A", "Class B", or "Class C" 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 Village 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 ten (10) days after the occurrence thereof.

(e) **Quota.** License quotas shall be as established in Ch. 125, Wis. Stats.

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.**

(1) No applicant will be considered unless he/she has the right to possession of the premises described in the application for the license period, by lease or by deed.

(2) Any person applying for a Class "B" Intoxicating Liquor license shall have a premises at the time application is made or within the license year. In the event a building permit for construction or remodeling has been issued and substantial progress is being made on such construction or remodeling, the licensee shall be considered to meet the requirement of having a premises. In the event such licensee does not so obtain a premises, such license shall be subject to revocation or non-renewal.

(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 Village Clerk-Treasurer 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) **Connecting Premises.** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "Class C" license for the same premises or for connecting premises. Except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.

(h) **Limitations on Other Business; Class "B" Premises.** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:

(1) A hotel.

(2) A restaurant, whether or not it is a part of or located in any mercantile establishment.

(3) A combination grocery store and tavern.

(4) A combination sporting goods store and tavern in towns, villages and 4th class cities.

(5) A combination novelty store and tavern.
(6) A bowling alley or recreation premises.
(7) A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

Sec. 7-2-8 Investigation.

The Village Clerk-Treasurer shall notify the Fire Inspector, Building Inspector and, as appropriate, pertinent law enforcement agencies of each new application, 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 Village Clerk-Treasurer in writing, who shall forward to the Village 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 re-inspection of the premises and report as originally required.

Sec. 7-2-9 Approval of Application.

(a) No license shall be issued for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Village 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 Village.
(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 Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the 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. 7-2-10 Granting 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 Village Board, the Village Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village. The full license fee shall be charged for the whole or fraction of any year.

(b) If the Village 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 Village 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 Village Board consents to the request. Such written notice shall be mailed or served upon the applicant at least ten (10) days prior to the Village Board meeting at which the application is to be reconsidered.

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 Village Board. An application for transfer shall be made on a form furnished by the Village Clerk-Treasurer. 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 Village Clerk-Treasurer 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 Village

for reissuance of said license and the Village, 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 Village Clerk-Treasurer written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Village 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 Village Clerk-Treasurer of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other law enforcement officers 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 Village Board until the successor agent or another qualified agent is appointed and approved by the Village.

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 Village Clerk-Treasurer shall affix to the license his/her affidavit as provided by Sec. 125.04(4), Wis. Stats.

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", "Class B" and "Class C" 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 Village applicable thereto.

(a) **Consent to Entry.** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Village 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 Village 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, and in visual control of such premises, operated under a "Class B", Class "B", or "Class C" 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", Class "B", or "Class C" license unless he/she 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 or "Class C" licenses issued under this Chapter. No "Class B" or "Class C" license shall be issued unless the premises to be licensed conform to such rules and regulations.

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

(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.

(i) **Credit Prohibited.** No retail Class "A", Class "B", "Class A", "Class B", or "Class C" liquor, wine, 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) **Indoor Pryotechnic Displays Prohibited.** No indoor pyrotechnic display or fireworks display of any kind is allowed in the licensed premises, nor any unlicensed property attached to the licensed premises.

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), Wis. Stats., and further restricted as follows:

(a) **Class "B" Licenses.**

(1) No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage, or "Class C" wine 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.

(b) **Carryout Hours.** Between 9:00 p.m. and 8:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises. On "Class B" liquor or Class "B" fermented malt beverage licensed premises, carryout shall be prohibited between midnight and 6:00 a.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 Village-owned property or privately-owned property within the Village of Elk Mound, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Village 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 Village-owned property or privately-owned property may be authorized by the Village 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. Members of an organization which is issued a temporary license and who are issued operator's licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.

(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 under-age person and that proper identification may be required.

(c) **Fencing.**

(1) If necessary due to the physical characteristics of the site, the Village Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.

(2) For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.

(d) **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.

(e) **Licensed Operators Requirement.** A licensed operator shall be stationed at all points of sales at all times.

(f) **Waiver.** The Village Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.

(g) **Insurance.** The applicant for a temporary fermented malt beverage or wine license may be required to indemnify, defend and hold the Village 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 Village of Elk Mound. 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) **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 losing of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

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

(d) **Point Values for Alcohol Beverages Violation, Revocations and Suspensions.**

(1) ***Purpose and Definitions.*** The purpose of this Subsection is to administratively interpret those portions of this Chapter relating to the establishment of an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.

(2) ***Point Schedule.*** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and Village Ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

Type of Violation	Point Value
1. Sale of alcohol beverages without license or permit; sale of controlled substances on licensed premises	100
2. Sale of alcohol beverages to underage person	50
3. Sale of alcohol beverages to intoxicated person	50
4. Underage person on premises	50
5. Intoxicated bartender; disorderly conduct on premises	50
6. After hours consumption	50
7. Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50
8. Licensee, agent or operator not on premises at all times	25
9. Persons on premises after closing hours	25
10. Violations of carry-out hours	25
11. Licensee permitting person to leave licensed premises with open alcohol beverage	25
12. All other violations of this Chapter	25

(3) ***Violations How Calculated.*** In determining the accumulated demerit points against a licensee within twelve (12) months, the Village shall use the date each violation was committed as the basis for the determination.

(4) ***Suspension or Revocation of License.***

a. The Village Board shall call before it for purposes of revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court imposed convictions.

b. If the demerit point accumulation calculated from the date of violation amounts to two hundred (200) points in a twelve (12) month period, a suspension of thirty (30) days shall be imposed. If the demerit point accumulation is two hundred fifty (250) points (calculated from the date of violation) in a twenty-four (24) month period, a suspension of sixty (60) days shall be imposed. If the demerit point accumulation in a thirty-six (36) month period is three hundred (300) points, the suspension shall be for the maximum allowed by law, which is ninety (90) days. If the license is revoked no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.

c. The procedure to be used for suspension or revocation shall be that found in Subsection (c) above.

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 Village Clerk-Treasurer 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 Village Clerk-Treasurer during normal business hours and shall be given on forms prescribed by the Village. After a non-alcohol event notice has been given, the Licensee may cancel an event(s) only by giving like notice to the Village Clerk-Treasurer 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", "Class B" or "Class C" license.

(b) During the period of any non-alcohol event a notice card prescribed by the Village 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 Village 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 all 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 Outdoor Sports and Beer Gardens Activities Regulated.

(a) **Purpose.** The Village Board finds that restrictions are necessary for outdoor beer gardens and sports activities at premises holding "Class B" and Class "B" liquor and fermented malt beverages licenses due to concerns arising from noise, density and related problems. This Section enacted pursuant to police power provides a framework for regulatory controls on such outdoor sports and beer garden activities.

(b) **Approval Required.**

(1) ***Generally.*** No Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on property forming any part of the real property on which the licensed premises exist without the prior approval of the Village Board.

(2) ***Permit Required for Beer Garden Outdoor Consumption.*** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under a beer garden permit granted by the Village Board. The permits are a privilege in which no rights vest and, therefore, may be revoked by the Village Board at its pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.

(c) **Application.** If a Licensee shall conduct or sponsor any outdoor sports activity or event or beer garden on the Licensee's property, the Licensee shall file an application with the Clerk-Treasurer setting forth the following information:

(1) The name, address and telephone number of the person or persons who will be responsible for the actual conduct of the activity or event;

(2) The date and duration of time for the proposed activity or event;

(3) An accurate description of that portion of the Licensee's property proposed to be used;

(4) A good faith estimate of the number of users, participants and spectators for the beer garden or proposed activity or event; and

(5) The Licensee's plan for maintaining the cleanliness of the licensed area.

(d) **Time for Filing.** The Licensee shall file the application not less than fifteen (15) days before the date of the proposed activity or event. The Village Board may waive the fifteen

(15) day time limit upon a Licensee's showing of exigent circumstances. The application shall be accompanied by payment of a fee as prescribed in Section 1-3-1 for review of the application. The applicant may request that an annual permit be issued for the beer garden or outdoor sports activities.

(e) **Review.** The Village Board shall review the applications in light of the standards of this Section. If the nature of the property or the event requires the imposition of additional regulations, the Village Board may impose these regulations upon an express finding detailing the reasons for additional regulation. All property owners within one hundred fifty (150) feet of the proposed beer garden or outside sports facility shall be notified of the pendency of application for a permit by first class mail.

(f) **Outdoor Sports Activity Standards.** The following standards shall apply to any outdoor sports activity regulated under this Section:

(1) Approval of an application shall not act to permit outdoor consumption of alcohol beverages on the property beyond the area specifically licensed.

(2) If the estimated number of participants and spectators shall bring the number of persons on the property above the number for which licensed premises' restroom facilities are rated adequate, the Licensee shall provide a number of portable temporary restrooms sufficient to serve the estimated number of persons.

(3) The Village Board shall not grant approval to any applicant whose property on which the activity or event is proposed is adjacent to any property zoned residential or on which a residential use exists as a nonconforming use, or within fifty (50) feet of any property zoned residential or on which a residential use exists as a nonconforming use. Fencing may be required.

(4) The applicant shall provide parking adequate for the proposed activity or event, whether on-site or through agreements with property owners shown to the Village Board's satisfaction to permit their property to be used for parking for the proposed activity or event.

(5) The applicant shall show the Village Board plans adequate to provide reasonable access to participants and spectators for the event, and to limit access for all other persons.

(6) The Licensee shall clean up all garbage and debris relating to the activity or event at least once per twenty-four (24) hours during the activity or event.

(7) The Licensee shall not permit the noise level of the sports activity or event to exceed seventy-five (75) dB, measured at any border of the Licensee's real property. Amplified music or sound is not permitted.

(8) Outdoor volleyball courts, horseshoe pits, or other athletic areas licensed as premises shall cease operation after 11:00 p.m. of each day in such outdoor areas. In addition, no amplified sound shall be permitted in the outdoor premises.

(g) **Standards on Issuance of Beer Garden Permits.**

(1) No permit shall be issued for a beer garden if any part of the beer garden is within fifty (50) feet of a structure used for residential purposes, except residential uses

located in the same structure as the licensed premises or located on a commercially-zoned parcel.

(2) No permit shall be issued for a beer garden if the beer garden area is greater than fifty percent (50%) of the gross floor area of the adjoining licensed premises.

(3) Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden.

(4) No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the beer garden.

(5) There shall be a licensed operator with the beer garden at all times the beer garden is in operation.

(h) **Fencing.**

(1) A Class "B" fermented malt beverage and/or intoxicating liquor licensee whose premises are expanded to outdoor areas such as patios, volleyball pits, outdoor sports areas, beer gardens and the like shall be required to install fencing around the perimeter of the outside premises. Such fencing may consist of wire mesh, solid vegetation, wood, plastic, or other similar material or a wall which will provide for an enclosed area on the outside of the licensed premises. Such barrier shall be a minimum of six (6) feet in height.

(2) Prior to installation of such fencing or wall, a diagram of the proposed barrier shall be presented to the Village to ensure that the proposed barrier will adequately protect neighbors, limit noise, and prevent or limit access by underage individuals and provide visibility to law enforcement to ensure the premises is complying with alcohol beverage requirements.

(3) That in lieu of the fencing or barrier required above, the Village may authorize the use of security personnel to patrol such outdoor premises on a full time basis during such times that the outdoor premises are open for business.

(i) **State Statutes Enforced Within Beer Garden.** Every permittee under this Section shall comply with and enforce all provisions of Chapter 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Chapter 125, Wis. Stats., shall be grounds for immediate revocation of the outdoor sports activity or beer garden permit by the Village Board.

(j) **Violations.** Failure of the Licensee to comply with any of the provisions of this Section shall be grounds for suspension, nonrenewal or revocation of the Licensee's alcohol beverage license or licenses.

Sec. 7-2-20 Nude Dancing in Licensed Establishments Prohibited.

(a) **Authority.**

(1) The Village Board of the Village of Elk Mound has explicit authority under Sec. 125.10(1), Wis. Stats., to adopt regulations governing the sale of alcohol beverages which are in addition to those set forth in Ch. 125, Wis. Stats.; and

(2) The Village Board has authority under its general police powers set forth in Ch. 61, Wis. Stats., to act for the good order of the municipality and for the health, safety and welfare of the public; and may carry out its powers by regulation and suppression; and

(3) The Village Board recognizes it lacks authority to regulate obscenity and does not intend by adopting this Section to regulate obscenity, since nudity in and of itself is not obscene, it declares its intent to enact an ordinance addressing the secondary effects of live, totally nude, non-obscene, erotic dancing in bars and taverns; and

(4) Bars and taverns featuring live totally nude, non-obscene, erotic dancing have in other communities tended to further the increase of criminal and other offensive activity, to disrupt the peace and order of the communities, to depreciate the value of real property, to harm the economic welfare of the communities and to negatively affect the quality of life of the communities; and such secondary effects are detrimental to the public health, safety and general welfare of citizens; and

(5) The Village Board recognizes the U.S. Supreme Court has held that nude dancing is expressive conduct within the outer perimeters of the First Amendment to the United States Constitution and therefore entitled to some limited protection under the First Amendment, and the governing body further recognizes that freedom of speech is among our most precious and highly protected rights, and wishes to act consistently with full protection of those rights; and

(6) However, the Village Board is aware, based on the experiences of other communities, that bars and taverns in which live, totally nude, non-obscene, erotic dancing occurs may and do generate secondary effects which the governing body believes are detrimental to the public health, safety and welfare of the citizens of the Village of Elk Mound; and

(7) Among these secondary effects are:

a. The potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses;

b. The potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist;

c. Health risks associated with the spread of sexually transmitted diseases; and

d. The potential for infiltration by organized crime for the purpose of unlawful conduct; and

(8) The Village Board desires to minimize, prevent and control these adverse effects and thereby protect the health, safety and general welfare of the citizens of the Village of Elk Mound; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

(9) The Village Board has determined that enactment of an ordinance prohibiting live, totally nude, non-obscene, erotic dancing in bars and taverns licensed to serve alcohol

beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.

(b) **Nude Dancing in Licensed Establishments Prohibited.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

(1) Shows his/her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or

(2) Shows any portion of the female breast below a point immediately above the top of the areola; or

(3) Shows the covered male genitals in a discernably turgid state.

(c) **Exemptions.** The provisions of this Section does not apply to the following licensed establishments; theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(d) **Definitions.** For purposes of this Section, the term "licensed establishment" means any establishment licensed by the Village Board of the Village of Elk Mound to sell alcohol beverages pursuant to Ch. 125, Wis. Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" licensee granted by the Village Board of the Village of Elk Mound pursuant to Ch. 125, Wis. Stats.

(e) **Penalties.** Any person, partnership or corporation who violates any of the provisions of this Section shall be subject to a forfeiture pursuant to Section 1-1-6. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this Section constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Sec. 125.12, Wis. Stats.

Sec. 7-2-21 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", Class "B" or "Class C" 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", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the Licensee or permittee, the agent named in the license or permit if the Licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. 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", Class "B", or "Class C" license 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: Sections 125.17 and 125.32, Wis. Stats.

Sec. 7-2-31 Procedure Upon Application.

(a) The Village Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Village Clerk-Treasurer only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Village.

(b) All applications are subject to an investigation by Village-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. The investigating authority shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding munici-

palities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Village Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

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.

Sec. 7-2-33 Operator's License Fee; Provisional or Temporary Licenses.

(a) **Fee.** The fee for a one (1) year operator's license shall be as prescribed in Section 1-3-1. The non-refundable fee for a provisional license or temporary operator's license shall be as prescribed in Section 1-3-1.

(b) **Provisional License.** The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with Sec. 125.17(5), Wis. Stats. 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 is sooner. Pertinent law enforcement agencies shall, upon request, submit to the Clerk-Treasurer a report regarding the applicant's conviction history, if any. The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a), Wis. Stats. The Village Clerk-Treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the approved program as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his/her successful completion of the approved program, and the applicant shall also apply for a regular operator's license. No such Provisional Operators License shall be issued prior to a waiting period of less than ninety-six (96) hours [four (4) days], and the completion of a background check subject to limitations established by law. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board, who has had his/her operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the Alcohol Awareness Training Program without first successfully completing the program. No person shall be issued more than three (3) provisional licenses in any twelve (12) month period. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the

applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he/she discovers that the holder of the license made a false statement on the application. A provisional license shall not be renewed.

(c) **Temporary License.** The Village Clerk-Treasurer may issue a temporary operator's license provided that:

(1) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.

(2) No person may hold more than one (1) license of this kind per year.

(3) The license is valid for any period from one (1) day to fourteen (14) days, and the period for which it is valid shall be stated on the license.

Sec. 7-2-34 Issuance or Denial of Operator's Licenses.

(a) After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(b) (1) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least 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.

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

(c) (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 Sections 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.

(2) If a Licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.

(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 Village Board, the Village Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Village Board, at its discretion, may, based upon an arrest or conviction record of two (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. 7-2-35 Training Course.

(a) Except as provided in Subsection (b) below, the Village 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 a comparable training course that is approved by the educational approval board 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", "Class B", or "Class C" 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 Village 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 Village 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 (a).

Sec. 7-2-36 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/her possession, or carry a license card.

Sec. 7-2-37 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. 7-2-38 through Sec. 7-2-39 Reserved for Future Use.

Article C: Penalties

Sec. 7-2-40 Penalties.

(a) Forfeitures for violations of Sections 125.07(1)-(5) and 125.09(2), Wis. Stats., adopted by reference in Section 7-2-1 of the Code of Ordinances of the Village of Elk Mound, 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 Village of Elk Mound, 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 Village of Elk Mound.

(c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.