

## CHAPTER 2

### Fermented Malt Beverages and Intoxicating Liquor

<u>Article A</u>	<u>Fermented Malt Beverages and Intoxicating Liquor</u>
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 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 Special Class "B" Fermented Malt Beverage Picnic or Special Event Licenses
7-2-17	Revocation and Suspension of Licenses; Non-Renewal
7-2-18 and 7-2-19	Reserved for Future Use
<u>Article B</u>	<u>Operator's License</u>
7-2-20	Operator's License Required
7-2-21	Procedure Upon Application
7-2-22	Duration
7-2-23	Operator's License Fee; Provisional License
7-2-24	Issuance
7-2-25	Display of License
7-2-26	Revocation of Operator's License
7-2-27 through 7-2-29	Reserved for Future Use
<u>Article C</u>	<u>Penalties</u>
7-2-30	Penalties

# Fermented Malt Beverages and Intoxicating Liquor

## ARTICLE A

### Fermented Malt Beverages and Intoxicating Liquor

#### SEC. 7-2-1 STATE STATUTES ADOPTED.

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

State Law Reference: Chapter 125, Wis. Stats.

#### SEC. 7-2-2 DEFINITIONS.

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

#### SEC. 7-2-3 LICENSE REQUIRED.

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

#### SEC. 7-2-4 CLASSES OF LICENSES.

- (a) **Retail Class "A" Intoxicating Liquor License.** A retail Class "A" intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- (b) **Retail Class "B" Intoxicating Liquor License.** A retail Class "B" intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

## Fermented Malt Beverages and Intoxicating Liquor

- (c) **Class "A" Fermented Malt Beverage Retailer's License.** A Class "A" retailer's fermented malt beverage license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles.
- (d) **Class "B" Fermented Malt Beverage Retailer's License.** A Class "B" fermented malt beverage retailer's license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (1/2) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages.
- (e) **Special Class "B" Fermented Malt Beverage Picnic License.**
  - (1) **License.** A special Class "B" picnic license, when issued by the Town Clerk under authority of the Town Board, as provided for in Sec. 125.26(6), Wis. Stats., shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages at a particular picnic, post meeting, fair or similar gathering. Such license may be issued only to bona fide clubs, state, county or local fairs, associations or agricultural societies, lodges or societies that have been in existence for not less than six (6) months prior to the date of application for such license or to posts of ex-servicemen's organizations now or hereafter established. Such license is valid for dates as approved by the Town Board. Irrespective of other Sections of this Chapter, the Town Board is hereby authorized to issue a fermented malt beverage license to any local civic, or any local religious or any local not-for-profit organization pursuant to this Section.
  - (2) **Application.** Application for such license shall be signed by the president or corresponding officer of the society making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of Two Hundred Dollars (\$200.00) and will be ineligible to apply for a special 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 Town Board at which the application will be considered. Such license shall be valid for no more than three (3) 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.
- (f) **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.
- (g) **Special Wholesaler's License.** A special wholesaler's license pursuant to Sec. 125.28(a), Wis. Stats., when issued by the Town Clerk under authority of the Town Board, shall permit the holder to sell or offer to sell fermented malt beverages in original packages or containers and in quantities of not less than four and one-half (4-1/2) gallons at any one (1) time for consumption on the premises.

Cross Reference: Section 7-2-17.

## Fermented Malt Beverages and Intoxicating Liquor

### SEC. 7-2-5 LICENSE FEES.

There shall be the following classes and denominations of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the fee hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Sections 125.04(5), (6); 125.28(1)(a), (b), (d); 125.28(2); 125.31(2)(a); 125.22(1), (2), (4); 125.32(4)(a); 125.31(2)(b); 125.26(2); 125.04(6); 125.17; 125.68(2); 125.32(2); 125.51(2); 125.51(3); or 125.57, Wis. Stats.:

- (a) Retail Class "A" Intoxicating Liquor License -- \$100.00 annually.
- (b) Retail Class "B" Intoxicating Liquor License -- \$100.00 annually.
- (c) Class "A" Fermented Malt Beverage Retailer's License -- \$25.00 annually.
- (d) Class "B" Fermented Malt Beverage Retailer's License -- \$100.00 per year or three-fourths (3/4) of that amount for a six (6) month period. Club license as defined in Sec. 125.32(4)(b), Wis. Stats., shall be issued for a fee of Ten Dollars (\$10.00). Class "B" fermented malt beverage retailer's license for brewers shall be pursuant to Sections 125.31(1)(a) and 125.06(1), Wis. Stats.
- (e) Special Class "B" Fermented Malt Beverage Picnic License -- \$1.00 per event.
- (f) Wholesaler's License -- \$25.00 annually.

### 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 Sections 887.01 to 887.04, Wis. Stats., and shall be filed with the Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by connecting entrances.
- (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 application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant.
- (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.

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

- (a) **Requirements for Licenses and Permits.** All natural persons, criminal offenders, corporations, operators and managers applying for licenses and permit relating to alcoholic beverages shall be subject to the conditions and provisions of Sec. 125.04(5) of the Wisconsin Statutes.
- (b) **Residence Requirements.** A retail Class "A" or retail Class "B" fermented malt beverage or intoxicating liquor license shall be granted only to persons who are citizens of the United States and of Wisconsin.
- (c) **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.
- (d) **Right to Premises.** No applicant will be considered unless he has the right to

## Fermented Malt Beverages and Intoxicating Liquor

possession of the premises described in the application for the license period, by lease or by deed.

- (e) **Age of Applicant.** No Class "A" or "B" licenses shall be granted to any underage person as defined by the Wisconsin Statutes.
- (f) **Corporate Restrictions.**
  - (1) No license shall be granted to any corporation which does not comply with the provisions of Sec. 125.04(6), Wis. Stats., which does not have an agent eligible for a license under this Chapter or under state law, or which has more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation held by any person or persons not eligible for a license under this Chapter or under the state law.
  - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock. The corporation shall, following the approval of each successor agent or another qualified agent as provided in Sec. 125.04(6)(d), Wis. Stats., pay a fee of Ten Dollars (\$10.00) to the Town.
  - (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.
- (g) **Separate License Required for Each Place of Sale.** A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.
- (h) **License Quotas.** License quotas for the Town shall be as provided in Chapter 125, Wis. Stats.
- (i) **Licensed Premises.** Licenses issued by the Town shall be for the structure itself and shall not confer any license or right to property outside of the licensed structure.
- (j) **Delinquent Taxes, Assessments, Etc.**
  - (1) **Premises.** No initial or renewal alcohol beverage licenses shall be granted for any premises for which Town taxes, assessments, utility bills, garbage collection fees, sewer and water bills, or other assessments or other claims to the Town are delinquent and unpaid.
  - (2) **Persons.** No initial or renewal alcohol license shall be granted to any person:
    - a. Delinquent in payment of any taxes, utility bills, garbage collection fees, sewer and water bills, assessments or other claims owed to the Town.
    - b. Delinquent in payment of a forfeiture resulting from a violation of any Ordinance of the Town.

**SEC. 7-2-8 INVESTIGATION.**

The Town Clerk shall notify the Town Constable and 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 re-inspection of the premises and report as originally required by this Section.

**SEC. 7-2-9 APPROVAL OF APPLICATION.**

- (a) In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed.
- (b) No license shall be granted or renewed for operation on any premises or with any equipment for which taxes, forfeitures or assessments or other financial claims of the Town are delinquent and unpaid.
- (c) No license shall be issued for any premises which do not conform to rules made by the Department of Health and Social Services, any health and sanitation requirements of the Town and any applicable health and sanitation ordinances of Marinette County.

**SEC. 7-2-10 GRANTING OF LICENSE.**

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. The full license fee shall be charged for the whole or fraction of any year.

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

- (a) In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the licensee, the purchaser of such business or business premises must apply to the Town for reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the Town Clerk written notice of said replace-

ment, 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 and the Wisconsin Department of Revenue.

**SEC. 7-2-12 NUMBERING OF LICENSE.**

All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee. The Town Clerk shall affix to the license his affidavit as provided by Sec. 125.04(4) of the Wisconsin Statutes.

**SEC. 7-2-13 POSTING LICENSES; DEFAACEMENT.**

- (a) As provided in Sec. 125.04(10), Wis. Stats., 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" and "B" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Town applicable thereto.

- (a) **Consent to Entry.**
  - (1) 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.
  - (2) It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any law enforcement official or police officer of the Town or the Building, Electrical or Plumbing Inspectors without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Chapter.
- (b) **Employment of Minors.** No retail Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels

## Fermented Malt Beverages and Intoxicating Liquor

- and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- (c) **Disorderly Conduct Prohibited.** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
  - (d) **Licensed Operator on Premises.** There shall be upon premises operated under a Class "B" 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" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
  - (e) **Health and Sanitation Regulations.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all Class "B" liquor licenses issued under this Chapter. No Class "B" license shall be issued unless the premises to be licensed conform to such rules and regulations.
  - (f) **Clubs.** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
  - (g) **Gambling Prohibited.** 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.
  - (h) **Credit Prohibited.** No retail Class "A" or Class "B" liquor or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
  - (i) **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.
  - (j) **Improper Conduct.** No person possessing a Class "B" fermented malt beverage retailer's license or a Class "B" retailer's intoxicating liquor license, personally or through his employee, shall permit or engage in the following conduct on licensed premises, and no entertainer or employee shall engage in the following conduct on said licensed premises:
    - (1) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or sexual acts which are prohibited by law.
    - (2) The actual or simulated touching, caressing or fondling on the breast, buttocks, anus, vulva or genitals.
    - (3) The actual or simulated displaying of the areola of the breast, pubic hair, anus, vulva or genitals.
    - (4) The showing of films or slides depicting any of the acts which are prohibited by the regulations stated above.
  - (k) **Certain Performances and Costumes Prohibited.** No licensee, either personally or through his agent or employee, shall furnish entertainment or permit the performance of any act, stunt or dance by dancers, performers or entertainers, whether such dancers, performers or entertainers are employed by the Licensee

## Fermented Malt Beverages and Intoxicating Liquor

or through his agent or not, and no entertainer or employee shall furnish any entertainment or perform any act, stunt or dance unless such dancers, performers or entertainers shall meet the following wearing apparel standards when performing or when present upon the premises:

- (1) That portion of every costume to be worn by dances, performers or entertainers covered by the provisions of this Subsection and which relates to the breast or chest area and/or to the area of the sex organs and buttocks shall be of nontransparent material.
- (2) The top portion of the costume worn by the female dancer, performer or entertainer or a female impersonator shall be so conformed, fabricated and affixed to the body so as to keep the areola of the breast completely covered at all times.
- (3) The lower portion of the costume worn by a female dancer, performer or entertainer or a female impersonator shall encircle the body at the area of the sex organs and buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the sex organs, the pubic hair and the cleavage of the buttocks at all times. An animal fur piece or other device simulating the hair surrounding the pubic area shall not constitute compliance with the costume requirements of this Section.
- (4) The lower portion of the costume worn by a male dancer, performer or entertainer shall encircle the area of the sex organs and the buttocks. This portion of the costume shall be of such dimensions and so conformed, fabricated and affixed to the body so as to completely cover the pubic hair, sex organs and the cleavage of the buttocks at all times.

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.

- (a) **Closing Hours.**
  - (1) No premises in the Town for which a Class "B" intoxicating liquor or fermented malt beverage license(s) for the sale of fermented malt beverages has been issued shall be permitted to remain open 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. No person, except the licensee or his employees, shall be permitted on the licensed premises during the hours when such sale is prohibited.
  - (2) No premises holding a Class A intoxicating liquor or fermented malt beverage license(s) nor the holder of a license permitting such premises or holder to sell, deal and traffic in fermented malt beverages nor any person on such premises, whether or not such person holds an operator's license pursuant to Sec. 125.17 of the Wisconsin Statutes, as amended, shall sell, vend, barter, exchange, offer for sale, give away or otherwise furnish to any person any fermented malt beverages or intoxicating liquor in original packages, intending to mean aluminum/tin cans, bottles, barrels or any containers in which the beverages have been delivered to the premises, and to be removed from the premises, if a Class "A" Intoxicating Liquor License, between 9:00 p.m. and 8:00 a.m.
- (b) **Modification of Closing Hours.** Closing hours may be modified for specific events by a majority vote of the Town Board.

**SEC. 7-2-16 RESTRICTIONS ON SPECIAL CLASS "B" FERMENTED MALT BEVERAGE SPECIAL EVENT LICENSE.**

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 Pembine, except through the issuance of temporary Class "B" permit issued by the Town Board in accordance with Wisconsin State Statutes and as set forth in this Section. A temporary Class "B" permit authorizing the sale and consumption of beer on Town-owned property or privately-owned property may be authorized by the Town Board provided the following requirements are met:

- (a) **Compliance with Eligibility Standards.** The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in Sec. 125.26(6), Wis. Stats., and shall fully comply with the requirements of this Section and Section 9-5-1.
- (b) **Posting of Signs and Licenses.** All organizations issued a liquor 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 without proper identification.
- (c) **Fencing.** All organizations shall install a double fence around the main point of sale to control ingress and egress and shall continually station a licensed operator or security guard at the entrance for the purpose of checking age identification. There shall be only one (1) point of ingress and egress. The double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences. A single eight (8) foot chain link fence may be used to meet the fence requirements.
- (d) **Underage Persons Prohibited.** No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverage 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) **Permitted Cups Only.** Intoxicants will be sold only in foam or plastic cups, or cans.
- (g) **Additional Requirements.** In addition, requesting organizations shall comply with the following:
  - (1) 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.
  - (2) 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 Town Constable in locating and setting up the snow fence area. The Town Constable 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.
- (h) **Insurance.** The applicant for a special Class "B" fermented malt beverage 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

## Fermented Malt Beverages and Intoxicating Liquor

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 permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of Pembine. The applicant may be required to furnish a performance bond prior to being granted the permit.

### 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 9, Chapter 5, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by Chapter 125, Wis. Stats., and 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 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 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) **Revocation for Noncompliance.** The Town Board of the Town of Pembine may revoke any license hereunder at any time for any violation of the provisions of this Chapter.
- (d) **Revocation and Suspension of Licenses.**
  - (1) **Procedure.** Except as hereinafter provided, the provisions of Sec. 125.12, Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this Chapter. Revocation or suspension proceedings may be instituted by the Town Board upon its own motion by adoption of a resolution.
  - (2) **Automatic Revocation.** Any license or permit issued under the provisions of this Chapter shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent or representative of a second offense under Chapter 125, Wis. Stats., or any other state or federal liquor or fermented malt beverage law or any felony.
  - (3) **Repossession of License or Permit.** Whenever any license or permit under this Chapter shall be revoked or suspended by the Town board, action of any court or by effect of Subsection (d)(2) above, it shall be the duty of the Clerk to notify the licensee or permittee of the suspension or revocation and to notify any applicable law enforcement official who shall take physical possession of the license or permit wherever it may be found and file it in the Town Clerk's office.
- (e) **Denial of Renewals.** Before denial of any renewal, the licensee shall be given written notice of any violation or reason for nonrenewal. The licensee shall be entitled to a hearing.
- (f) **Other Provisions.** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Town Board by amendment to this Section or by the enactment of new ordinances. If any licenses shall fail or neglect to meet the requirements imposed by such new

## Fermented Malt Beverages and Intoxicating Liquor

restrictions and regulations his license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.

**SEC. 7-2-18 AND SEC. 7-2-19 RESERVED FOR FUTURE USE.**

## Fermented Malt Beverages and Intoxicating Liquor

### ARTICLE B

#### Operator's License

##### SEC. 7-2-20 OPERATOR'S LICENSE REQUIRED.

There shall be upon the premises operated under a Class "A" or Class "B" intoxicating liquor license or Class "B" fermented malt beverage license at all times the licensee or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers. An operator's license shall permit the holder to draw or remove any fermented malt beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which fermented malt beverages shall be stored or kept on premises requiring a Class "B" fermented malt beverage license for sale or service to a consumer for consumption in or upon the premises where sold. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the Class "A" or Class "B" licenses unless he shall possess an operator's license or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be upon the premises at the time of such service.

State Law Reference: Sec. 125.17, Wis. Stats.

##### SEC. 7-2-21 PROCEDURE UPON APPLICATION.

The Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons of legal drinking age. Operator's licenses shall be operative only within the limits of the Town.

##### SEC. 7-2-22 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. The fee for an operator's license shall be Five Dollars (\$5.00).

##### SEC. 7-2-23 PROVISIONAL OPERATOR'S LICENSE.

- (a) **Provisional License Permitted.** A provisional operator's license is issued for purposes of compliance with Sections 125.32(2) and 125.68(2), 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:
- (1) Applicant has filed a completed application for an operator's license pursuant to Sec. 125.17(1), Wis. Stats., and the Town of Pembine Code of Ordinances;
  - (2) 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 Pembine Code of Ordinances;

## Fermented Malt Beverages and Intoxicating Liquor

- (3) The Town Constable 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 be 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. 161.01(4), Wis. Stats.); and
  - (4) At the time the applicant applies for the provisional operator's license, no meeting of the Town of Pembine Board of Supervisors during which the applicant's application for an operator's license could be considered is scheduled to occur within the next seven (7) days.
- (b) **Expiration.** A provisional operator's license issued pursuant to this Section shall expire upon the earlier of:
- (1) Sixty (60) days after its issuance; or
  - (2) The applicant's application for an operator's license being considered and either approved or denied by the Town Board.
- (c) **Fee.** There shall be a Five Dollars (\$5.00) nonrefundable fee for the issuance of a provisional operator's license.
- (d) **Revocation.** If, after issuance of a provisional operator's license pursuant to this Section, the Town Clerk or the Clerk's designee discovers that the holder of said license made a false statement on his application for operator's license, the Town Clerk shall immediately revoke the provisional operator's license.

### SEC. 7-2-24 ISSUANCE.

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.

### SEC. 7-2-25 DISPLAY OF LICENSE.

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages.

### SEC. 7-2-26 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. 7-2-27 THROUGH SEC. 7-2-29 RESERVED FOR FUTURE USE.

Fermented Malt Beverages and Intoxicating Liquor

ARTICLE C

Penalties

SEC. 7-2-30 PENALTIES.

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