

CHAPTER 2

<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	License Classifications
§ 7-2-5	Application for License
§ 7-2-6	Qualifications of Applicants and Premises
§ 7-2-7	Investigation
§ 7-2-8	Approval of Application
§ 7-2-9	Granting of License
§ 7-2-10	Transfer and Lapse of License
§ 7-2-11	Numbering of License
§ 7-2-12	Posting Licenses; Defacement
§ 7-2-13	Conditions of License
§ 7-2-14	Closing Hours
§ 7-2-15	Restrictions on Temporary Class “B” and “Class B” Picnic or Special Event Licenses
§ 7-2-16	Reserved for Future Use
§ 7-2-17	Outdoor Alcohol Area Permit Required for Outdoor Consumption at Class “B” and “Class B” Premises
§ 7-2-18	Revocation and Suspension of Licenses; Non-Renewal
§ 7-2-19	Forfeiture and Revocation of Licenses for Establishments Providing Adult Entertainment
§ 7-2-20	Penalties
§ 7-2-21	Fees
<u>Article B</u>	<u>Operator’s License</u>
§ 7-2-22	Operator’s License Required
§ 7-2-23	Procedure Upon Application
§ 7-2-24	Duration
§ 7-2-25	Operator’s License Fee
§ 7-2-26	Temporary License; Provisional License
§ 7-2-27	Use by Another Prohibited
§ 7-2-28	Issuance or Denial of Operator’s License
§ 7-2-29	Display of License
§ 7-2-30	Revocation of Operator’s License
<u>Article C</u>	<u>Penalties</u>
§ 7-2-31	Penalties

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 2 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.

SEC. 7-2-2 DEFINITIONS.

The definition of words and phrases set forth in Section 125.02 and elsewhere in Chapter 125 of the Wisconsin Statutes, are incorporated by reference in this Chapter 2. In addition, the following words, terms and phrases shall have the following meanings:

- (a) **BARROOM.** A room that is primarily used for the sale or consumption of alcohol beverages.
- (b) **INOPERATIVE LICENSE.** An issued license under which the licensed activity is no longer occurring on the licensed premises.
- (c) **ISSUED LICENSE.** A license which has been granted, approved by the proper authorities, and delivered by the Village Clerk to the licensee.
- (d) **UNDER THE INFLUENCE.** A condition encompassing all the well-known and easily recognized conditions and degrees of intoxication, and also any abnormal mental or physical condition which is the result of indulging to any degree in alcohol beverages and which tends to deprive a person of the clearness of intellect and control of himself or herself which he or she would otherwise possess.
- (e) **WINERY.** An establishment holding a permit from the department under Wisconsin Statutes Section 125.53 and capable of producing at least 5,000 gallons of wine per year in no more than two locations.

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 125.26, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

SEC. 7-2-4 LICENSE CLASSIFICATIONS.

- (a) RETAIL "CLASS A" INTOXICATING LIQUOR LICENSE. A retail "Class A" intoxicating liquor license, when issued by the Village Clerk 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 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 where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed 4 liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.
- (c) CLASS "A" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. A Class "A" retailer's fermented malt beverage license, when issued by the Village Clerk 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.
- (d) CLASS "B" FERMENTED MALT BEVERAGE RETAILER'S LICENSE. A Class "B" fermented malt beverage retailer's license, when issued by the Village Clerk 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 or as provided for in Sec. 125.26, Wis. Stats. The holder may also sell beverages containing less than one-half of a per centum of alcohol by volume, without obtaining a special license to sell such beverages.
- (e) TEMPORARY CLASS "B" AND "CLASS B" LICENSE.
 - (1) A Temporary Class "B" (fermented malt beverage) or "Class B" (wine) picnic license, when issued by the Village Clerk under authority of the Village 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 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 Village Board.

- (2) An 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 Village Clerk together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity. Such license shall be valid for no more than four (4) consecutive days. Additionally, a supplemental application form shall be completed by the applicant and submitted to the Village Clerk for approval. The supplemental form shall indicate specific measures the applicant will undertake to secure the alcohol dispensing and consumption area, designate a contact person for the event, indicate how parking and emergency access will be provided for and show proof of insurance. The applications shall be submitted to the Village Clerk no less than 15 days prior to the event.
- (3) The Village Board delegates the authority to issue Temporary Class “B” and “Class B” to the Village Clerk, as provided for in sec. 125.26(1) and 125.51(1)(a), Wis. Stats.,
- (f) RETAIL “CLASS C” LICENSE. A Retail “Class C” license, when issued by the Village Clerk under the authority of the Village Board, shall permit its holder to sell wine by the glass or in an unopened original container for consumption on the premises where sold.
- (g) RESERVE “CLASS B” LICENSE. A Reserve “Class B” License is a license not granted or issued by the Village Board and that is counted in the quota determined pursuant to Wisconsin Statutes Section 125.51(4)(br). The fee for a Reserve “Class B” License is \$10,000.
- (h) PROVISIONAL RETAIL LICENSE. A provisional retail license for Class “A,” Class “B,” “Class A,” “Class B,” or “Class C” establishments may be issued by the Village Board only to a person who has applied for a retail license. The provisional retail license expires after 60 days of its issuance or when the retail license is issued, whichever is sooner. The Village Board may revoke any provisional retail license if it is discovered that the applicant made a false statement on the application. No applicant shall hold more than one provisional retail license for each type of license applied for by the holder per year. The fee for a provisional retail license is set forth in the Schedule of Fees adopted from time to time by resolution of the Village Board.

History: Sec. 7-2-4(g) amended. Ordinance No. 7, Series of 2016.

SEC. 7-2-5 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 Village 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, if a corporation, or by an authorized member, if a limited liability company, or by any general partner, if a partnership.
- (c) **PUBLICATION.** The application shall be published at least one (1) time in the official Village 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. 7-2-6 QUALIFICATIONS OF APPLICANTS AND PREMISES.

- (a) **GENERAL REQUIREMENTS.** Licenses and permits related to alcohol beverages issued to natural persons under this chapter may be issued only to persons who fulfill all of the requirements of Wisconsin Statutes Section 125.04(5).
- (b) **CORPORATIONS AND LIMITED LIABILITY COMPANIES.** Licenses and permits related to alcohol beverages may be issued only to corporations or limited liability companies who fulfill all of the requirements of Wisconsin Statutes Section 125.04(6).
- (c) **RIGHT TO PREMISES.** No applicant will be considered unless the applicant has the right to possession of the premises described in the application for the license period, by lease or by deed.
- (d) **SEPARATE LICENSES.** A separate license shall be required for each business premises where intoxicating liquor or fermented malt beverages are kept, sold, or offered for sale.

- (e) LICENSE QUOTAS. The license quota for the Village shall be as provided in Wisconsin Statutes Section 125.51(4).
- (f) RESTRICTIONS NEAR SCHOOLS AND CHURCHES. No retail “Class A” or “Class B” license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, or tribal school as defined in Section 115.001(15m), Wis. Stats., hospital or church; except that this prohibition may be waived by a majority vote of the Village Board. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This subsection shall not apply to (i) premises licensed as such on June 30, 1947; (ii) premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building; (iii) a restaurant in which the sale of alcoholic beverages accounts for less than 50% of its gross receipts; or (iv) beer-only licenses.
- (g) 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.

SEC. 7-2-7 INVESTIGATION.

The Village Clerk shall notify the Chief of Police, Health Officer, Chief of the Fire Department, and Building Inspector 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 Board in writing 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. 7-2-8 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 for operation on any premises or with any equipment which taxes or assessments or other financial claims of the Village are delinquent and unpaid.

- (c) 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 Village 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.

SEC. 7-2-9 GRANTING OF LICENSE.

The Village Board shall provide any person an opportunity to be heard for or against the granting of any license. Upon approval of the applicant by the Village Board and payment by the applicant of the license fee to the Village, the Village Clerk shall issue to the applicant a license. The fee for all Class "A," "Class A," Class "B," "Class B," and "Class C" licenses issued for a period of less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.

SEC. 7-2-10 TRANSFER AND REVOCATION OF LICENSE.

- (a) A license shall be transferable from one premise to another in accordance with the provisions of Wisconsin Statutes Section 125.04(12) 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. Proceedings for such transfer shall be had in the same form and manner as the original application. Whenever a license is transferred the Village Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer.
- (b) Whenever the agent of a corporate holder of a license, for any reason, is replaced, the licensee shall give the Village Clerk written notice of said replacement, the reasons for replacement, 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 of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or Chief of Police or his/her designee. 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 Chief of Police or his/her designee and the Wisconsin Department of Revenue.
- (c) Whenever any licensee under this Chapter shall not conduct his licensed business at the authorized location for a period of six (6) consecutive months, the license issued to him shall be revoked as provided for in Section 7-2-18 et seq. below, unless the six (6) months period shall be extended by the Village Board.
- (d) If a business holding a license is sold or assigned, the license may be transferred to the successor owner or assignee if the assignee complies with the requirements

of the original applications, is acceptable to the issuing authority, and consents to the transfer. The new owner or assignee shall not be required to pay a new license fee for the time remaining on the license until it expires, and the previous owner shall not be entitled to a refund for the time remaining on the license until it expires.

- (e) Whenever any licensee under this Chapter shall not conduct his licensed business at the authorized location within ninety (90) days following the granting of the license, the license issued to him shall be revoked as provided for in Section 7-2-18 et seq. below.

SEC. 7-2-11 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 they are granted, the date of issuance, the fee paid, and the name of the licensee. The Village Clerk shall affix to the license his/her affidavit, if so required by Wisconsin Statutes Section 125.04(4).

SEC. 7-2-12 POSTING LICENSES; DEFAACEMENT.

- (a) **FRAME.** All licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front which allows the license to be clearly read.
- (b) **DISPLAY.** All licenses issued under this Chapter shall be conspicuously displayed for public inspection at all times in the room or place where the activity subject to licensure is carried on.
- (c) **DEFAACEMENT.** 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 to knowingly deface or destroy such license.

SEC. 7-2-13 CONDITIONS OF LICENSE.

All retail Class A, B or 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 police or other 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 possessed 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) **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.
- (c) **LICENSED OPERATOR ON PREMISES.** There shall be at all times, upon premises operated under a Class “A,” “Class A,” Class “B,” “Class B,” or “Class C” license, the licensee 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 manner, serving any alcohol beverages to customers.
- (d) **HEALTH AND SANITATION REGULATIONS.** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all Class “B”, “Class B” or “Class C” licenses issued under this chapter. No Class “B”, “Class B” or “Class C” license shall be issued unless the premises to be licensed conform to such rules and regulations.

SEC. 7-2-14 CLOSING HOURS.

- (a) No premises for which a Class “B” or “Class B” or “Class C” license is issued may remain open between the hours of 2 a.m. and 6 a.m., except as provided in par. (2) below. On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6 a.m. except that, on the Sunday that daylight saving time begins as specified in Wisconsin Statutes Section 179.095(2), the closing hours shall be between 3:30 a.m. and 6 a.m. On January 1 premises operating under a Class “B” or “Class B” license are not required to close.
- (b) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, indoor horseshoe-pitching facilities, curling clubs, golf course, and golf clubhouses may remain open for the conduct of their regular business but may not sell alcohol beverages during the hours specified in par. (1).
- (c) Between 12 midnight and 6 a.m., no person may sell fermented malt beverages on Class “B” or “Class B” or “Class C” licensed premises in an original unopened package, container or bottle or for consumption away from the premises.
- (d) No premises for which a Class “A” or “Class A” license is issued may sell alcohol beverages between 12 midnight and 6 a.m. These premises may remain open for the conduct of their regular business not to include the sale of alcohol beverages.
- (e) To the extent that closing hours are not established for licensed premises in par. (a)-(e) above, the closing hours for such retailers and their associated premises shall be as provided for in Wisconsin Statutes Chapter 125, as amended from time to time.

- (f) Notwithstanding the foregoing, closing hours for specific events at licensed premises may be modified by a majority vote of the Village Board, subject to any limitations contained in Section 125.32(3), Wis. Stats.

SEC. 7-2-15 RESTRICTIONS ON TEMPORARY CLASS “B” AND “CLASS B” PICNIC OR SPECIAL EVENT LICENSES.

- (a) GENERAL CONDITIONS OF LICENSE. Groups that have been granted a Temporary Class “B” and/or “Class B” license shall comply with the following conditions of license:
 - (1) LICENSED OPERATORS. There shall be at least one person properly licensed as an operator under the provisions of this Chapter on the premises at all times to see the activities of those persons serving and selling alcoholic beverages. No persons under eighteen (18) years of age shall be allowed to assist in the sale of alcoholic beverages at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
 - (2) COMPLIANCE WITH LAWS. Holders of temporary licenses shall fully comply with all provisions of this Code and the state statutes.
 - (3) SUITABLE FACILITIES. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
 - (4) POSTING OF LICENSE. All temporary licenses shall be posted in a conspicuous place and shall specify the date(s) and hours for which said licenses are issued.
 - (5) INSURANCE. The applicant for temporary licenses will 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 license is granted. As evidence of the applicant’s ability to perform the conditions of the license, the applicant will be required to furnish a Certificate of Comprehensive General Liability insurance naming the Village of Prairie du Sac as an additional insured. The applicant may be required to furnish a performance bond prior to being granted the license. Such insurance shall be in such form and for such amounts as the Village Board may from time to time reasonably established.
 - (6) HOURS. The recipient of a temporary license shall insure that the sale and consumption of alcohol beverages shall not occur between the hours of 12 midnight and 6 a.m. of the date(s) of the licensed event.

- (7) **TERMINATION OF EVENT.** Should the Chief of Police or his/her designee determine activities are or will become dangerous or when necessary to protect public health, safety or welfare, the Chief of Police or his/her designee is authorized to terminate the event. Such termination will not be grounds for refunding of any fees or apportion there of associated with the temporary license or operator's licenses.
- (8) **SIGNAGE.** All organizations issued a license under 7-2-4(e) of the Code of Ordinances shall post in a conspicuous location at all points of sale and entrance to the premise, a sufficient number of signs disclosing that no alcohol beverages shall be served to any underage person or without proper age identification and that carrying containers containing alcohol from the licensed premise is prohibited.
- (9) **UNDERAGE PERSONS.** Unless prohibited by the license issued under 7-2-4(e) of the Code of Ordinances, the licensee is authorized to permit unaccompanied underage persons to enter and remain on premises for which a temporary license is issued per the following:
 - a. The licensee provides a means of identification, such as a wrist band, to identify those persons who are at least twenty-one (21) years of age and will be purchasing and/or consuming alcohol.
 - b. An underage person may only enter and remain on premises covered by a temporary "Class B" (wine) license if the licensee permits, on the licensed premises, unaccompanied underage persons to be present only for the purpose of acting as designated drivers and the licensee provides a means of identification, such as a wrist band, to identify the underage persons as a designated drivers.
 - c. An underage person may enter and remain on premises covered by a temporary license per Section 125.07(3)(a)3 Wis. Stats.
- (b) **REGULATIONS CONCERNING ALCOHOL BEVERAGES IN PARKS OR OPEN SPACES.** Groups that have been granted a Temporary Class "B" or "Class B" license for a premise in a park or open space, privately owned or otherwise, shall comply with the following conditions of license:
 - (1) All organizations shall install a single fence, at a minimum height of four (4) feet, around the licensed premise, including the point of sale facilities and consumption area to control ingress and egress. At the discretion of the Chief of Police when deemed necessary to prevent transfer to underage persons, a second fence maybe required to be installed at a distance of three (3) feet from the first fence.
 - (2) At the cost of the licensee, with the approval of the Chief of Police or his/her designee, a licensed operator, licensed private security officer,

Sauk Prairie Police Officer or another law enforcement officer shall be stationed at each entrance of the premise after 9 p.m. for the purpose of checking age identification. The Chief of Police or his/her designee is authorized to require additional security or law enforcement officers based on past experience or special concerns regarding the event, with the cost of such being paid for by the licensee.

- (3) A licensed operator shall be stationed at all points of sale at all times.
- (4) No glass containers allowed.
- (5) There shall be a sufficient number of permanent and/or temporary toilet facilities to accommodate the size and nature of the event as determined by the Village.

History: Section 7-2-15 Amended. Ordinance No. 2, Series of 2019.

SEC. 7-2-16 RESERVED FOR FUTURE USE

SEC. 7-2-17 OUTDOOR ALCOHOL AREA PERMIT REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" AND "CLASS B" PREMISES.

- (a) **REQUIRED FOR 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 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 sole discretion 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 premise which is not described in a valid Outdoor Area Alcohol permit.
- (b) **LIMITATIONS ON ISSUANCE OF OUTDOOR ALCOHOL AREA PERMITS.** No permit shall be issued for an Outdoor Alcohol Area unless a Conditional Use Permit for an Outdoor Alcohol Area as specified in Chapter 1 of Title 10 of the Village's Code of Ordinances has been approved. Each applicant for an Outdoor Alcohol Area permit shall accurately describe the area intended for use as an Outdoor Alcohol Area and shall indicate the nature of fencing or other measures intended to provide control over the operation of the Outdoor Alcohol Area. No amplified sound or music is permitted outside the enclosed (building) premises unless a Conditional Use Permit was issued after May 1, 2013, allowing amplified sound or music. There shall be a licensed operator with the Outdoor Alcohol Area at all times the Outdoor Alcohol Area is in operation.
- (c) **ADJOINING PROPERTY OWNERS TO BE NOTIFIED OF PENDENCY OF APPLICATIONS.** Adjoining property owners shall be notified of the pendency of an application for an Outdoor Alcohol Area per the procedure for Conditional Use Permits outlined in Sec. 10-1-1304.

- (d) STATE STATUTES ENFORCED WITHIN OUTDOOR ALCOHOL AREA. Every permittee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" and "Class B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats. shall be grounds for immediate revocation of the Outdoor Alcohol Area permit by the Village Board.

SEC. 7-2-18 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

- (a) PROCEDURE. Whenever the holder of any license under this Chapter violates any portion of this Chapter, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by Wisconsin Statutes Section 125.12, and the provisions therein relating to granting a new license shall likewise be applicable.
- (b) AUTOMATIC REVOCATION. Any license issued under this Chapter shall stand revoked without further proceedings upon the conviction of the licensee or employee, or the agent or representative thereof, for a second offense under this Chapter or for a violation of Wisconsin Statutes Chapter 125 or 139, or any other State or Federal liquor or fermented malt beverage laws or a felony.
- (c) NON-RENEWAL OF LICENSES. Before renewal of any license issued under this Section is refused, the licensee shall be given written notice of any charges or violations against them or the reasons proposed for non-renewal, and a copy of any proposed motion for non-renewal, and shall have an opportunity to be heard before the Village Board.
- (d) ABANDONMENT OF PREMISES. Any licensee holding a license to sell alcohol beverages who abandons such licenses premises for at least ninety (90) days shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation of an alcohol beverage license.

SEC. 7-2-19 FORFEITURE AND REVOCATION OF LICENSES FOR ESTABLISHMENTS PROVIDING ADULT ENTERTAINMENT.

- (a) LEGISLATIVE INTENT. The Village Board does hereby find:
 - (1) The Village Board of the Village of Prairie du Sac has authority under Wisconsin Statutes Section 125.10(1) to adopt regulations governing the sale of alcoholic beverages, which regulations are in addition to those set forth in Wisconsin Statutes Chapter 125, and

- (2) The Village Board has authority under its general police powers set forth in Wisconsin Statutes Section 61.34(1) 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 does not intend by adopting this ordinance to regulate obscenity, since nudity in itself is not obscene, it therefore 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 the 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 Village Board 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.
- (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 Village Board believes are detrimental to the public health, safety and welfare of the citizens of the Village of Prairie du Sac; and
- (7) Among these secondary effects are (i) the potential increase in prostitution and other sex-related offenses, as well as other crimes and offenses, (ii) the potential depreciation of property values in neighborhoods where bars and taverns featuring nude dancing exist, (iii) health risks associated with the spread of sexually transmitted diseases, and (iv) the potential 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 Prairie du Sac; 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 alcoholic beverages promotes the goal of minimizing, preventing and controlling the negative secondary effects associated with such activity.
- (b) DEFINITIONS. For purposes of this Section, the term “licensed establishment” means any establishment licensed by the Village Board to sell alcoholic beverages pursuant to Wisconsin Statutes Chapter 125.
- (c) 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 or her genitals, pubic area, vulva, anus, anal clef 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 discernibly turgid state.
- (d) EXEMPTIONS. The provisions of this Section do not apply to the following licensed establishments; theaters, performing arts center, 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.
- (e) PENALTIES. Any person, partnership, or corporation who violates any of the provisions of this Section shall be subject to a forfeiture of not less than \$100.00, and not more than \$500 per violation occurs and continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking, or non-renewing an alcohol beverage license under Wisconsin Statutes Chapter 125.
- (f) SEVERABILITY. If any part of this Section is found to be unconstitutional or otherwise invalid, the validity of the remaining sections will not be affected.
- (g) EFFECTIVE DATE. This Section shall take effect upon passage and publication as required by law.

SEC. 7-2-20 PENALTIES.

- (a) Forfeitures for violations of Wisconsin Statutes Chapter 125 shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable state statutes, 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 Prairie du Sac, Wisconsin, except as otherwise provided in subsection (1) herein, or who shall conduct any activity or make any sale for which a license is required without such license, shall be subject to a forfeiture as provided in the general penalty section of this Code.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

SEC. 7-2-21 FEES.

The fees for all licenses described in this Chapter 2 shall be established by a majority vote of the Village Board, from time to time, and set forth in a Schedule of Fees. All such fees shall be in compliance with the provisions of Chapter 125 of the Wisconsin statutes.

Article B
Operator's License

SEC. 7-2-22 OPERATOR'S LICENSE REQUIRED.

Except as otherwise provided for in Chapter 125 of the Wisconsin Statutes, there shall be upon the premises operated under a "Class A" or "Class B" intoxicating liquor license or Class "A" or Class "B" fermented malt beverage license or a "Class C" 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. No person other than the licensee shall serve or sell fermented malt beverages or intoxicating liquor in any place operated under the Class A, Class B or Class C licenses unless he or she shall possess an operator's license or unless he or she 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.

History: Section 7-2-22 Amended. Ordinance No. 10, Series of 2020.

SEC. 7-2-23 PROCEDURE UPON APPLICATION.

- (a) The Village Clerk 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 only to persons eighteen (18) years of age and older. Operator's licenses shall be operative only within the limits of the Village.
- (b) All applications are subject to an investigation by the Chief of Police 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 Police Department shall conduct an investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the Chief of Police shall recommend, in writing, to the Village Clerk approval or denial of the application. If the Chief of Police recommends denial, the Chief of Police shall provide, in writing, the reason for such recommendation.

History: Section 7-2-23 Amended. Ordinance No. 10, Series of 2020.

SEC. 7-2-24 DURATION.

Licenses issued under the provisions of this Chapter shall be valid for a period of two (2) years and shall expire on the thirtieth (30th) day of June of odd number years.

SEC. 7-2-25 OPERATOR'S LICENSE FEE.

The fee for new and renewal operator's license shall be as stated in a Schedule of Fees for said duration as specified in Sec. 7-2-24 or part thereof. Operator's license fee is not to be prorated.

SEC. 7-2-26 TEMPORARY LICENSE; PROVISIONAL LICENSE

- (a) Temporary operator's licenses. The Village Clerk may issue temporary operator's licenses. Such licenses may be valid for between one and 14 days, which period shall be stated on the license. Such temporary licenses shall be issued only to those persons employed by or donating their services to a nonprofit organization holding a license under Sec. 7-2-4(e). No person may hold more than one temporary operator's license per year.
- (b) Provisional operator's licenses.
 - (1) The Village Clerk shall issue a provisional operator's license to any person who has completed the application for an operator's license, is eligible for a license according to the investigation conducted, has paid the fees and has enrolled in the required training course. The Village Clerk shall also issue a provisional license to any person who, at the time of application for an operator's license and payment of the fees, files a certified copy of a valid operator's license issued by another municipality of the state.
 - (2) A provisional license may not be issued to any person who has been denied an operator's license by the Village.
 - (3) A provisional license shall expire 60 days after its issuance, upon issuance of an operator's license, or if a provisional license is issued on the basis of a certified copy of a valid operator's license in another municipality, upon expiration of the operator's license from the other municipality whichever comes sooner.

SEC. 7-2-27 USE BY ANOTHER PROHIBITED.

- (a) No person may allow another to use such person's license or permit to sell alcohol beverages.
- (b) The license permit of a person who violates Subsection (a) of this Section shall be summarily revoked by the Village Clerk.

SEC. 7-2-28 ISSUANCE OR DENIAL OF OPERATOR'S LICENSE.

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

- (1) If the application is denied, the Village Clerk shall inform the applicant in writing 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, or in open session if so requested by the applicant. Such notice must be sent by registered mail to, or served upon, the applicant within ten (10) days of the Village Clerk's denial of the matter. The applicant must request such reconsideration within ten (10) days of receiving notification of the denial. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.
 - (2) If, upon reconsideration, the Village Board again denies the application, the Village Clerk shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wis. Stats., for review.
- (c) 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 Sec. 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) If the licensee is convicted of an offense substantially related to the licensed activity, the Village Board may act to revoke or suspend the license.
- (e) 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 Village Clerk and 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 and the Village Clerk, at their 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.

History: Section 7-2-28 Amended. Ordinance No. 10, Series of 2020.

SEC. 7-2-29 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. 7-2-30 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.

Article C
Penalties

SEC. 7-2-31 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 Village of Prairie du Sac, Wisconsin, 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 Prairie du Sac, Wisconsin, 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 such license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Prairie du Sac, Wisconsin.
- (c) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

History: Chapter 2 of Title 7 repealed and recreated. Ordinance No. 10, Series of 2014.