



## **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 Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this 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 amendments, 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.**

All terms defined in Ch. 125, Wis. Stats., shall have the meaning set forth in that statutory chapter.

### **Sec. 7-2-3 License Required.**

No person, firm or corporation shall vend, sell, deal or traffic in or have in his/her/its 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, fermented malt beverage, wine or intoxicating cider 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 Secs. 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.**

- (1) **Generally.** 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.
- (2) **Customer Samples.** A "Class A" license authorizes the licensee to provide, free of charge, to customers and visitors who have attained the legal drinking age, taste

samples of intoxicating liquor other than wine that are not in original packages or containers and that do not exceed 0.5 fluid ounces each, for consumption on the "Class A" premises. No "Class A" licensee may provide more than one such taste sample per day to any one person. Taste samples may be provided only between the hours of 11:00 a.m. and 7:00 p.m. Any representative of a manufacturer, rectifier, winery, or out-of-state shipper issued a permit under Secs. 125.52, 125.53, or 125.58, Wis. Stats., may assist the "Class A" licensee in dispensing or serving the taste samples. No "Class A" licensee may provide as taste samples under this Subsection intoxicating liquor other than wine that the "Class A" licensee did not purchase from a wholesaler.

- (b) **Retail "Class A" Intoxicating Liquor License – Cider Only.** A "Class A" intoxicating liquor license issued under this Section shall entitle the holder to sell, deal and traffic in cider only, and only in original packages or containers and to be consumed off the premises so licensed. A retail "Class A" Intoxicating Liquor License for Cider only shall be granted to an applicant who holds a Class "A" Fermented Malt Beverage Retailer's license issued under Sec. 125.25, Wis. Stats., or under Subsection (e) of this Section, for the same premises for which the "Class A" license application is made.
- (c) **Retail "Class B" Intoxicating Liquor License.**
  - (1) **Generally.** A "Class B" intoxicating liquor license, when issued by the Village Clerk-Treasurer under authority of the Village Board, authorizes the retail sale of intoxicating liquor by the glass and not in the original package or container for consumption on the premises where sold or for consumption off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. In addition, wine may be sold in the original package or container in any quantity to be consumed off the premises where sold. This paragraph does not apply in municipalities in which the governing body elects to come under Subsection (c)(3) below [Sec. 125.51(3)(b), Wis. Stats.] or to a winery that has been issued a "Class B" license. Subsection(c)(2) below [Sec. 125.51(3)(am), Wis. Stats.] applies to all wineries that have been issued a "Class B" license.
  - (2) **Wineries.** A "Class B" license issued to a winery authorizes the sale of wine to be consumed by the glass or in opened containers on the premises where sold or off the premises if the licensee seals the container license also authorizes the sale of wine in the original package or container to be consumed off the premises where sold, but does not authorize the sale of fermented malt beverages or any intoxicating liquor other than wine.
  - (3) **Temper-Evident Seal Requirement.** In all municipalities electing by ordinance to come under this Subsection, a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass on the premises where sold or off the premises if the licensee seals the container of intoxicating liquor with a tamper-

evident seal before the intoxicating liquor is removed from the premises. The "Class B" license also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold. This Subsection does not apply to a winery that has been issued a "Class B" license. Subsection (c)(2) above [Sec. 125.51(3)(am), Wis. Stats.] applies to all wineries that have been issued a "Class B" license.

- (d) **Reserve "Class B" Licenses.** A Reserve "Class B" license means a license that is not granted or issued by the Village of Elk Mound 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.
- (e) **Class "A" Fermented Malt Beverage Retailer's License.**
- (1) **Generally.** 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.
  - (2) **Customer Samples.** A Class "A" license also authorizes the licensee to provide, free of charge to customers and visitors who have attained the legal drinking age, fermented malt beverages taste samples that are not in original packages, containers, or bottles and that do not exceed three (3) fluid ounces each, for consumption on the Class "A" premises. No Class "A" licensee may provide more than two (2) taste samples per day to any one person. Taste samples may be provided under this Subsection only between the hours of 11:00 a.m. and 7:00 p.m. Any other regulatory provision applicable to retail sales of fermented malt beverages by a Class "A" licensee also applies to the provision of taste samples, free of charge, of fermented malt beverages by a Class "A" licensee.
- (f) **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.

(g) **Temporary Class "B" Fermented Malt Beverage License.**

(1) **License.**

- a. 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 and chambers of commerce, 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.
- b. 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.
- c. Such license is valid for dates as approved by the Village Clerk-Treasurer.

(2) **Application.**

- a. Application for such temporary 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 denial of a license may be appealed to the Village Board under Section 7-2-10. Any application not filed at least five (5) days before the date of the licensed event may not provide enough time for the Village Clerk-Treasurer to take action of the application, and any application not filed at least forty-five (45) days before the date of the licensed event may not provide enough time for the applicant to appeal any denial of license by the Village Clerk-Treasurer.
- b. 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.
- c. The temporary 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 four (4) consecutive days.

- d. If the application is for a temporary license to be used in a Village park, the applicant shall specify the main point of sale facility.
  - e. The Village Board, or other official authorized to issue Temporary Class "B" fermented malt beverage licenses, may issue a qualified organization Temporary Class "B" beer licenses for a multiple-location, single-day event on a specific date and time for the purpose of conducting a "beer walk". For such an event to occur:
    - 1. The Temporary Class "B" fermented malt beverage licenses must be issued by the Village to the same qualified organization which is the licensee and sponsor of the multiple-location, single-day event.
    - 2. The Temporary Class "B" fermented malt beverage licenses must be issued for the same date and time.
    - 3. An admission fee shall be charged for participation in the event. No additional charge can be charged for service of alcohol at the event.
    - 4. There is no limit to the number of Temporary Class "B" fermented malt beverage licenses the Village may issue to a qualified organization.
  - f. Temporary Class "B" licensees must purchase all beer from beer wholesalers or breweries/brewpubs authorized to self-distribute to retail licensees.
- (h) **Temporary "Class B" Wine License.**
- (1) **License.**
- a. Notwithstanding Sec. 125.68(3), Wis. Stats., Temporary "Class B" wine licenses may be issued to bona fide clubs and chambers of commerce, 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. An eligible organization may obtain a Temporary "Class B" wine license without also obtaining a temporary Class "B" fermented malt beverage license.
  - b. 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., for 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.
  - c. 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.
  - d. Not more than two (2) such licenses may be issued under this Subsection to any club, chamber of commerce, county or local fair association, agricultural

association, church, lodge, society or veterans' post in any twelve (12) month period.

- e. An applicant may receive up to twenty (20) temporary licenses for the purpose of conducting a "wine walk" if all of the following apply:
  - 1. Each license is issued for the same date and times and the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times.
  - 2. An admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event.
  - 3. Within the immediately preceding twelve (12) month period, the Village has issued licenses under authority of this Subsection for fewer than two (2) events.
  - 4. The duration of an event may not exceed one (1) day.
  - 5. Multiple licenses issued under this Subsection count as one (1) license for purposes of Subsection (h)(1)d.

(2) **Application.**

- a. Application for such temporary wine 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 application not filed at least five (5) business days before the desired date of the license may not provide enough time for the Village Clerk-Treasurer to take action on the application. Any denial of a license may be appealed to the Village Board under Section 7-2-10.
- b. 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 shall be ineligible to apply for a temporary "Class B" wine license for one (1) year.
- c. The license shall specify the hours and dates of license validity.
- d. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.
- e. The Village Board, or other official authorized by the Village Board to issue temporary "Class B" wine licenses, may authorize an underage person to enter and remain on the premises so licensed if all of the following apply:
  - 1. The Village Board issuing the license, or other official authorized by the Village Board, authorizes the licensee to permit underage persons to be on the licensed premises for the purpose of acting as designated drivers.
  - 2. 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 such underage persons as designated drivers.



3. The underage person is present on the licensed premises to act as a designated driver and displays the means of identification specified herein.
  - f. Temporary "Class B" licensees must purchase all wine from wine wholesalers or other entities authorized to self-distribute wine to retail licensees.
- (i) **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.
- (j) **Retail "Class C" Wine License.**
- (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 Village's quota prohibits the Village 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.
- (k) **Provisional Retail Licenses.**
- (1) Pursuant to Sec. 125.185, Wis. Stats., the Village Board is authorized to issue provisional retail licenses for the retail sale of fermented malt beverages, intoxicating liquor or wine. Provisional retail licenses may be issued to applicants when unique situations arise, such as, but not limited to, special business timing needs which create an inability to meet the notice requirements for issuance of regular retail alcohol beverage licenses, etc.
  - (2) A provisional retail license may only be issued to a person who has applied for a regular Class "A", Class "B", "Class A", "Class B" or "Class C" license and authorizes only the activities that the type of retail license applied for authorizes. No person may hold more than one (1) provisional retail license for each type of license applied for by the holder per year. The fee for a provisional retail license shall be as prescribed in Section 1-3-1. The holder of a provisional retail license shall in all respects comply with the applicable requirements of the Wisconsin Statutes and Title 7, Chapter 2 of the Village of Elk Mound Code of Ordinances.
  - (3) A provisional retail license shall expire sixty (60) days after its issuance by the Village Board or when the Class "A", Class "B", "Class A", "Class B", or "Class C" license is issued to the holder, whichever is sooner. The Village Board may revoke the provisional retail license if it is discovered that the holder of the license made a false statement on the application.

- (4) Notwithstanding Subsection (k)(1) above, the Village Board may not issue a provisional "Class B" license if the municipality's quota under Sec. 125.51(4), Wis. Stats., prohibits the municipality from issuing a "Class B" license.

*State Law Reference:* Chapter 125, Wis. Stats.

*Cross-Reference:* Section 7-2-17.

## **Sec. 7-2-5 License Fees.**

- (a) **Fees.** There shall be the following classes of licenses in the Village of Elk Mound 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.:
- (1) **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.
  - (2) **"Class A" Intoxicating Liquor License – Cider.** There is no fee for a "Class A" Cider License.
  - (3) **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.
  - (4) **Temporary Class "B" Fermented Malt Beverage License.** The fee for this license shall be as prescribed in Section 1-3-1 per event.
  - (5) **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.
  - (6) **Fermented Malt Beverage Wholesalers' License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
  - (7) **"Class A" Intoxicating Liquor Retailer's License.** The annual fee for this license shall be as prescribed in Section 1-3-1.
  - (8) **"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.

- (9) **"Class C" Wine License.** The annual fee for this license shall be as prescribed in Section 1-3-1. The fee for less than one (1) year shall be prorated.
- (b) **Cancellation for Failure to Pay Fee.** The Village shall issue each license approved by the Village Board and shall make the same available at the Village Clerk-Treasurer's office. Any licenses for which the license fee is not paid within fifteen (15) days of approval of the application by the Village Board shall be returned to the Village Board for cancellation or other disposition.

### **Sec. 7-2-6 Application for License.**

- (a) **Filing of Applications; Filing Times.** 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. Applications shall be filed with the Village Clerk-Treasurer not less than fifteen (15) days prior to the granting of such license, except all Temporary Class "B" Fermented Malt Beverage or Wine licenses lasting four (4) days or under shall be filed with the Village Clerk-Treasurer at least five (5) days prior to the date the license is to take effect. 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. Included shall be the applicant's Wisconsin Sellers Permit number and Federal Employer Identification number.
- (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) **Application Period After Denial.** Each applicant that is denied a liquor license shall wait one (1) calendar year before submitting another application.
- (d) **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.
- (e) **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.
- (f) **Quotas.** 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, "Class A" or Class "B" intoxicating liquor license, or Class "C" wine license shall be granted only to persons who are citizens of the United States or persons with permanent residency

- status (green card) who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of 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, the Village may conditionally approve the license, pending completion of the construction and issuance of an occupancy permit. In the event such licensee does not secure a premises or construction has not been completed within the time designated by the Village and an occupancy permit has not been issued, such conditional license shall be invalid.
- (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.
- (i) **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.

## **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 a written report(s) to the Village Clerk-Treasurer, who shall forward to the Village Clerk-Treasurer 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) **Unpaid Taxes and Municipal Obligations.** 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 of Elk Mound are delinquent and unpaid.
- (b) **Sanitary, Health and Safety Standards.** No license shall be issued unless the premises conform to the fire, sanitary, safety and health requirements of the State and Village Building Code, the regulations of the State Board of Health and local Board of Health applicable to restaurants, and State and Village Fire Codes. The premises shall be properly lighted and ventilated, be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex, and conform to all Ordinances of the Village of Elk Mound.
- (c) **Application Review Criteria.** Consideration for the granting or denial of a license will be based on, but not limited to:
  - (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) **Consideration of Past Offenses.** 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. 7-2-10 Granting of License.**

- (a) **Review.** 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 of Elk Mound. The full license fee shall be charged for the whole or fraction of any year.
- (b) **Denial of License.** If the Village Board denies the license, the applicant shall be notified in writing, by certified 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 Village Board 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 of License; Temporary Change of Licensed Place.**

- (a) **Transfer of Licenses.** 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 as directed 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 as established in Section 1-3-1. 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 of Elk Mound, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- (b) **Change in Corporate Agent.** Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give 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

**7-2-11**

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 of Elk Mound.

- (c) **Temporary Change of Licensed Place or Premises.** A license holder may apply not more than one (1) time during each license year for a temporary change of his/her/its licensed place or premises. Such a change by the Village Board may be allowed solely for the purpose of authorizing the holding of a special event or picnic at a location in the Village of Elk Mound which is either separate or distinct from the original licensed place or premises or which includes additional premises, whether in or out of doors, beyond that described in the original approved application. Each such request shall be subject to a review and recommendation by the Police Department and such conditions as may be imposed by the Village Board deemed to be in the best interests of the Village in protecting the safety, health and welfare of the public, including, but not limited to, the posting of a bond in an amount required by the Village and/or making arrangements for enforcement of alcohol law and ordinance requirements. The Village of Elk Mound reserves the right to deny a temporary change of licensed place or premises. No such temporary change of premises permit change shall be valid for more than three (3) days. Permits for outdoor consumption or outdoor events at a licensed premises, such as, but not limited to, outdoor sports and beer/beverage garden activities, are regulated by Section 7-2-19.

*Cross-Reference:* Section 7-2-19.

## **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.