

## CHAPTER VII

### ALCOHOL BEVERAGES LICENSES AND PERMITS

#### **7.01 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES**

- (1) State Statute Adopted.** The provisions of Chapter 125 of the Wisconsin Statutes relating to the sale of intoxicating liquor and fermented malt beverages, except Sections 125.09(6), 125.11, 125.20(6), 125.66(3), and 125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said Statutes, the penalty for commission of such offenses limited to a forfeiture imposed under this statute are hereby adopted and made part of this ordinance by reference.
- (2) Licenses.**

  - (a) When required.** No person, except as provided under 7.01(1), shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any intoxicating liquor, or fermented malt beverage, or cause the same to be done, without having procured a license or permit as provided in this section nor without complying with all of the provisions of this section and all statutes, ordinances and regulations of the state and the town applicable thereto.
- (3) License Fees.** The fees are in the Misc. Fee Schedule. When issued by the Town Clerk under the authority of the Town Board after payment from the Misc. Fee Schedule, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages.

- (d) To permit any employee or person to wear or use any device or covering exposed to view, which simulates the breast, genitals, anus, pubic hair or any portion thereof.

(2) **Entertainment and Conduct** Live entertainment is permitted on a licensed premises except that the following acts or conduct is deemed contrary to public welfare and morals, and therefore shall be prohibited on any premises licensed for the sale of intoxicating liquor or malt beverages and the consumption on premises:

- (a) No licensee shall permit any person to perform acts of or acts which simulate:
  - i. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
  - ii. The touching, caressing or fondling on the breasts, buttocks, anus or genitals.
  - iii. The displaying or exposing to view any portion of the pubic hair area, anus, vulva or genitals, or any female to expose to view any portion of the breasts below the top of the areola, or any simulation thereof.
- (b) No licensee shall permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in Section 7.02(2)(a).
- (c) No licensee shall permit any person to remain in or upon the licensed premises who exposes in public view any portion of his or her genital or anus.

(3) **Visual Displays** The showing of film, still pictures, electronic reproduction, or other visual reproductions depicting conduct prohibited, if performed by a live entertainer under Section 7.02(b) above is also deemed contrary to welfare and morals and, therefore, not permitted on premises licensed for the sale of intoxicating liquor or malt beverages to be consumed on the premises.

**(4) License Restrictions.**

(a) Tax Delinquencies. In the event of a licensed tavern business being sold during the license year, the Town Clerk may not issue a license to the new owner until the Town Clerk is furnished receipts showing that there are no delinquent real estate taxes, delinquent personal property taxes, and the sewer and water services, if any, are all paid. An estimated amount for personal property taxes shall be provided by the Town Treasurer and an amount sufficient escrowed pending issuance of the final personal property bill.

(b) Location of Premises. No retail Class "A" or "B" fermented malt beverage license or liquor license shall hereafter be issued for premises less than 300 feet from any established public or parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the boundary of such school, church or hospital to the closest entrance to such premises.

(c) Delinquent Taxes, Assessments

1. Premises: No initial or renewal of alcoholic beverage license shall be granted for any premises for which taxes, assessments or other claims to the Town are delinquent or unpaid.

2. Persons: No initial or renewal of alcoholic beverage license shall be granted to any person:

1. Delinquent in payment of any taxes, assessments or other claims owed to the Town;

ii. Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Town.

iii. Delinquent in payment to the State of any State taxes owed.

(5) **Search of Licensed Premises.** It shall be condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any law enforcement official employed by the Town of Osborn without any warrant and the application for a license hereunder shall be deemed a consent of this provision. Any refusal to permit such inspection shall constitute grounds for revocation of any license issued hereunder and shall be deemed a violation of this section.

(6) **Posting License.** Licenses or permits issued under this section shall be posted and displayed as provided in ss. 125.04(10) of the Wisconsin Statutes and any licensee or permittee who shall fail to post his license or permit as therein required shall be presumed to be operating without a license.

(7) **Regulation of Licensed Premises.**

- (a) **Restrictions on Sales** Provisions of Section 125.07 of the Wisconsin Statutes relating to the sale of alcohol and malt beverages to minors and intoxicated persons and all under provisions thereunder are specifically adopted as part of this ordinance.
- (b) **Safety and Sanitation Requirements.** Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used.

(8) **Revocation and Suspension of Licenses.**

**Procedure** Except as hereinafter provided, the provisions of Section 125.12 of the Wisconsin Statutes shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this section. Revocation or suspension proceedings may be instituted by the Town Board upon its own motion by adoption of a resolution.

(9) **Closing Hours.**

- (a) No premises for which a retail Class "B" license has been issued shall be permitted to remain open at any times in violation of Wisconsin Statute 125.32(3)
- (b) It shall be unlawful for any person to remain in such licensed premises during any of the time during which said premises are required to be vacated and closed as herein provided. In the event the owner or operator of any licensed premises desires to be present upon such premises for the

purpose of making repairs or performing work incidental to the care or maintenance of said premises, during that time when the same is required to be vacated and closed, he may make application for such permission specifying the date, time and purpose for which the same is desired, to the Town Constable and said Town Constable, after investigating the application, shall issue a permit for the purpose to be indicated upon such permit, after having concluded that the application and purpose designated are bona fide; and it is further provided that during the time the owner or operator, specified in said permit, are upon such licensed premises during the time when same would otherwise be required to be vacated and closed, said premises shall be fully lighted and such owner, operator, or employees shall, upon demand of any police officer, immediately admit such officer for the purpose of making an investigation upon such licensed premises as such officer in his discretion may determine.

(10) **Semi-Annual Licenses.** Licenses may be granted which shall expire on the 30th day of June of each year, upon payment of such proportion of the annual license fee as the number of months or fraction of a month remaining until June 30 of each year bears to twelve. Licenses may also be issued at any time for a period of six months in any calendar year for which 3/4 of the annual license fee shall be paid. Such six months licenses shall not be renewable during the calendar year in which issued.

## **7.02 REGULATION OF ATTIRE, CONDUCT AND ENTERTAINMENT ON LICENSED PREMISES.**

(1) **Attire and Conduct.** The following acts or conduct on licensed premises are deemed contrary to public welfare and morals and therefore no license for sale of intoxicating liquors or malt beverages for consumption on the premises shall be held at any premises where such conduct or acts are permitted.

- (a) To employ or use any person in the sale or service of alcoholic beverages in or upon the licensed premises while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast, below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- (b) To employ or use the services of any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire, costume or clothing as described in paragraph (a) above.
- (c) To encourage or permit any person on the licensed premises to touch, caress or fondle the breasts, buttocks, anus or genitals of any other person.

## **7.20 PENALTIES**

- (1) The penalty for violations of any provisions of this Chapter shall be a forfeiture as hereafter provided plus court costs permitted under Wisconsin Statutes.
- (2) STATE FOREFEITURE STATUTE. Forfeitures for violation of any subparagraph of 6.01 shall conform to the forfeiture permitted to be imposed for violation of the statutes adopted by reference, including any variations or increases for subsequent offenses.
- (3) STATE FINE STATUTES. The forfeiture for violation of any statute adopted by reference hereunder for which a penalty is a fine shall not exceed the maximum fine permitted under such statute.
- (4) LOCAL REGULATIONS. The penalty for violation of any other section of this Chapter, unless specified otherwise, shall be a fine not less than \$10.00 nor more than \$500.00.
- (5) In the case of a juvenile, the penalty provisions may include a disposition which is hereby incorporated by reference from Wisconsin Statutes 48.344.
- (6) In addition to any penalty imposed under this Chapter, any violation may be used in any proceedings regarding the suspension, nonrenewal or revocation of any license issued under this Chapter.

**7.30 Liquor License renewals that are received after the Town of Osborn Deadline.**

**WHEREAS**, it is deemed in the best interest of the Town of Osborn that the municipal code of the Town of Osborn be further modified in the manner hereinafter more particularly set forth;

**WHEREAS**, the Town of Osborn has determined that when a liquor license has been received after the deadline date a penalty will be imposed. The penalty includes the additional cost of advertising the liquor license notice and if necessary the cost of an additional town board meeting. This payment is to be received prior to the approval of the license.