

Chapter 117

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

ARTICLE I

Alcoholic Beverages in Public Places

- § 117-1. Open containers; consumption.
- § 117-2. Violations and penalties.

ARTICLE II

Sales

- § 117-3. State Statues Adopted (Par. A. adopts Ch. 125; Par. B. provides definitions).
- § 117-4. Restrictions on Class “A” and “Class A” premises.
- § 117-5. Restrictions on “Class B” and Class “B” premises.
- § 117-6. Fees.
- § 117-7. Provisional License.
- § 117-8. Violations and penalties.

ARTICLE III

Licensing

- § 117-9. Standards and guidelines.

- § 117-10. Application of standards; warnings.

- § 117-11. Review of license.

- § 117-12. Operators' Licenses.

- § 117-13. Construal of provisions; purpose.

- § 117-14. Application forms.

ARTICLE V

License Withheld for Nonpayment of Claims

- § 117-15. Premises with unpaid claims.
- § 117-16. Persons delinquent in payments.

ARTICLE VI

Sale to Underage Persons; Violation of Statutes

- § 117-17. Sale to underage persons.
- § 117-18. Manufacture, sale, transfer or distribution of alcoholic beverages.
- § 117-19. Violations and penalties.

[HISTORY: Adopted by the Town Board of the Town of Pleasant Springs 11-7-1989 by Ord. No. 89-1 as § 6.01, 8.01, 8.02, 8.03, 8.07 and 8.08 of the 1989 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Mass public assemblies -See Ch.60.
Nuisances-See Ch. 152.

Peace and good order -See Ch. 165.

ARTICLE I
Alcoholic Beverages in Public Places

§ 117-1. Open containers; consumption.

It is unlawful for any person to carry, or expose to view, any open can, bottle, or any other container containing malt beverage, intoxicating liquor, or other alcoholic beverages or to drink from the same on any sidewalk, street, alley, public road, park, boat landing, or other public property.

§ 117-2. Violations and penalties. [Amended 11-4-2003]

Any person who violates any of the provisions of this article shall, upon conviction, be subject to the penalties provided in Chapter 1, General Provisions, § 1-1.

ARTICLE II
Sales
[Amended 12-4-1990 by Ord. No.90-4; 11-7-2002; 10-17-2017]

§ ARTICLE II
Sales

§117-3. State statutes adopted.

A. Except as modified by the provisions of this chapter, the provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquor and fermented malt beverages, are hereby adopted and made a part of this chapter by reference, except that the penalties for violations shall be as set forth in this chapter.

B. Definitions:

1. A Class "A" license authorizes retail sales of fermented malt beverages for consumption off the premises where sold and in original packages, containers, and bottles.
2. A "Class A" license authorizes retail sales of intoxicating liquor for consumption off the premises where sold and in original packages and containers.
3. A Class "B" license authorizes retail sales of fermented malt beverages from premises within the Town to be consumed either on the premises where sold or off the premises.
4. A "Class B" license authorizes retail sales of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. In addition, wine may be sold in the original package or container in any quantity to be consumed off the premises where sold.

5. 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.
6. Alcohol beverages are defined by §125.02(1), Wis. Stats., and include fermented malt beverages and intoxicating liquor.

§117-4. Restrictions on Class "A" and "Class A" premises.

A. Original packages required.

1. No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a Class "A" license has been issued any alcohol beverage except fermented malt beverages in original unopened packages, containers or bottles, not to be consumed in or about the premises where sold. Fermented malt beverages shall not be sold in quantities of one can or one bottle or in kegs or barrels.
2. No person shall sell or keep for sale or permit to be sold or kept for sale in or about any premises for which a "Class A" license has been issued any intoxicating liquor except in original unopened packages, containers, or bottles, not to be consumed in or about the premises where sold.

B. Alcohol beverage sale hours limited. Between the hours of 9:00 p.m. and 8:00 a.m., no alcohol beverages shall be sold, permitted to be sold, purchased, carried out or removed from any premises for which a Class "A" license or a "Class A" has been issued.

C. In any premise which is open for the sale of merchandise other than alcohol beverages during the hours that alcohol beverage sale is prohibited under sub. B.:

1. All alcohol beverages shall be kept at all times in a segregated area of the premises that is separate from the portion of the premises that is used for sale and display of other merchandise. There shall be no floor displays or bulk stocking of alcohol beverages in areas of the premises that are open to the public.
2. During all hours when fermented malt beverage sales are prohibited under sub. B.:
 - i. All fermented malt beverages located on Class "A" licensed premises and intoxicating liquors located on "Class A" licensed premises shall be securely locked within a room, locker, cabinet, building, cooler, or other enclosure, such that the alcohol beverages may not be accessed or moved by any person other than the licensee, permittee, agent named in the license or permit, or other person holding a valid operator's license for the premises who is responsible for the acts of all persons selling alcohol beverages to consumers. The enclosure in which the alcohol beverages are stored shall be securely attached to a permanent structure that is part of the premises, and shall not be portable.
 - ii. If any alcohol beverages are kept in a portion of a cabinet or cooler with other merchandise, the portion of the cabinet or cooler where the alcohol beverages

are kept shall be completely and permanently partitioned such that customers are unable to access that portion of the cabinet or cooler.

- D. Licensing of premises. The entire building and parcel on which the building is located shall be deemed to be a part of any Class "A" or "Class A" licensed premises. The licensee shall ensure that there is no on-premises consumption and no on-premises open containers of alcohol beverages.
- E. Wine tasting prohibited. Wine tasting and wine sampling that otherwise would be permitted by §125.06(13), Wis. Stats., are hereby prohibited.

§117-5. Restrictions on Class "B" and "Class B" premises.

- A. No intoxicating liquor or fermented malt beverage for consumption away from the premises shall be sold, permitted to be sold, purchased, carried out or removed from any premises for which a "Class B" or Class "B" license has been issued between the hours of 9:00 p.m. and 8:00 a.m. on weekdays and between the hours of 9:00 p.m. on Saturdays and the following 12:00 noon on Sundays and 9:00 p.m. on Sundays and 8:00 a.m. on Mondays.
- B. It shall be unlawful for any premises for which a retail "Class B" liquor license has been issued to remain open for the sale of liquor or fermented malt beverage for on-premises consumption between the hours of 2:00 a.m. and 6:00 a.m. on weekdays, between the hours of 2:30 a.m. and 6:00 a.m. on Saturday and Sunday, between the hours of 3:30 a.m. and 6:00 a.m. on the Sunday that daylight saving time begins, and except January 1, when there is no closing time.

§117-6. Fees.

Applicable fees for alcohol beverage licenses shall be in such amount as may be established by the Town Board from time to time by separate resolution.

§117-7. Provisional License.

Pursuant to §125.185, Wis. Stats., the Town Clerk may issue a provisional retail license to a person who has applied for a Class "A", Class "B", "Class A", "Class B" or "Class C" license, authorizing only the activities that the type of retail license applied for authorizes. The provisional retail license shall expire 60 days after its issuance or when the Class "A", Class "B", "Class A", "Class B" or "Class C" license has been issued to the holder, whichever is sooner. The provisional license may be revoked by the Town Clerk if he or she discovers that the holder of the license made a false statement on the application. The fee for a provisional retail licenses is \$15.00.

§117-8. Violations and penalties.

Any person who violates any of the provisions of this article shall, upon conviction, be subject to penalties provided therefor in Chapter I, General Provisions, §1-1, and in Ch. 125, Wis. Stats.

Licensing

§ 117-9. Standards and guidelines. [Amended 11-4-2003]

To protect the health, safety and welfare of the residents of the Town of Pleasant Springs and to promote the orderly review and issuance of licenses for businesses selling alcoholic beverages, the Town of Pleasant Springs establishes the following standards and guidelines for license issuance and potential disciplinary action, including suspension, revocation, or nonrenewal of license. When considering action on a license application or disciplinary action against an existing license, the Town may consider the following:

- A. The present and historic level of compliance with applicable rules, regulations, statutes, and ordinances in regard to sales and distribution of alcoholic beverages.
- B. Within the confines permitted under Wisconsin law, the applicant's character, prior record, history as a licensee, record of violations, and other relevant character and behavioral traits.
- C. The applicant's experience and record in operating an establishment licensed to sell alcoholic beverages and the apparent expertise and capability of the applicant.
- D. The applicant's competence and knowledge regarding applicable rules, regulations, statutes and ordinances and the applicant's record of compliance.
- E. The design, type, size and characteristics of the business or establishment requesting the license and the history of the business, particularly in regard to sale and distribution of alcoholic beverages.
- F. The location of the establishment to be licensed, including consideration of traffic patterns, parking, proximity to other establishments, residential complexes, public buildings, other businesses, surrounding land use, and zoning of the subject property.
- G. Type of access to the premises proposed to be licensed for inspection and fire-fighting purposes.
- H. Any comments or information offered by neighbors, property owners or residents of the Town.
- I. Any other specific concerns relevant to the public health, safety and welfare which may come to the Town Board's attention.

INTOXICATING LIQUOR AND FERMENTED MALT
BEVERAGES

§ 117-10

§ 117-14

§ 117-10. Application of standards;
warnings.

The foregoing standards will be applied in considering the issuance of the license for a business or premises which has not previously held a license. The standards will also be considered in reviewing a request for license renewal. It shall be the policy of the Town Board to issue warnings in regard to violations of law which may potentially affect the status of a license.

§ 117-11. Review of
license.

The Town Board shall automatically review the license status for any business or establishment that has been convicted of or adjudicated to have committed a substantial violation of law regarding sale and distribution of alcoholic beverages. and there shall be an automatic review of any business or establishment that has received three warnings or more for violations of any type within the period of one year. •

§ 117-12. Operators' licenses. [Amended 11-4-
2003]

The Town of Pleasant Springs shall issue operators' licenses to qualified applicants pursuant to § 125.17, Wis. Stats. The application process shall comply with applicable state law and shall be established by resolution of the Town Board. The fee for this license may be revised from time to time by the Town Board.

§ 117-13. Construal of provisions; purpose•

Nothing set forth in this article shall be construed in any way to limit the Board's regulatory, disciplinary and licensing powers as set forth under Ch. 125. Wis. Stats. • and other Wisconsin law. This article has the primary purpose of establishing guidelines and standards for the consideration of license applications and the conduct of licensees and their businesses.

§ 117-14. Application
forms.

The Town Clerk shall prepare appropriate application forms. consistent with the foregoing guidelines and recitations, and shall provide the application forms to those who desire to apply for licenses for sale or distribution of alcoholic beverages. It shall be a requirement in all cases for licensees to comply with other procedures. regulations and requirements of applicable law regarding applying for and obtaining such licenses.

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1. Editor's Note: Original § 8.07(D), Class A fermented malt beverage licenses, which Immediately followed this section, was deleted 11-4-2003.

ARTICLE V

License Withheld for Nonpayment of Claims

§ 117-15. Premises with unpaid claims.

No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments or other claims for the Town are delinquent and unpaid.

§ 117-16. Persons delinquent in payments. [Amended 11-4-2003]

No initial or renewal alcohol licenses shall be granted to any person delinquent in payment of:

- A. Any taxes, assessments or other claims owed to the Town.
- B. A forfeiture resulting from a violation of any ordinance of the Town.

ARTICLE VI

Sale to Underage Persons; Violation of Statutes

§117-17. Sale to underage persons.

- A. It shall be unlawful for any person, licensee, corporation, partnership, or other entity to sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- B. All customers purchasing fermented malt beverages or intoxicating liquors shall be checked for valid proof of age prior to sale, regardless of appearance of age.

§ 117-18. Manufacture, sale, transfer or distribution of alcoholic beverages.

Pursuant to § 125.10, Wis. Stats., it shall be further unlawful for any person, licensee, corporation, partnership, or other entity to violate any of the provisions of Ch. 125, Wis. Stats. • regarding manufacture, sale, transfer or distribution of any alcoholic beverages in the Town of Pleasant Springs.

§ 117-19. Violations and penalties.

Any person, licensee, corporation, partnership, or other entity who or which violates this article shall be subject to the penalties as set forth under Chapter 1, General Provisions, § 1-1, and also as set forth or authorized under Ch. 125, Wis. Stats.