

Chapter 278

INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES

[HISTORY: Adopted by the Village Board of Trustees of the Village of Hixton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Licenses

[Adopted 10-6-1987 (Title 7, Ch. 2, of the 1987 Code of Ordinances)]

§ 278-1. State statutes adopted.

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

§ 278-2. Definitions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

As used in this chapter, the terms "alcohol beverages," "intoxicating liquors," "sell," "sold," "sale," "restaurant," "club," "retailer," "person," "fermented malt beverages" and "wholesalers" shall have the meanings given them by Chapter 125, Wisconsin Statutes.

§ 278-3. 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 §§ 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

§ 278-4. Classes of licenses.

- A. Retail "Class A" intoxicating liquor license. 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.
- B. Retail "Class B" intoxicating liquor license. A retail "Class B" intoxicating liquor license, when issued by the Village Clerk-Treasurer 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 so licensed and in the original package or container in multiples not to exceed four liters at any one time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.

- C. Class "A" fermented malt beverage retailer's license. 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.
- D. Class "B" fermented malt beverage retailer's 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 1/2 of a percentum of alcohol by volume without obtaining a special license to sell such beverages.
- E. Special Class "B" fermented malt beverage picnic license.
 - (1) License. A special Class "B" picnic license, when issued by the Village Clerk-Treasurer under authority of the Village Board, as provided for in § 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. Irrespective of other sections of this chapter, the Village Board is hereby authorized to issue a fermented malt beverage license to any local civic, or any local religious or any local not-for-profit organization pursuant to this section.
 - (2) Application. Application for such license shall be signed by the President or corresponding officer of the society making such application and shall be filed with the Village Clerk-Treasurer together with the appropriate license fee for each day for which the license is sought. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of \$200 and will be ineligible to apply for a special Class "B" license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the Village Board at which the application will be considered. Such license shall be valid for no more than three consecutive days. If the application is for a license to be used in a Village park, the applicant shall specify the main point of sale facility.¹

§ 278-5. License fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

1. Editor's Note: Original Sec. 7-2-4(f) of the 1987 Code of Ordinances, Wholesaler's license, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See now § 125.28, Wis. Stats.

The classes of licenses set forth in § 278-4, plus club licenses and Class "B" fermented malt beverage retailer's licenses for brewers, when issued by the Village Clerk-Treasurer under the authority of the Village Board after payment of the fee set by the Village Board from time to time within statutory limits, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in Ch. 125, Wis. Stats.

§ 278-6. Application for license.

- A. Contents. Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by §§ 887.01 to 887.03, Wis. Stats., and shall be filed with the Village Clerk-Treasurer not less than 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. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Corporations. Such application shall be filed and sworn to by the applicant if an individual, by the President and secretary, of a corporation.
- C. Publication. The application shall be published once in the official 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 10 days after the occurrence thereof.
- E. License quotas. No more than the number of licenses permitted under Chapter 125, Wis. Stats., shall be granted by the Village.

§ 278-7. Qualifications of applicants and premises.

- A. Residence requirements. A retail Class "A," Class "B," "Class A" or "Class B" fermented malt beverage license or intoxicating liquor license shall be granted only to persons who are citizens of the United States and of Wisconsin. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- 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. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- C. Right to premises. No applicant will be considered unless he has the right to possession of the premises described in the application for the license period, by lease or by deed.
- D. Age of applicant. Except for operator's licenses, licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age of 21. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- E. Corporate restrictions.

- (1) No license shall be granted to any corporation which does not comply with the provisions of § 125.04(6), Wis. Stats., which does not have an agent eligible for a license under this chapter or under state law, or which has more than 50% of the stock interest, legal or beneficial, in such corporation held by any person or persons not eligible for a license under this chapter or under the state law.
 - (2) Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and licensee to file with the Village Clerk-Treasurer a statement of transfers of stock within 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 § 125.12, Wis. Stats., when more than 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. Separate license required for each place of sale. A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in a direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person, firm, partnership, corporation or association for the purpose of possession, selling or offering for sale any intoxicating liquors or fermented malt beverages in any dwelling house, flat or residential apartment.

§ 278-8. Investigation.

The Village Clerk-Treasurer shall notify the County Sheriff's Department and Chief of the Fire Department 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 Clerk-Treasurer, in writing, who shall forward to the Village Board, the information derived from such investigation, accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required.

§ 278-9. Approval of application.

- A. In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed.
- B. No license shall be granted for operation on any premises or with any equipment for 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 Department of

Health Services 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. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 278-10. Granting of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

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.

§ 278-11. Transfer and lapse of license.

- A. In accordance with the provisions of § 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 furnished 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 provided by § 125.04(12), Wis. Stats. 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 re-issuance of said license and the Village, as the licensing authority, shall in no way be bound to re-issue said license to said subsequent purchaser. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Whenever the agent of a corporate holder of a license is for any reason replaced, the licensee shall give the 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 peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Village Board until the successor agent or another qualified agent is appointed and approved by the Village and the Wisconsin Department of Revenue.

§ 278-12. Numbering of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

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.

§ 278-13. 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.

§ 278-14. Conditions of license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

All retail "Class A," Class "A," "Class B," and Class "B" licenses granted hereunder shall be granted, subject to the following conditions, and all other conditions of this section, and subject to all other ordinances and regulations of the Village applicable thereto.

- A. Consent to entry. Every applicant procuring a license thereby consents to the entry of law enforcement officers 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 there had in violation of the Code of the Village of Hixton 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. Employment of minors. No retail "Class A," Class "A," "Class B," and Class "B" licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcohol beverages. Pursuant to §§ 125.32(2) and 125.68(2), Wis. Stats., a person at least 18 years of age may sell, serve or dispense alcohol beverages if he or she is the holder of an operator's license or is under the immediate supervision of a licensee, permittee or agent or a person holding an operator's license who is on the premises at the time of the service.
- C. Disorderly conduct prohibited. Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- D. Licensed operator on premises. There shall be upon premises operated under a "Class A," Class "A," "Class B," or Class "B" license, at all times, the licensee, members of the licensee's immediate family who have attained the legal drinking age, and/or some person who shall have an operator's license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the licensee shall serve fermented malt beverages in any place operated under a "Class A," Class "A," "Class B," or Class "B" license unless he possesses an operator's license, or there is a person with an operator's license upon said premises at the time of such service.
- E. Health and sanitation regulations. The rules and regulations of the State Department of Health Services governing sanitation in restaurants shall apply to all "Class A," Class "A," "Class B," and Class "B" licenses issued under this chapter. No "Class A," Class "A," "Class B," or Class "B" license shall be issued unless the premises to be licensed conform to such rules and regulations.

- F. Restrictions near schools and churches. No retail "Class A," Class "A," "Class B," 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, hospital or church. 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 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 300 feet thereof by any school building, hospital building or church building.
- G. Clubs. No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- H. Gambling prohibited. No gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this chapter or the laws of the State of Wisconsin.
- I. Credit prohibited. No retail "Class A," Class "A," "Class B," or Class "B" liquor or fermented malt beverage licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for such licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.
- J. Licensee or permittee responsible for acts of help. A violation of this chapter by a duly authorized agent or employee of a licensee or permittee under this chapter shall constitute a violation by the licensee or permittee. Whenever any licensee or permittee under this chapter shall violate any portion of this chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this chapter.
- K. Improper exhibitions. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
 - (1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (3) Exposes any portion of the female breast at or below the areola thereof; or
 - (4) Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

§ 278-15. Closing hours.

Closing hours shall be established in conformance with § 125.32(3), Wis. Stats., and further restricted as follows:

- A. Class "B" licenses.

- (1) No premises for which a retail Class "B" liquor and fermented malt beverage license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose between the hours of 1:00 a.m. and 8:00 a.m., except January 1 when the closing hours shall be between 3:00 a.m. and 8:00 a.m., and except when daylight saving time is in effect, when the closing hours shall be between 2:00 a.m. and 8:00 a.m.
 - (2) Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection A(1) above.
 - (3) The licensee or permittee and one employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning up until 1:30 a.m. (2:30 a.m. during daylight saving time) except on January 1 as provided in Subsection A(1). Under no circumstances shall the consumption of alcohol beverages be permitted after 1:00 a.m. (2:00 a.m. during daylight saving time) except on January 1 as provided in Subsection A(1). Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning between the hours of 1:00 a.m. and 8:00 a.m. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Chief of Police or his designee for any variance of the above exigent circumstances.
- B. Class "A" licenses. Class "A" licensed premises may remain open for the conduct of their regular business in accordance with § 125.32(3), Wis. Stats., which states no sales from 12:00 midnight to 6:00 a.m. [Amended 10-17-2016]
- C. Modification of closing hours. Closing hours may be modified for specific events by a majority vote of the Village Board.

§ 278-16. Restrictions on special Class "B" fermented malt beverage special event license.

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Village-owned property or privately owned property within the Village of Hixton, except through the issuance of temporary Class "B" permit issued by the Village Board in accordance with Wisconsin State Statutes and as set forth in this section. A temporary Class "B" permit authorizing the sale and consumption of beer on Village-owned property or privately owned property may be authorized by the Village Board provided the following requirements are met:

- A. Compliance with eligibility standards. The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in §§ 125.26(6) and 125.51(10), Wis. Stats., and shall fully comply with the requirements of this section and § 278-21. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Posting of signs and licenses. All organizations issued a liquor license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any underage person without proper identification.

- C. Fencing. All organizations shall install a double fence around the main point of sale to control ingress and egress and shall continually station a licensed operator or security guard at the entrance for the purpose of checking age identification. There shall be only one point of ingress and egress. The double fence shall be a minimum of four feet high and a minimum of six feet between fences. A single eight-foot chain link fence may be used to meet the fence requirements.
- D. Underage persons prohibited. No underage persons as defined by the Wisconsin Statutes shall be allowed to assist in the sale of fermented malt beverage at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale, except for a person 18 years of age or over who possesses a valid operator's license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- E. Licensed operators requirement. A licensed operator shall be stationed at all points of sales at all times.
- F. Permitted cups only. Intoxicants will be sold only in foam or plastic cups or cans.
- G. Additional requirements. In addition, requesting organizations shall comply with the following:
 - (1) When the event sponsored by the requesting organization is to take place on Village park property, the organization shall work closely with the Village officials in locating, setting up and identifying the size of the snow fence area. Such information shall be made part of the temporary Class "B" permit application.
 - (2) When the event sponsored by the requesting organization is to take place on Village-owned property other than park property and/or privately owned property, the organization shall work closely with the Village Board in locating and setting up the snow fence area. The Village Board shall work closely with the requesting organization in identifying the size of the fenced-in area and the exact location. Such information shall be made part of the temporary Class "B" permit application. For indoor events, the structure used must have suitable exits and open spaces to accommodate anticipated attendance. It shall contain adequate sanitary facilities to accommodate the size of the group.
- H. Insurance. The applicant for a special Class "B" fermented malt beverage license may be required to indemnify, defend and hold the Village and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Village on account of any injury to or death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Village of Hixton. The applicant may be required to furnish a performance bond prior to being granted the permit. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 278-17. Beer garden licenses required for outdoor consumption at 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 pleasure at any time or shall otherwise expire on June 30 of each year. No person shall consume or have in his or per possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.

- B. Limitations on issuance of beer garden permits. No permit shall be issued for a beer garden if any part of the beer garden is within 100 feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. No permit shall be issued for a beer garden if the beer garden area is greater than 50% of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden. Every beer garden shall be completely enclosed with a fence or wall not less than six feet in height. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the beer garden. There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
- C. Adjoining property owners to be notified of pendency of applications. All property owners within 150 feet of the proposed beer garden shall be notified of the pendency of application for a beer garden permit by first class mail.
- D. State statutes enforced within beer garden. Every permittee under this section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to 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 beer garden permit by the Village Board.

§ 278-18. Revocation and suspension of licenses; nonrenewal.

- A. Procedure. Whenever the holder of any license under this chapter violates any portion of this article or Article II of this chapter of the Code of the Village of Hixton, proceedings for the suspension or revocation of such license may be instituted in the manner and under the procedure established by Chapter 125, Wis. Stats.
- B. Abandonment of premises. Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Village Board. All persons issued a license to sell alcohol beverages in the Village for which a quota exists limiting the number of such licenses that may be issued by the Village shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the terms of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 278-19. Operator's license.

- A. Operator's license required. There shall be upon the premises operated under a "Class A" or "Class B" intoxicating liquor license or Class "B" fermented malt beverage license at all times the licensee or some other person who shall have an operator's license and who shall be responsible for the acts of all persons serving or selling any intoxicating liquor or fermented malt beverages to customers. 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 "B" licenses unless he shall possess an operator's license or unless he shall be under the immediate supervision of the licensee or a person holding an operator's license who shall be upon the premises at the time of such service.
- B. Procedure upon application. The Village Board 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-Treasurer only to persons of legal drinking age. Operator's licenses shall be operative only within the limits of the Village.
- C. Duration. Licenses issued under the provisions of this chapter shall be valid for a period of one year and shall expire on the 30th day of June.
- D. Operator's license fee; provisional license. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
 - (1) Fee. The fee for an operator's license shall be as set by ordinance of the Village Board.
 - (2) Provisional license. The Village Clerk-Treasurer may issue provisional operator's licenses in accordance with § 125.17(5), Wis. Stats., at a cost, per license so issued, as set by ordinance of the Village Board. The provisional operator's license shall expire 60 days after its issuance or when an operator's license is issued to the holder, whichever is sooner. The Village Clerk-Treasurer may, upon receiving an application for a temporary provisional license, issue such a license without requiring the successful completion of the responsible beverage server training course as described herein. However, such temporary license shall be used only for the purpose of allowing such applicant the privilege of being licensed as a beverage operator pending his successful completion of the responsible beverage server training course. A provisional license may not be issued to any person who has been denied an operator's license by the Village Board or who has had his operator's license revoked or suspended within the preceding 12 months. The Village Clerk-Treasurer shall provide an appropriate application form to be completed in full by the applicant. The Village Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application.
- E. Issuance. After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer 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.
- F. Display of license. Each license issued under the provisions of this chapter shall be posted on the premises whenever the operator dispenses beverages.
- G. 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.

§ 278-20. Violations and penalties.

- A. Forfeitures for violations of §§ 125.07(1) through (5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in § 278-1 of the Code of the Village of Hixton, 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 the Village of Hixton, except as otherwise provided in Subsection A herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided in the general penalty section of this Code of the Village of Hixton.
- C. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

ARTICLE II

Offenses

[Adopted 10-6-1987 (Title 9, Ch. 5, of the 1987 Code of Ordinances); amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

§ 278-21. Outside consumption of alcohol beverages.

- A. Alcohol beverages in public areas.
 - (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcohol beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the Village or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the Village except as licensed premises.
 - (2) Parks. It shall be unlawful for any person to drink or have in their possession any alcohol beverage in any Village park between the hours of 10:00 p.m. and 6:00 a.m. except at licensed premises.
 - (3) Private property held out for public use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the Village unless the property is specifically named as being part of a licensed premises.
 - (4) Leaving licensed premises with open container.
 - (a) It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.

- (b) It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.
- (5) Picnic beer permits for parks.
 - (a) It shall be unlawful for any group of persons which exceeds 20 to consume any alcohol beverages in any park areas without first obtaining a picnic beer permit from the Village. The picnic beer permits shall be issued by the Clerk-Treasurer.
 - (b) Applicants for special Class "B" permits shall fully comply with the requirements of § 278-16.
 - (c) The sale of fermented malt beverages from remote sites, that is, other than the main point of sale facility, shall be prohibited after the hour of 9:00 p.m.
- (6) Exceptions:
 - (a) The provisions of this section may be waived by the Village Board for duly authorized events.
 - (b) Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of the Village of Hixton, provided that the provisions of this article and Article II of this chapter are fully complied with.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ALCOHOL BEVERAGE — Includes all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain 1/2 of 1% or more of alcohol by volume and which are fit for use for beverage purposes.

PUBLIC AREA — Be construed to mean any location within the Village which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.

UNDERAGE PERSON — Any person under the legal drinking age as defined by the Wisconsin Statutes.

§ 278-22. Solicitation of drinks prohibited.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Village who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in § 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this section.