

TOWN OF RHINE MUNICIPAL CODE

**CHAPTER 12: REGULATION OF INTOXICATING LIQUORS
AND FERMENTED MALT BEVERAGES**

<u>Section</u>	<u>Title</u>	<u>Page</u>
	Table of Contents	1
12.01	State Statutes Adopted	3
12.02	Licenses—When Required	3
12.03	License Fees	3
12.04	License Restrictions	4
12.05	Search of Licensed Premises	5
12.06	Posting Licenses	5
12.07	Regulation of Licensed Premises	5
12.08	Revocation and Suspension of Licenses	5
12.09	Closing Hours	6
12.10	Quotas	7
12.11	Semiannual Licenses	7

V22.05

This page intentionally left blank.

12.01 STATE STATUTES ADOPTED

The provisions of Wis. Stat. Ch. 125 relating to the sale of intoxicating liquor and fermented malt beverages except Wis. Stat. §§ 125.09(6); 125.11; 125.14(2), (3), and (4); 125.19; 125.30; 125.56; 125.58 through 125.62 inclusive; 125.66; 125.69, and exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of such statutes, are hereby adopted and made a part of this Chapter by reference. A violation of any such provision shall constitute a violation of this Chapter.

12.02 LICENSES B WHEN REQUIRED

No person, except as provided by Section 12.01 of this Ordinance, 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 the provisions of this Section and all statutes, Ordinances, and regulations of the State and the Town applicable thereto.

12.03 LICENSE FEES. There shall be the following classes and denominations of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the fee hereinafter specified, shall permit the holder to sell, deal, or traffic in intoxicating liquor or fermented malt beverages.

- (1) Class "A" fermented malt beverage retailer's licenses—Ten Dollars (\$10.00) per year.
- (2) Class "B" fermented malt beverage retailer's license—One Hundred Dollars (\$100.00) per year. Special event permits as defined in Wis. Stat. § 125.27 shall be issued for a fee of Ten Dollars (\$10.00).
- (3) Wholesaler's fermented malt beverage licenses—Twenty-five Dollars (\$25.00) per year or fraction thereof.
- (4) Special wholesaler's license—Twenty-five Dollars (\$25.00) per year.
- (5) Beverage operator's license—Fifteen Dollars (\$15.00) per year. (*Rev. 8/5/14, Ord 2014-5*)
- (6) Retail Class "A" liquor license—One Hundred Dollars (\$100.00) per year.
- (7) Retail Class "B" liquor license—One Hundred Dollars (\$100.00) per year.
- (8) Pharmacist's permit—Ten Dollars (\$10.00) per year.
- (9) Any person or company or corporation who places any vending machine in the Town other than in his own place of business for a profit B Ten Dollars (\$10.00) per year.
- (10) Part-time or semiannual liquor licenses shall be issued pursuant to Wis. Stat. § 125.26(6). Pursuant to Wis. Stat. § 66.119, the Town of Rhine hereby elects to use the citation method of enforcement of Ordinances other than those for which a statutory counterpart exists.

12.04 LICENSE RESTRICTIONS. In addition to the requirements imposed by provisions of the Wisconsin Statutes adopted by reference in Section 12.01 of this Ordinance, the following restrictions shall apply to the issuance of licenses or permits pursuant to this Section:

(1) **REQUIREMENTS FOR LICENSES.** No license or permit shall be issued to any person who is not eighteen (18) years of age or over, of good moral character, a citizen of the United States, and the State of Wisconsin. No license shall be issued to any person who has been a habitual petty law offender or convicted of a crime under the laws of this State punishable by imprisonment in the State prison unless such a person has been pardoned. This Section shall not apply to Wisconsin corporations but shall apply to all officers and directors of any such corporation.

(2) **EFFECT OF REVOCATION OF LICENSE.** No license shall be issued for any premises if a license covering such premises has been revoked within six (6) months prior to application. No license shall be issued to any person who has had a license issued pursuant to this Section revoked within twelve (12) months prior to application.

(3) **INSPECTION OF APPLICATION AND PREMISES.** The Town Clerk shall notify the Health Officer and Building Inspector of all license and permit applications and these officials shall inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances, and laws applicable thereto and the applicant's fitness for the trust to be imposed. These officials shall furnish to the Town Board in writing the information derived from such investigation. No license or permit provided for in this Section shall be issued without reinspection of the premises and report as herein required.

(4) **HEALTH AND SANITATION.** No license shall be issued for any premises which do not conform to the sanitary, safety, and health requirements of the State Industrial Commission and the State Board of Health and to all such ordinances and regulations adopted by the Town.

(5) **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 the real estate tax, if any, the personal property tax, and the sewer and water services are all paid up to the date of the sale. The Town Treasurer shall estimate the tax rate to be used.

(6) **LOCATION OF PREMISES.** No retail Class "A" or "B" fermented malt beverage license or liquor license shall hereafter be issued for premises less than three hundred feet (300') 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 premise.

(7) **DELINQUENT TAXES, ASSESSMENTS, AND CLAIMS REGARDING PREMISES.** No initial or renewal alcohol beverage license shall be granted for any premises for which taxes, assessments, or other claims of the Town of Rhine are delinquent and unpaid.

(8) **DELINQUENT TAXES, ASSESSMENTS, AND CLAIMS REGARDING PERSONS.** No initial or renewal alcohol license shall be granted to any person:

(a) Delinquent in payment of any taxes, assessments, or other claims owed to the Town of Rhine.

(b) Delinquent in payment of a forfeiture resulting from a violation of any Ordinance of the Town of Rhine.

(c) Delinquent in payment to the State of any State taxes owed.

(9) PENALTY. Any person who, himself or itself or by his or its agent or employee, shall violate any of the provisions of this Ordinance shall upon conviction thereof be punished as follows:

(a) If for a violation of any provisions enacted by reference, then by a penalty the same as provided by statute.

(b) If for selling intoxicating liquor without license or permit, by a forfeiture of not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00) plus the costs of prosecution; and in case such forfeiture and costs are not paid forthwith, then by imprisonment in the County Jail until paid or until discharged by due course of law, but in any case, not less than three (3) months nor more than one (1) year.

(c) If for a violation of any other provision of this Section by a forfeiture of not more than One Hundred Dollars (\$100.00) and in case of a failure to pay such forfeiture, by imprisonment in the County Jail for not more than sixty (60) days, and any license issued shall be subject to revocation by the Court which tried the violation.

12.05 SEARCH OF LICENSED PREMISES

It shall be a 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 Rhine without any warrant and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this Section.

12.06 POSTING LICENSES

Licenses or permits issued under this Section shall be posted and displayed as required pursuant to Wis. Stat. § 215.04 and shall be posted in a conspicuous place located in the premises where the license is issued.

12.07 REGULATION OF LICENSED PREMISES

(1) SALE OF INTOXICATING BEVERAGES TO MINORS RESTRICTED. The provision of Wis. Stat. § 125.07 shall apply to the sale of fermented malt beverages and intoxicating liquor to persons under eighteen (18) years of age when not accompanied by a parent or adult spouse except as provided in said statute.

(2) SAFETY AND SANITATION REQUIREMENTS. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place of the purpose for which used.

12.08 REVOCATION AND SUSPENSION OF LICENSES

(1) PROCEDURE. Except as hereinafter provided, the provisions of Wis. Stat. § 125.12 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.

(2) **SUSPENSION OF LICENSES.** The Town Chairman or the Constable, upon obtaining reasonable information that any licensee has violated any provisions of this Section or any State or federal liquor or fermented malt beverage law or committed any felony may suspend the license or permit of such person for a period not to exceed ten (10) days pending hearing by the Town Board pursuant to Section 12.08(1).

(3) **AUTOMATIC REVOCATION.** Any license or permit issued under the provisions of this Section shall stand revoked without further proceedings upon the conviction of a licensee or permittee or his employee, agent, or representatives of a second offense under this Ordinance or Wis. Stat. ch. 125 or any other State or federal liquor or fermented malt beverage law or any felony.

(4) **REPOSSESSION OF LICENSE OR PERMIT.** Whenever any license or permit under this Section shall be revoked or suspended by the Town Board, Town Chairman, Constable, or action of any Court or Section 12.08(3), it shall be the duty of the Clerk to notify the licensee or permittee of such suspension or revocation and to notify the Constable who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.

12.09 CLOSING HOURS *(Rev. 05/22)*

(1) **Tavern.** No premises for which a "Class "B" license is issued may remain open between the hours of 2 a.m. and 6 a.m., except as follows:

(a) On Saturday and Sunday, the closing hours shall be between 2:30 a.m. and 6 a.m.

(b) On the Sunday that daylight saving time begins as specified in s. 175.095 (2), the closing hours shall be between 3:30 a.m. and 6 a.m.

(c) On January 1 premises are not required to close.

(d) Hotels and restaurants the principal business of which is the furnishing of food and lodging to patrons, bowling centers, movie theaters, painting studios, indoor golf and baseball facilities, racetrack grounds, as defined in s. 125.27(5)(a), indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but may not sell fermented malt beverages during the hours specified above.

(2) **Carry outs.** No person may sell intoxicating liquor or fermented malt beverages on Class "A", Class "B" or "Class B" licensed premises in an original unopened package, container or bottle or for consumption away from the premises between the hours of 12 midnight and 8:00 a.m.

(3) 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 same is required to be vacated and closed, he may make application for such permission specifying the date, time, and purpose for which 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, operator, or employee 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 employee 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.

(4) During the time when the licensed premises shall be vacated and closed, the premises shall be illuminated with a light sufficiently bright and so located as to enable such premises to be observed by a police from without.

(5) This Section shall not affect closing hours on election days.

12.10 QUOTAS

(1) RETAIL CLASS 'A' FERMENTED MALT BEVERAGE LICENSES. There shall be no limitation upon the number of licenses to be issued except that no license shall be issued without the prior approval of the Town Board and, in addition, no license shall be issued to:

(a) A person who is not a qualified elector of the Town of Rhine.

(b) A person who is not of good character and reputation in the community in which he resides.

(c) A person who is not a citizen of the United States.

(d) A person who has been convicted of a felony.

(e) A person whose license under this Paragraph has been revoked for cause.

(f) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application.

(g) A co-partnership, unless all of the members of such co-partnership shall be qualified to obtain a license.

(h) A corporation, if any officer, manager, or director thereof or any stockholder or stockholders owning in the aggregate more than five percent (5%) of the stock of such corporation who would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision.

(i) A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.

(j) A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession, or sale of alcoholic liquor or who shall have forfeited his bond to appear in Court to answer charges for such violation.

(k) A person who does not own the premises for which a license is sought or does not have a lease thereon for the full period for which the license is issued.

(2) RETAIL CLASS "B" FERMENTED MALT BEVERAGE LICENSES. The number in effect on the 1st day of December, 1997. [Date inserted per 1997 Wisconsin Act 27]

(3) RETAIL CLASS "A" INTOXICATING LIQUOR LICENSES. The number of retail Class "A" liquor licenses as defined by Wis. Stat. § 125.25 permissible to be issued by the Town

Board of the Town of Rhine in any one (1) year is hereby fixed at the rate of one Class "A" liquor license per _____ population or fraction thereto.

12.11 SEMIANNUAL 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 (12). Licenses may also be issued at any time for a period of six (6) months in any calendar year for which three-quarters (3/4) of the annual license fee shall be paid. Such six- (6-) month license shall not be renewable during the calendar year in which issued.