

**AN ORDINANCE
LICENSING AND REGULATING THE
SALE OF FERMENTED MALT BEVERAGES
IN THE TOWN OF BLOOMING GROVE
DANE COUNTY, WISCONSIN**

ORDINANCE NO. 7.03

The Town Board of the Town of Blooming Grove, Dane County, Wisconsin, does ordain as follows:

Section 1. State Statutes Adopted.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages are hereby adopted by reference and made a part of this Ordinance 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 Ordinance. Any future amendment, revision or modification of the statutes incorporated herein are intended to be made a part of this Ordinance in order to secure uniform statewide regulation of alcoholic beverage control.

Section 2. Strict Compliance Required.

It shall be unlawful for any person, firm, association or corporation to sell or keep for sale at wholesale or retail, within the Town of Blooming Grove, any fermented malt beverage, except in strict accordance with the provisions of this Ordinance.

Section 3. Definitions.

As used in this Ordinance, the terms "Club", "Fermented Malt Beverages", "Hotel", "Intoxicating Liquor", "Legal Drinking Age", "Operators", "Principal Business", "Restaurant", "Retailer", "Sale", "Sell", "Sold", "Tavern", "Wholesaler", and "Wine" shall have the meaning given them by Chapter 125 of the Wisconsin Statutes.

- (a) "Alcoholic" beverages shall mean fermented malt beverages and/or intoxicating liquor.
- (b) "Town" shall mean the Town of Blooming Grove.

Section 4. License Required.

No person, firm or corporation shall vend, sell, deal or traffic in or have in their possession with the intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any fermented malt beverage in any quantity whatever,

or cause the same to be done, without having procured a license as provided in this Ordinance nor without complying with all the provisions of this Ordinance, and all statutes and regulations applicable thereto, except as provided by sections 125.16, 125.27, 125.28, and 125.51 of the Wisconsin Statutes.

Section 5. License Classifications.

- (a) Class A License. No person or corporation shall sell or keep for sale within the Town of Blooming Grove, for consumption elsewhere than on the premises where sold, any fermented malt beverage at retail unless a Class A license shall first have been obtained from the Town of Blooming Grove as hereinafter described, except that any person holding a Class B license hereinafter provided may sell or keep for sale such beverages without obtaining a Class A license.
- (b) Class B License. No person or corporation shall sell or keep for sale or permit to be sold or kept for sale within the Town of Blooming Grove for consumption on the premises where sold any fermented malt beverage unless a Class B license shall first have been obtained from the Town of Blooming Grove as hereinafter described, or a Class B permit has been obtained from the Department of Revenue.

Notwithstanding paragraph (b) above, a Class B license authorizes a person operating a hotel to furnish fermented malt beverages to a registered guest who has attained the legal drinking age in the guest's room which is not part of the Class B premises as provided in section 125.51(3)(bm) of the Wisconsin Statutes.

- (c) Operator's License. No person shall draw, serve, deliver or remove any alcoholic beverage for sale or consumption from any barrel, keg, cask, bottle or other container in which alcoholic beverages shall be stored or kept on premises requiring a Class B license, for consumption upon said premises, without first having obtained an Operator's license from the Town of Blooming Grove as hereinafter described, unless he or she shall be the person holding the Class B license for such premises, or a member of his or her immediate family and at least eighteen (18) years of age, or unless he or she shall be under the immediate supervision of such Class B licensee or a person holding an Operator's license and at least eighteen (18) years of age.
- (d) Wholesaler's License. No person or corporation shall sell or keep for sale or permit to be sold or kept for sale within the Town of Blooming Grove any fermented malt beverage in original packages or containers to dealers to be consumed elsewhere than on the premises where sold, unless a Wholesaler's license shall first have been obtained from the Town of Blooming Grove as hereinafter described.

Section 6. Application for Licenses.

- (a) If the application be for a Class A, Class B, Operator's or Wholesaler's license, the applicant shall prior to filing his or her application, be fingerprinted by the Dane County Sheriff's Department, provided, however, that this requirement shall not apply to applicants applying for renewal of an existing license.
- (b) In the event the application is for a Class A or a Class B license at a site not previously licensed under this Ordinance or the ordinance regulating intoxicating liquor, the Town Clerk shall schedule a public hearing before the Town Board on the granting of the license and shall notify all property owners situated in the block of the site for which the license is sought and all property owners within a radius of three hundred (300) feet of the proposed site of the date of the hearing. The notice shall be given at least ten (10) days before the hearing and may be given by mail. The cost of the hearing and the cost of giving notice shall be paid by the applicant.
- (c) No license shall be granted hereunder until and unless the person or corporation desiring the same shall first have paid to the Town Treasurer in cash or certified check, thirty (30) days prior to when the license is to be issued, the fee hereinafter required and shall have filed with the Town Clerk of the Town of Blooming Grove, a written application on forms to be furnished by the Town Clerk designating the kind of license applied for, the description of the premises and such other information as may be required by this Ordinance by the Town Board. The licensed premises as described shall not be expanded or changed during the license year without the approval of the Town Board.
- (d) No license to sell fermented malt beverages shall be granted until after the expiration of fifteen (15) days from the filing of the application and before any such license may be granted there shall be published in accordance with section 125.04(3)(g) of the Wisconsin Statutes and in the official paper at least three (3) times successively a notice of such application, containing the name and address of the applicant, the kind of license applied for, and the location of the premises to be licensed. The applicant for license shall deposit the fees required for such publication with the Town Clerk at the time of filing the application, and the Town Clerk shall thereupon cause such publication to be made.
- (e) No Operator's license shall be granted to any person under the age of eighteen (18) years.
- (f) Wholesaler's licenses shall not be issued to persons holding a Class B license or permit or to persons who have any ownership interest in a premises operating under a Class B license or permit, except as provided in section 125.31 of the Wisconsin Statutes.
- (g) No Class A, Class B, Operator's or Wholesaler's license shall be granted to any person who has held a license for the sale of fermented malt beverage which previously has been revoked.

- (h) The Town Board shall meet not later than May 15 of each year and be in session from day to day thereafter, so long as it may be necessary, for the purpose of acting upon such applications for license as may be presented to them on or before April 15, and all applications for licenses so filed shall be granted, issued or denied not later than June 15 for the ensuing license year. Licenses may be granted for issuance at a later date when the applicant has complied with all requirements for the issuance of the license. The governing body of committee may accept and act upon any application filed at any other time. When licenses are issued for a period less than one year, the license fee shall be pro rated to reflect the period for which the license is in effect.
- (i) Temporary Class B Beer licenses. Temporary Class B Beer licenses may be issued to bona fide clubs, 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. 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. The Town Clerk has the authority to issue licenses under this subsection.
- (j) Temporary Class B Wine Licenses. Notwithstanding Section 125.68(3) of the Wisconsin Statutes, temporary Class B wine licenses may be issued to bona fide clubs, 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 containing not more than 6% alcohol by volume 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. No fee may be charged to a person who at the same time applies for a temporary Class B Beer license under section 125.26(6) of the Wisconsin Statutes 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 containing not more than 6% alcohol by volume 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 wine containing not more than 6% alcohol by volume from the stands while the fair is being held. The Town Clerk has the authority to issue licenses under this subsection.
- (k) Class B Permit. The Department of Revenue shall issue Class B permits to clubs that are operated solely for the playing of golf or tennis and are commonly known as country clubs, clubs that are operated solely for curling, ski jumping or yachting, if the club is not open to the general public and if no Class B licenses

are issued by the Town. A Class B permit authorizes retail sales of fermented malt beverages to be consumed on the premises where sold. Persons holding a Class B permit may sell beverages containing less than 0.5% of alcohol by volume without obtaining a license under this Section 66.053(1) of the Wisconsin Statutes. All sections of this Ordinance relating to Class B licenses apply to Class B permits issued under this subsection.

Section 7. Term and Expiration of License.

All licenses issued hereunder shall be attested by the Town Clerk, and shall be granted until all conditions provided by this Ordinance shall have been complied with, and upon payment of the annual license fee. All licenses issued hereunder shall expire on the thirtieth (30th) day of June of the year following their issuance unless sooner revoked for any reason or by the passage of an ordinance by the Town of Blooming Grove further restricting the sale of fermented malt beverages.

Section 8. Fees.

- (a) The fee for a Class A license shall be one hundred dollars (\$100) per year.
- (b) The fee for a Class B license shall be one hundred dollars (\$100) per year.
- (c) The fee for an Operator's license shall be twenty dollars (\$20) per year.
- (d) The fee for a provisional Operator's license shall be ten dollars (\$10).
- (e) The fee for a Wholesaler's license shall be twenty-five dollars (\$25) per year.
- (f) The fee for a temporary Class B beer or wine license shall be ten dollars (\$10).

Section 9. Licenses Transferable.

Any Class A or Class B license issued hereunder may, for a fee of ten dollars (\$10), be transferred to another premises if said transfer is approved by the Town Board. No licenses, however, shall be transferable from one person to another other than as set forth in section 125.04(12) of the Wisconsin Statutes, nor shall any licensee entitled to more than one transfer during the same license year.

Section 10. Limitations Upon Issuance of Licenses.

- (a) Except as permitted in Subsection 10(b), no Class A, Class B, Operator's or Wholesaler's license shall be granted to any person who has not attained the age of twenty-one (21), who is not a good moral character and a full citizen of the United States and a resident of Wisconsin prior to the date of filing of the application, nor shall such license be granted or issued to any person who has

been convicted of at least three misdemeanors, or has been convicted of an offense against the laws of this State or the United States punishable by imprisonment in the State or federal penitentiary, subject to the provisions of the Wisconsin Fair Employment Act, unless the person so committed has been duly pardoned, nor to any person who has previously held a license for the sale of fermented malt beverages which previously has been revoked. All applicants, except those applying for Operator's licenses, or Temporary Class B beer and wine licenses who are not required to hold a seller's permit under Chapter 77, must provide proof as required by Section 77.61(11) of the Wisconsin Statutes that they are in good standing for sales tax purposes.

Corporations. No license or permit may be issued to any corporation unless the agent of the corporation appointed under Subsection 10(b) and the officers and directors of the corporation meet the above qualifications. Where individuals associated with the corporation do not meet the above qualifications the corporation can cure this deficiency by terminating its relationship with all of the individuals who fail to meet said qualifications. The residency requirement does not apply to officers and directors.

- (b) Appointment of Corporate Agent. No Class A or Class B fermented malt beverage license shall be issued to any foreign or domestic corporation unless said corporation appoints an agent in the manner set forth in section 125.04(6) of the Wisconsin Statutes.
- (c) A separate license shall be required for each place of business, and each license shall particularly describe the premises for which issued.
- (d) Any license issued in violation of any of the foregoing provisions shall be null and void and shall not confer any privileges upon the licensee therein named.
- (e) No Class A or Class B license shall be issued for all or any part of any licensed premises that have been included in the premises description of any Class A or Class B license previously issued for the same license year unless the license previously issued for said premises has been revoked by operation of law.
- (f) In determining whether or not to grant a Class A or Class B license, the Town may take into account the following:
 - 1) The effect the granting of a license may have upon traffic patterns and traffic congestion in the locate of the premises sought to be licensed.
 - 2) The location of other premises already holding Class A or Class B licenses and whether the location of the premises sought to be licensed will promote the goal of providing the services of Class A and Class B fermented malt beverage establishments to all residents of the Town of Blooming Grove.
 - 3) Any other considerations which the Town deems appropriate to its determination of whether or not to grant a Class A or Class B license.

(g) No Class A or Class B licenses shall be granted hereunder for the sale of fermented malt beverage in any building or structure where the main entrance thereto, now existing, is within three hundred (300) feet of the main entrance to any 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 main entrance of such premises. This provision shall not apply to licenses issued for sale of such beverages in hotels, restaurants, not a part of or located in any mercantile establishment, or to a bona fide, society or lodge, where such hotel, restaurant or club shall have been in existence in the location for which license is desired for a period of not less than three (3) years prior to the date of such application, 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.

(h) Class B Licenses.

- 1) No Class B license shall be issued to any person acting as agent for or in the employ of another except s to a hotel or restaurant not a part of or located in or upon the premises of any mercantile establishment, or a club, society or lodge that shall have been in existence for not less than three (3) years prior to the date of application. Such license for a restaurant, hotel, club, society, or lodge may be taken in the name of an officer or manager who shall be personally responsible for compliance with all terms and provisions of this Ordinance. Each foreign or domestic corporation applying for a Class B license shall comply with the provisions in Subsection 10(b) above pertaining to the appointment of an agent.
- 2) No Class B license shall be issued hereunder for the sale of fermented malt beverage in any dwelling or house.
- 3) No Class B license shall be issued hereunder for the sale of fermented malt beverage on any premises unless such premises are connected with the Town sewerage and water facilities where the same are available, and with other adequate facilities where Town sewer and water facilities are not available.
- 4) No Class B license shall be issued hereunder for the sale of fermented malt beverage on any premises unless such premises comply with and conform to all ordinances, health, sanitation, building and fire regulations of the Town, of Dane County, and of the State.
- 5) Notwithstanding any of the provisions contained in paragraphs 4 and 5 of Subdivision 10(h), a license for the sale of fermented malt beverages for any premises on which the requirements of any of said paragraphs have not been complied with, may nevertheless be issued and the privileges of such license may be enjoyed by the licensee thereof provided that the licensee file with the Town Clerk a performance bond in the amount of 125% of such sum as shall be determined by the Town Board conditioned

for the full compliance and performance of the requirements contained in said paragraphs or any of them, within sixty (60) days from the granting of said license. In case of the failure of the licensee to perform the conditions of said bond and the requirements of said paragraphs within such sixty (60) days the bond shall be forfeited and the licensee surrender the license to the Town Clerk. Failure to comply with the requirements of this section or the refusal of the licensee to surrender his or her license as aforesaid shall be cause for revocation of the license by the Town Board.

- 6) No Class B license 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 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 premise. No other business may be conducted on premises operating under a Class B license. These restrictions do not apply to any of the following: a hotel; a restaurant, whether or not it is a part of or located in any mercantile establishment; a combination grocery store and tavern; a combination sporting goods store and tavern; a combination novelty store and tavern; a bowling alley or recreation premises; or 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.

Section 11. Restriction Upon Use of Licenses.

(a) Restrictions Applicable to All Licenses.

- 1) License Required. No fermented malt beverage shall be kept in or about any premises licensed under this Ordinance unless an additional license shall have been issued by the Town of Blooming Grove for the sale of intoxicating liquor upon the same premises.
- 2) Label Required - Contents in Fluid Ounces to be Printed on Label. It shall be unlawful for any licensee hereunder to sell or keep for sale or to permit to be sold or kept for sale any fermented malt beverage unless there shall be placed upon each barrel, keg, cask, bottle or other container in which said beverage is placed a label bearing the name and address of the brewer or bottler manufacturing or bottling said beverage, and in plain and legible type, the number registered by said brewer or bottler in the office of the State Treasurer. Every bottle shall contain upon the label thereof a statement of the contents in fluid ounces in plain and legible type.
- 3) Sale of Fermented Malt Beverage to Person Under The Legal Drinking Age Prohibited. It shall be unlawful to sell, vend, serve, give away or in any way deal or traffic in any fermented malt beverage in any quantity whatsoever to or with any quantity whatsoever to or with any person under the legal the legal drinking age.

- 4) Sale of Fermented Malt Beverage to Intoxicated Person Prohibited. No fermented malt beverage shall be sold or served to any person who shall be intoxicated or bordering on the state of intoxication.
- 5) Gambling Prohibited. It shall be unlawful to permit gambling or devices used for gambling upon any premises licensed under this Ordinance.
- 6) Rules of Health. Every Class B licensee hereunder shall conduct and maintain such business with strict regard to the public health and in conformity with all ordinances of the Town of Blooming Grove and the rules, regulations and orders of the State Board of Health.
- 7) Employment of Minors. No retail Class B licenses shall employ any person under the age of eighteen (18), but this shall not apply to hotels and restaurants. Family members of licensees under the age of eighteen (18) may work on the licensed premises, but are not permitted to sell or dispense alcoholic beverages.
- 8) Loitering in Premises in Which Fermented Malt Beverages Sold by Person Under The Legal Drinking Age Prohibited. A keeper of any place for the sale of any fermented malt beverage under a Class A or Class B license, who directly or indirectly suffers or permits a person under the legal drinking age, unaccompanied by his or her parent, guardian or adult spouse, who is not a resident, employee, or a bona fide lodger or boarder on the premises controlled by the proprietor or licensee of the place, and of which the place consists or is a party, to enter or to be on the licensed premises for any purpose, except for the transaction of bona fide business other than amusement, the purchase, receiving or consumption of edibles or beverages, shall, for every such offense, be liable to a forfeiture not exceeding two hundred fifty dollars (\$250).
- 9) No Class A or Class B License shall be issued for all or any part of any licensed premises that have been included in the premises description of any Class A or Class B license previously issued for the same license year, unless the license previously issued for said premises has been revoked by operation of law.
- 10) Within ten (10) days of any change in any fact set out in an application for a license or permit to sell any alcoholic beverages, the licensee or permittee shall file with the issuing authority a written description of the changed fact.
- 11) Use by Another Prohibited. No person may allow another to use his or her Class A or Class B license or permit to sell alcoholic beverages. The license or permit of a person who violates this paragraph shall be revoked.

12) Posting licenses; defacement.

- a. As provided in section 125.04(10) of the Wisconsin Statutes, every person licensed in accordance with the provisions of this Ordinance 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 or sale.

(b) Restrictions Applicable to Class A Licenses.

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 fermented malt beverage except in original unopened packages, containers or bottles, not to be consumed in or about the premises where sold. No fermented malt beverages shall be sold upon any premises for which a Class A license has been issued between the hours of 12:00 a.m. and 8:00 a.m. Further, between 12:00 a.m. and 8:00 a.m., no licensee shall permit nor shall any person carry out or remove from a Class A licensed premises, any fermented malt beverage in an original unopened package, container or bottle or for consumption away from the premises.

(c) Restrictions Applicable to Class B Licenses.

1) Hours.

- a. No premises for which a Retail Class B license shall be issued shall be permitted to remain open between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. and 6:00 a.m. Saturday and Sunday, nor shall any alcoholic beverages be furnished to anyone during said hours, except that on January 1 said premises are not required to close.
- b. Hotels and restaurants, whose principal business is the furnishings of food and/or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses, and golf clubhouses shall be permitted to remain open for the conduct of their regular business, but shall not be permitted to sell, serve, give away or in any way deal or traffic in fermented malt beverages during the hours hereinbefore specified.
- c. Between 12:00 midnight and 6:00 a.m., no seller shall permit nor shall any person carry out or remove from the Class B licensed premises, any fermented malt beverage in an original unopened

package, container or bottle or for consumption away from the premises.

- 2) Licensee or One Having Operator's License to be on Premises at All Times. There shall be upon premises operated under a Class B license at all times, the licensee or some person who has an Operator's license and who is 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 B license unless he or she possesses an Operator's license, or unless he or she is under the immediate supervision of the licensee or a person holding an Operator's license who is at the time of such service upon said premises, and he or she has attained the age of eighteen (18). No member of the immediate family of the licensee under the legal drinking age may serve as a waiter, or in any other manner, any fermented malt beverages to customers unless he or she has attained the age of eighteen (18) and a licensed operator is present upon and in immediate charge of the premises.
- 3) Brand of Beer Drawn from Tap to be Indicated -- Penalty. Every holder of a Class B license selling or offering for sale draft fermented malt beverages to be consumed on or off the premises shall display a sign on, over or near each tap or faucet disclosing the brand and manufacturer of beer drawn from each tap or faucet, so that every patron may be informed of the brand of fermented malt beverages on tap. No such licensee shall substitute any other brand of fermented malt beverages in place of the brand so designated by such visible sign, and every licensee who shall violate this paragraph shall be deemed guilty of a violation of this Ordinance and upon conviction, shall be punished by a forfeiture of not more than fifty dollars (\$50).
- 4) Sign to be Posted. A sign bearing the words "Bar closed after 2:00 a.m. Monday through Friday, 2:30 a.m. Saturday and Sunday", or other words to the same effect, shall be conspicuously displayed over the bar on all premises for which a fermented malt beverage Class B license has been issued.
- 5) Off-Street Parking Facilities. No Class B license shall be issued for any premises unless said premises have provided off-street parking stalls equal in number to fifty percent (50%) of the number of patrons which said premises may lawfully accommodate. This restriction shall not apply in the case of renewal licenses issued for premises as of the date of the enactment of this Ordinance.

Section 12. 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 the Dane County Sheriff or any of

his or her deputies without any warrant, and 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 Ordinance.

Section 13. No Beer to be Sold or Consumed Upon the Streets.

- (a) It shall be unlawful for any person to sell or serve, or offer to sell or serve any fermented malt beverage upon any public street within the Town of Blooming Grove.
- (b) It shall be unlawful for any person to possess an open container which contains a fermented malt beverage or intoxicating liquor or consume any fermented malt beverage or intoxicating liquor upon any public street (including sidewalks and alleys) within the Town of Blooming Grove except when such street or portion thereof is included within an area for which the Town Board has granted a street use permit and a temporary beer and/or wine license pursuant to Subsections 6(i) and 6(j).
- (c) It shall be unlawful to any person, firm or corporation to use or operate, or cause to be used or operated, in any public street or place, or from any aircraft or in front of or outside of any building, place or premises, abutting on or adjacent to any public street or place, any device, apparatus or instrument for the amplification of the human voice or any sound or noise, or other sound making or sound reproducing device for the purpose of advertising the sale of fermented malt beverages.
- (d) It shall be unlawful for any owner, operator of, or any person employed in any place where food or soft drinks are sold, or any place of entertainment or amusement, to permit any person to drink a fermented malt beverage therein and it shall be unlawful for any person to consume therein any fermented malt beverage unless such place be licensed to sell fermented malt beverages.
- (e) It shall be unlawful for any person to drink or have in his or her possession any fermented malt beverage in any Town park.
- (f) It shall be unlawful for any person to whom a license has been granted to sell or serve or to offer to sell or serve any fermented malt beverage anywhere except on the licensed premises, or to permit any patron to leave the licensed premises with an open container containing any fermented malt beverage.

Section 14. Procuring For Or Furnishing To Persons Under Legal Drinking Age.

It shall be unlawful for any person to procure for, sell, dispense, give away, deal or traffic in or furnish fermented malt beverages to or for any person under the age of legal drinking age. Any adult violating any provision of this section shall be subject to a forfeiture of not less than Two Hundred Dollars (\$200) nor more than Five Hundred

Dollars (\$500) for each offense. Any minor violating any provision of this section shall be subject to a forfeiture of not less than Two Hundred Dollars (\$200) nor more than Five Hundred Dollars (\$500) for each offense.

Section 15. Persons Under the Legal Drinking Age Not To Have Fermented Malt Beverages.

(a) Any person under the legal drinking age who does any of the following is guilty of a violation:

- 1) Procures or attempts to procure alcoholic beverages from a licensee of permittee.
- 2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcoholic beverages on licensed premises.
- 3) Enters, knowingly attempts to enter or is on a licensed premises not accompanied by his or her parent, guardian or spouse. This subsection shall not apply to hotels, drug stores, service stations, vessels, grocery stores, bowling alleys, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a Class B fermented malt beverages and restaurant permit where the principal business conducted therein is that of a restaurant. Further, this subsection shall not apply where persons under the legal drinking age are a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part, or where the underage person enters or is on a Class A retail fermented malt beverages premises for the purpose of purchasing edibles or beverages other than alcoholic beverages, providing the person does not remain on the premises after the purchase.
- 4) Falsely represents his or her age for the purpose of receiving alcoholic beverages from a licensee or permittee.

(b) Except as provided in Subsection 15(c), any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcoholic beverages is guilty of a violation.

(c) A person under the legal drinking age may possess alcoholic beverages in the course of employment during his or her working hours if employed by any of the following: (1) A brewer; (2) A fermented malt beverages wholesaler; (3) A permittee other than a Class B permittee; (4) A facility for the production of alcohol fuel; (5) A retail licensee under the conditions specified in sections 125.32(2) and 125.68(2) of the Wisconsin Statutes or for delivery of unopened containers to the home or vehicle of a customer; or (6) A campus, if the underage

person is at least eighteen (18) years of age and is under the immediate supervision of a person who has attained the legal drinking age.

- (d) Any minor violating any provision of this section shall be subject to a forfeiture of not less than One hundred Dollars (\$100) not more than Five Hundred Dollars (\$500) for each offense.

Section 16. Persons Under the Legal Drinking Age Not To Misrepresent Their Age.

Any underage person who does any of the following is subject to a forfeiture of not less than \$100 nor more than \$500, suspension of the person's operating privilege under section 343.30(6) (bm) of the Wisconsin Statutes, participation in a supervised work program under section 125.085(3) (bh) of the Wisconsin Statutes, or any combination of these penalties:

- (a) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
- (b) Makes, alters or duplicates an official identification card.
- (c) Presents false information to an issuing officer in applying for an official identification card.
- (d) Intentionally carries an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

Section 17. Possession of Alcoholic Beverages On School Grounds Prohibited.

- (a) Except as provided by Subsection 17(b), no person may possess or consume alcoholic beverages: (1) On School premises; (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or (3) While participating in a school-sponsored activity.
- (b) Alcoholic beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws, ordinances and school board policies.
- (c) A person who violates this subsection is subject to a forfeiture of not more than Two Hundred Dollars (\$200), except that sections 48.344 and 125.07(4) (c) and (d) of the Wisconsin Statutes provide the penalties applicable to underage persons.

Section 18. Non-Alcohol Serving Dance Halls.

An underage person may enter and/or remain in a dance hall attached to a Class B licensed premise of the dance hall which is separate from any room where alcoholic beverages are sold, if there is a separate entrance to the dance hall and if no alcoholic beverages are furnished or consumed by any person in the dance hall where the underage person is present.

Section 19. Training Course.

- (a) Except as provided in Subsection 19(b), the Town shall not issue an Operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational, technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements
- 1) The person is renewing an Operator's license.
 - 2) Within the past 2 years, the person held a Class A or Class B fermented malt beverage or Class A, Class B or Class C intoxicating liquor license or permit or a manager's or Operator's license.
 - 3) Within the past 2 years, the person has completed such a training course.
- (b) The Town may issue a provisional Operator's license to a person who is enrolled in a training course under paragraph (a). The Town shall revoke such license if the applicant fails successfully to complete the course in which he or she enrolls. The Town Clerk or the Town Clerk's designee is hereby designated to have the authority to issue said provisional Operator's license if the following conditions have been met: The applicant has filed a completed application for an Operator's license pursuant to section 125.17(1) of the Wisconsin Statutes and this Ordinance. The Town Board has not previously denied, revoked or suspended an application by the applicant for an Operator's license pursuant to section 125.17(1) of the Wisconsin Statutes and this Ordinance. The Town has determined that the applicant does not have a criminal record, subject to the provisions of the Wisconsin Fair Employment Act.

A provisional Operator's license issued pursuant to this Section shall expire upon the earlier of: sixty (60) days after its issuance; or the applicant's application for an Operator's license being considered and either approved or denied by the Town Board. If, after issuance of a provisional Operator's license pursuant to this Subsection, the Town Clerk or the Town Clerk's designee discovers that the holder of said license made a false statement on his application for Operator's license, the Town Clerk shall immediately revoke the provisional Operator's license.

Section 20. Department Notification.

By July 15 annually, the Town Clerk shall mail to the Department of Revenue a list containing the name, address and trade name of each person holding a license issued by the Town of Blooming Grove, other than a manager's or Operator's license or a license issued under section 125.26(6) of the Wisconsin Statutes, the type of license held and, if the person holding the license is a corporation, the name of the agent appointed under subsection 8(b) hereof.

Section 21. Revocation.

Any license issued pursuant to the provisions of this Ordinance may be revoked in the manner provided by section 125.12 of the Wisconsin Statutes for the causes therein specified, or for violation of any provision of any ordinance of the Town of Blooming Grove or for any other reason.

Section 22. Report of Suspension, Revocation or Imposition of Penalty.

Whenever the Town Board revokes or suspends a license or imposes a penalty on a licensee for the violation of this Ordinance, the Town Clerk shall, within ten (10) days after the revocation, suspension or imposition of a penalty, mail a report to the Department of Revenue at Madison, Wisconsin, giving the name of the licensee, the address of the licensed premises and a full description of the penalty imposed.

Section 23. Search Warrants.

- (a) When complaint shall be made to the judge of the Circuit Court that fermented malt beverage is being sold or kept for sale in any particular building or premises in the Town of Blooming Grove in violation of this Ordinance, said judge, if he or she is satisfied that there is reasonable cause for such belief, shall issue a warrant to search for such fermented malt beverage.
- (b) Such warrants shall be directed to the Dane County Sheriff or any of his or her deputies commanding such officer to search the building or premises designated and described therein, and to bring before the same judge of the Circuit Court any such fermented malt beverage found being kept, sold, or kept for sale in violation of the provisions of this Ordinance and the person in whose possession the same are found.
- (c) When any officer, in the execution of a search warrant shall seize any fermented malt beverage for which a search is authorized by this section, all such property or things shall be safely kept by the direction of the court so long as shall be necessary for the purpose of being produced as evidence on any trial and as

soon as may be afterward returned to the owner, destroyed, or otherwise disposed of as the judge of said court may direct.

Section 24. Denial of Application for Renewal of Existing License.

The Town Board may not deny an application for renewal of an existing license unless a statement of the reason for the denial is included in the Town Clerk's minutes.

Section 25. Exceptions:

- (a) No license shall be required for the use of fermented malt beverages in hospitals or in bona fide institutions for the aged and infirm where such beverages is used for medicinal, mechanical, or scientific purposes only, or for one licensed to practice surgery or medicine in using alcohol in any form in the bona fide treatment of the sick or in using or prescribing such alcohol for such bona fide treatment.
- (b) No provision of this Ordinance shall apply to alcohol intended for use and used in the manufacture and sale of any of the following when unfit for beverages purposes, namely:
 - 1) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;
 - 2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
 - 3) Flavoring extracts, syrups, and food products;
 - 4) Scientific, chemical, mechanical and industrial products.
- (c) Any person who shall knowingly sell any of the products enumerated in the preceding subdivision for fermented malt beverages purposes, or who shall sell any of the same under circumstances from which he or she might reasonably deduce the intention of the purchaser to use them for such purposes, shall be guilty of a violation of this Ordinance.
- (d) Nothing in this Ordinance shall be construed to prevent any person from manufacturing wine or beer of any alcohol content at his or her home or place of residence to be consumed by him or herself, his or her family, and guests without compensation.

Section 26. Licenses Subject to Further Regulation Or Amendment of This Ordinance.

Any license issued pursuant to this Ordinance shall be subject to such further regulations and restrictions as may be imposed by the Town Board of the Town of

Blooming Grove by amendment to this Ordinance or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restriction and regulations, his or her license may be revoked. If any new amendment or ordinance enacted by the Town Board shall provide for revocation of all or any class of existing licenses, and the issuance of new licenses, or shall impose such new restrictions as to render it impossible for any licensee under an existing license to meet such restrictions, then and in such case the unused portion of the fee paid for such license shall be refunded or applied on any new license issued to such licensee by the Town Board. In case of revocation of any license for any violation of any provision of this Ordinance or by the Town or for any reason except the imposition of new restrictions, no refund shall be made of any part of the license fee. If a license issued hereunder is not used within fifteen (15) days after its issuance or its usage is discontinued for a period of fifteen (15) days or more, such situation shall be grounds for cancellation of the license.

Section 27. Severability.

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Section 28. Penalty.

Any person violating any provision of this Ordinance shall be subject to a penalty of not more than Five Hundred Dollars (\$500), unless a greater maximum penalty is specifically provided for in this Ordinance or Chapter 125 of the Wisconsin Statutes, and except that where a lower maximum penalty shall be provided by Chapter 125 of the Wisconsin Statutes for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this Ordinance.

In the event any licensee hereunder shall be twice convicted of offenses under this Ordinance, which offenses occur within one (1) license year or once convicted of selling or giving away fermented malt beverages to a person under the age of legal drinking age years, the license of such person or entity shall be suspended by the Town for a period of not less than thirty (30) days nor more than ninety (90) days.

Section 29. Effective Date.

This Ordinance shall take effect the day after its passage and publication.

The above and foregoing Ordinance was duly adopted by the Town Board of the Town of Blooming Grove at a regular meeting held on the 30th day of November, 1992.

Chairman Patricia Ampe

Supervisor Marlen J. Moody

Supervisor Stephen R. Sasso

I hereby certify that the foregoing Ordinance regarding the licensing and regulating of fermented malt beverages in the Town of Blooming Grove was published as a Class 1 notice under ch. 985, Wis. Stats., on the 9th day of December, 1992.

Dated: December 21, 1992

Clerk Barbara K. Moody