

## CHAPTER 6

### ALCOHOL BEVERAGE LICENSING

6.01	Definition
6.02	Intoxicating Liquor and Fermented Malt Beverage State Statutes Adopted
6.03	License Applications
6.04	Licensing Procedures
6.05	License Fees
6.06	Inoperative or Unissued Licenses
6.07	Hearings for Suspension, Revocation, and Nonrenewal of Licenses
6.08	License Restrictions Generally
6.09	Procedure for Granting and Review of Operator's License
6.10	Quotas
6.11	Nude Dancing in Licensed Establishments Prohibited
6.12	Penalties

**6.01 DEFINITIONS.** As used in this chapter, the following terms shall have the following meanings:

(1) **ALCOHOL BEVERAGES.** Fermented malt beverages and intoxicating liquor.

(2) **AVAILABLE LICENSE.** A "Class B" (Liquor) license that may be granted because the Town has granted fewer of such licenses than permitted the Town under Sec. 125.51(4)(b)1g, Wis. Stats.

(3) **CLUB.** An organization, whether incorporated or not, which is the owner, lessee, or occupant of the building or portion thereof used exclusively for club purposes, which is operated solely for recreational, fraternal, social, patriotic, political, benevolent, or athletic purposes, but not for pecuniary gain and which only sells alcohol beverages incidental to its operation.

(4) **FERMENTED MALT BEVERAGES.** Any beverage made by the alcohol fermentation of an infusion in potable water of barley, malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing 0.5% or more of alcohol by volume.

(5) **GRANTED LICENSE.** A license approved for issuance by the Town Board. Issuance is conditioned upon verification by the Town Clerk that the licensee to whom the license has been granted is in compliance with this chapter and the "qualification provisions" of Chapter 125, Wis. Stats.

(6) **INTOXICATING LIQUOR.** All ardent, spirituous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented or not, and by

whatever name called containing 0.5% or more of alcohol by volume, which are beverages, but does not include “fermented malt beverages” which contain less than 6% alcohol by weight.

(7) **INOPERATIVE LICENSE.** An issued license under which the licensed activity is no longer occurring on the licensed premises.

(8) **ISSUED LICENSE.** A license which has been granted, approved by the proper authorities, and delivered by the Town Clerk to the licensee.

(9) **LICENSE.** An authorization to sell alcoholic beverages granted by the Town Board under this chapter. The Board is hereby authorized to grant the following licenses:

(a) Class “A” (Beer) License. Authorizes retail sales of fermented malt beverages in original packages, containers, and bottles for consumption off the premises where sold.

(b) “Class A” (Liquor) License. Authorizes the retail sale of intoxicating liquor in original packages, containers, and bottles for consumption off the premises where sold.

(c) Class “B” (Beer) License. Authorizes retail sales of fermented malt beverages to be consumed whether on or off the premises where sold.

(d) “Class B” (Liquor) License. Authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. Wine, however, may be sold for consumption off premises in original package or otherwise in any quantity.

(e) “Class B” Combination License. License which results when one licensee applies for both a Class “B” (Beer) license and a “Class B” (Liquor) license for use at one premises.

(f) Temporary Class B (Picnic) License. A temporary Class B (picnic) license is issued for a period not to exceed three consecutive days to bona fide clubs, county or local fair associations, or agricultural societies, churches, lodges, or societies that have been in existence for not less than six months prior to the date of the application, or to veteran organizations or posts, authorizing them to sell fermented malt beverages and wine containing not more than 6% alcohol by volume at a particular picnic, gathering, or meeting, or during a fair conducted by a fair association or an agricultural society.

(g) Wholesalers' Fermented Malt Beverage License. Authorizes the sale of fermented malt beverages only in original packages or containers to retailers or wholesalers not to be consumed on or about the premises where sold.

(h) "Class C" (Wine) License. Authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.

(10) PERSON. A natural person, sole proprietorship, partnership, limited liability company, corporation, or association.

(11) PREMISES. The area described in a license or permit.

(12) REGULATION. Any rule or ordinance adopted by the Town Board.

(13) RESERVE LICENSE. A "Class B" (Liquor) license as defined in Sec. 125.51(4)(a)4, Wis. Stats., other than an available license, granted pursuant to Sec. 125.51(3)(e)2, Wis. Stats.

(14) RESTAURANT. Any building, room or place where meals or lunches are prepared, served, or sold to the general public.

(15) SELL, SOLD, SALE, OR SELLING. Any transfer of alcohol beverages with consideration or any transfer without consideration knowingly made for the purpose of evading the law relating to the sale of alcohol beverages or any shift, device, scheme, or transaction for obtaining alcohol beverages, including solicitation of order for, or the sale for future delivery of, alcohol beverages.

(16) WINE. Products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain 0.5% or more of alcohol by volume.

**6.02 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGE STATE STATUTES ADOPTED.** The following provisions of Ch. 125, Wis. Stats., relating to the sale of intoxicating liquors and fermented malt beverages, exclusive of any provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are hereby adopted and made part of this chapter as if set forth fully herein. Further amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

(1) Sec. 125.04      General Licensing Requirements

(2) Sec. 125.06      License and Permit Exceptions

- (3) Sec. 125.07 Restrictions on Sales to Minors and Intoxicated Persons; Presence of Minors in Places of Sale, and Possession by Minors; Penalties
- (4) Sec. 125.085 Proof of Age
- (5) Sec. 125.09 General Restrictions
- (6) Sec. 125.17 Issuance of Operator's Licenses
- (7) Sec. 125.32 General Restrictions and Requirements
- (7m) Sec. 125.51 Retail Licenses and Permits [except Sec. 125.51(3)(b)]
- (8) Sec. 125.66 Sales without License; Failure to Obtain Permit; Penalties
- (9) Sec. 125.67 Evading Provisions of Law by Giving Away Intoxicating Liquor; Penalties
- (10) Sec. 125.68 General Restrictions and Requirements

**6.03 LICENSE APPLICATIONS.** (1) GENERALLY. An application for a license must contain the following information and materials. Applications lacking any of the required information or materials shall not be accepted by the Town Clerk.

(a) Forms. Applications shall be made upon forms provided by the Town Clerk, which shall be completed in their entirety.

(b) Time Limitation. An application shall not be valid after the license year for which it is filed.

(c) Property Interest. Applications shall be accompanied by proof of one of the following:

1. Ownership of the premises to be licensed.
2. A valid option to purchase the premises to be licensed.
3. A valid lease for the premises to be licensed for the term of the license.
4. A valid option to lease the premises to be licensed for the term of the license.

(d) Statement of Intent. The applicant shall sign a statement of intent on a form to be provided by the Town Clerk. This statement shall include a provision that the applicant intends to personally operate under the license within 180 days of its granting by the Town Board and that the license shall be considered surrendered if the license is not issued within 180 days of the granting of the license. This time may be extended by the Town Board upon a finding that construction activities will delay the issuance. The applicant shall provide proof of such conditions upon application. The Town Board shall set a time limit for the issuance of such license, and the license shall be considered surrendered if the license is not issued within such time.

(2) TRANSFER APPLICATIONS. All applications for transfer of licenses from place-to-place and person-to-person are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes. In addition, applications to transfer a license from person-to-person must be accompanied by written consent of the person from whom the license is to be transferred on a form provided by or acceptable to the Town Clerk.

(3) RENEWAL APPLICATIONS. All applications for renewal of licenses are subject to the qualifications, review proceedings, and time constraints provided in this chapter and the Wisconsin Statutes.

#### **6.04 LICENSING PROCEDURES.**

(1) TOWN BOARD APPROVAL. Applications complying with the provisions of this chapter and the Wisconsin Statutes shall be forwarded to the Town Board for action in the order in which they are filed, upon availability of a license of the type applied for. The Town Board shall review the application, the applicant's qualifications, and all other relevant factors and determine whether to grant the license application under the provisions of this chapter and the laws of the State of Wisconsin.

(2) CONDITIONAL APPROVAL. The Town Board may place additional conditions upon a license consistent with the provisions of this chapter and the laws of the State of Wisconsin. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.

(3) ADMINISTRATIVE APPROVAL. Prior to the issuance of any license, the Fire Inspector shall certify on a form to be provided by the Town Clerk that the premises complies with all applicable laws and regulations. No license shall be issued for a premises not in compliance with such laws and regulations. The departments may place conditions upon a license consistent with the provisions of this chapter and the laws of the State of Wisconsin. Violation of any such condition shall be considered a violation of this section and grounds for suspension or revocation of the license.

(4) **FORM AND EXPIRATION OF LICENSE.** All licenses shall be numbered in the order in which they are issued. The date of issuance, the fee paid, name of the licensee and agent, trade name and address of the premises shall appear on said license. All retail licensees shall expire on June 30<sup>th</sup> following issuance unless sooner revoked or non-renewed. The Town Clerk shall affix to the license his or her affidavit as required by Sec. 125.04, Wis. Stats.

**6.05 LICENSE FEES.** The Town Clerk shall issue the following licenses to those applicants approved under the procedures set forth in this chapter and the Wisconsin Statutes. The Town Clerk shall be authorized to issue a Special Event or Picnic License upon receipt of proper application. The clerk shall not issue a license until the fee has been paid. The fees for the following licenses shall be set by the Town Board and incorporated in the Town of Freedom Fee and Forfeiture Schedule.

- (1) Class "A" (Beer).
- (2) Class "B" (Beer).
- (3) Temporary Class B (Picnic) License.
- (4) "Class A" (Liquor).
- (5) "Class B" (Liquor).
- (6) Wholesaler's Beer License.
- (7) Operator's License. (Two-Year License); Provisional.
- (8) Initial Issuance of a Reserve "Class B" (Liquor) License.
- (9) "Class C" (Wine).

**6.06 INOPERATIVE OR UNISSUED LICENSES.** A license which has been granted but not issued or issued but not in continuous use in a manner indicating an ongoing business for a period in excess of 180 days is presumed invalid and shall be subject to revocation, unless otherwise authorized by the Town Board.

**6.07 HEARINGS FOR SUSPENSION, REVOCATION, AND NONRENEWAL OF LICENSES.** (1) **INTENT.** No license granted hereunder shall be suspended or revoked by the Town Board without first affording the license holder an opportunity for public evidentiary hearing.

(2) **HEARING FORM.** The Town Board shall conduct any hearing or prehearing as described in this subsection.

(3) **GROUND**S. Licenses may be the subject of hearings as described in this provision for any violation of Ch. 125, Wis. Stats., or of the Town of Freedom Code of Ordinances, including, but not limited to, the following:

(a) The running of a disorderly house as proscribed by Sec. 125.12, Wis. Stats.

(b) Licensee or operator directly interfering with police officers or otherwise violating the law in a manner substantially related to the operation of the licensed facility.

(c) Any violation of any health code provision of this Municipal Code dealing with public health, welfare, and safety.

(d) Any building, fire, electrical, or plumbing code violation of this Municipal Code dealing with public health, welfare, and safety.

(e) Any liquor-related violation involving juveniles as prescribed by Ch. 125, Wis. Stats., (specifically Sec. 125.07, Wis. Stats.).

(f) Any violation of general statutory restrictions pertaining to licensed premises and operations as proscribed by Ch. 125, Wis. Stats.

(g) Any failure to maintain the qualifications required of all license holders as detailed by Sec. 125.04, Wis. Stats., and as modified by the conditions of this Code or as condition of granting or renewing a license.

(h) Any violation of any restriction, stipulation, or agreement entered into with the Town of Freedom or signed in consideration of a license issued by the Town under this chapter or Ch. 125, Wis. Stats.

(i) Whether the licensee and/or the licensee's agents, employees, and assigns have accumulated 12 or more demerit points within a 24 month period pursuant to the schedule below.

1. Point Schedule

**POINT SCHEDULE**

<b>Ordinance and/or Statute Number</b>	<b>Type of Violation</b>	<b>Points</b>
6.08(10)	Violation of Stipulation or Agreement Requiring Surrender of License	12
6.08(6)	Disorderly House Requiring Police Closure	12
Ch. 961 Wis. Stats.	Controlled Substance	12
139.08(4) Wis. Stats.	Refusing Police Entry	12
6.08(6)	Disorderly House	6

6.08(1)	Violation of Stipulation or Agreement (Except violations of a provision requiring license surrender)	6
6.08 125.32(3) & 125.68(4) Wis. Stats.	Open After Hours	6
6.02 125.07(3) Wis. Stats.	Underage Person on Licensed Premises	6
6.02 125.07(1) Wis. Stats.	Serving an Underaged Person	6
6.02 125.07(2) Wis. Stats.	Serving an Intoxicated Person	4
125.32(2) & 125.68(2) Wis. Stats.	No Licensed Bartender	4
	Other Nonenumerated Violations of this CH. 6, or Ch. 125, Wis. Stats.	3

2. This schedule shall not affect the discretion of the Town Board in determining whether a formal evidentiary hearing is warranted.

3. PREHEARING. Notwithstanding the provisions of Sec. 125.12, Wis. Stats., or (6) of this subsection, any State or Town agency may, by communication to the Town Board bring allegations of any violation of State liquor laws or any violation listed above before the Town of Freedom for prehearing as an item in the regular meeting of said Board. Conduct of such prehearing shall be informal, allowing the Town Board an opportunity to hear the allegations and permitting the accused licensee to respond if they so wish. The purpose of such prehearing will be to determine if the allegations are of such magnitude, importance, or otherwise of such nature to require a formal evidentiary hearing as provided by (5) below. After hearing the allegations and any response, the Board shall determine whether to recommend to the Town Board that: a formal evidentiary hearing be held; a letter of warning to become part of the licensee's permanent file be issued; or no action be taken. In determining the appropriate course of action, the Board shall consider:

(a) The licensee's history of convictions, charges, or complaints and the relationship of such history to licensed activities.

(b) The length of time since such conviction, charge, or complaint.

(c) The circumstances and seriousness surrounding the complaint(s) before the Board.

(d) The degree of personal rehabilitation since the last incident involving the licensee.

(e) The community's standards or interests to be protected.

(f) The need for formal hearing to clarify the facts in regard to factors listed above.

(g) The number of demerit points accrued pursuant to subsection (3)(g) above.

(4) BOARD ORDERED HEARING. If a prehearing is conducted, as provided in (3), and a formal evidentiary hearing is ordered by the Town Board, the Town Attorney, or a special prosecutor appointed for such hearing, shall draft a formal complaint and see to it that such complaint is served with a summons as provided in (5) below. The complaint may include any alleged violation of state or municipal liquor law occurring in the preceding license year which was not the subject of a hearing under this section. Such complaint shall be issued in the name of the complainant and shall state specific violations complained of and may include any other violations involving the licensee in the past two license years which have not been the subject of a formal hearing. The complaint shall be served with a summons as provided in (6) below. Any formal evidentiary hearing shall be held in conformity with the procedures in (6) below.

#### (5) HEARING PROCEDURES.

(a) Upon a verified complaint filed with the Town Clerk that any person licensed hereunder has violated the provision of Ch. 125, Wis. Stats., the criminal code of the State of Wisconsin, or any provision of the Code of Ordinances, including those listed in (3) above, or any other provision of this chapter of Ch. 125, Wis. Stats., the Town Board shall issue a summons signed by the Clerk directed to any peace officer or constable therein, commanding the person so complained of to appear before the Town Board on a day and at a place named in such summons, not less than three days nor more than 10 days from its date, and show cause why the license should not be suspended or revoked. Such summons shall be served at least three days before the time in which such person is commanded to appear, and shall be served as provided at Ch. 801, Wis. Stats.

(b) The licensee may be represented by counsel, present and examine witnesses, and have prepared at the licensee's expense a transcript of the hearing.

(c) The provisions of Sec. 125.12, Wis. Stats., shall govern the conduct of the hearing hereunder.

(6) RECOMMENDATIONS. At the conclusion of the evidentiary hearing, which may be held in open or executive session depending on the nature of the evidence to be produced, the Committee, following deliberation in open or executive session, shall

consider the factors listed at (4) and shall thereupon make specific findings of fact and conclusions of law, including one or more of the following determinations:

(a) No action should be taken due to insufficiency of the evidence.

(b) No action should be taken at present because of an accommodation on the part of the license holder has been reached.

(c) A warning letter be issued and the original thereof be retained in the licensee's file kept in the office of the Town Clerk.

(d) A suspension of not less than 10 days nor more than 90 days be imposed.

(e) The license be revoked or invalidated.

(f) The licensee be placed on probation, and the Town Board shall set conditions therefore.

(g) The complaint be tabled pending disposition of pending criminal or Municipal Court code violations, at which time the matter will be considered and a recommendation made.

(7) **NONRENEWAL.** A license may be non-renewed for any of the grounds identified in Sub. (3). Upon Town Board denial of the renewal, the Town Attorney shall notify the licensee in writing of the intention to non-renew. The licensee shall have 10 days to request, in writing, a formal evidentiary hearing. This hearing shall be held before the Town Board pursuant to Sec. 125.12(2)(b), Wis. Stats. The Town Board shall follow the procedure specified under that subdivision in making its determination.

(8) **APPEAL.** Appeal from the decision of the Town Board shall be to the Circuit Court for Outagamie County.

#### **6.08 LICENSE RESTRICTIONS GENERALLY.**

(1) **STATUTORY REQUIREMENTS.** Any license granted pursuant to this section to sell intoxicating liquor or fermented malt beverages shall be subject to the regulations, conditions, and restrictions imposed by Ch. 125, Wis. Stats. In addition, the Town of Freedom, pursuant to the authority of Sec. 125.10, Wis. Stats., adopts certain other restrictions and requirements specifically by this section.

(2) **LOCATION.** No Class "A" (Beer), "Class A" (Liquor), Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license shall be issued for a premises when any portion of the structure housing the premises would be less than 300 feet from any portion of a

structure housing any established public school, parochial school, hospital, or church. This subsection shall not apply to premises licensed as such on March 1, 2004, to any premises licensed as such prior to the occupation within 300 feet thereof of any school building, hospital building, or church building, nor to any Special Event or Picnic License.

(3) HEALTH AND SANITARY REQUIREMENTS. A Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license shall not be issued for any premises which does not conform to the sanitary, safety, and health requirements of the State Department of Industry, Labor, and Human Relations pertaining to buildings and plumbing, to the rules and regulation of the State Department of Health and Social Services applicable to restaurants, and to all such ordinances and regulations adopted by the Town. Should a licensed premises fall below such standards, the license may be revoked or suspended pursuant to Sec. 6.07, Freedom Municipal Code.

(4) DELINQUENT PAYMENT. The Town Clerk shall not issue a license to any applicant occupying a premises for which real or personal property taxes are delinquent or to an applicant otherwise indebted to the Town, unless such applicant shall make arrangements satisfactory to the Clerk to pay such debts not less than 30 days before the expiration of the license.

(5) CLOSING HOURS. No premises for which a Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license has been issued may remain open between the hours of 2:00 a.m. and 6:00 a.m., except as otherwise provided in this Chapter. On Saturday and Sunday, no premises may remain open between 2:30 a.m. and 6:00 a.m. For the purposes of this section, "open" shall mean allowing any person, other than the licensee or an employee actively performing job-related duties, to enter, loiter, or remain in or on the licensed premises.

(a) A Class "B" (Beer) or "Class B" (Liquor) license premises must close in accordance with State law.

(b) On January 1, premises licensed under a Class "B" (Beer), "Class B" (Liquor), or "Class C" (Wine) license are not required to close.

(c) No premises for which only a Class "A" (Beer) license is issued shall be permitted to remain open between midnight and 6:00 a.m., for the purpose of selling fermented malt beverages. No deliveries of fermented malt beverages shall be permitted within the Town of Freedom between the hours of midnight and 6:00 a.m. A Class "A" liquor and beer premises must close in accordance with state law.

(d) Hotels and restaurants, whose principal business is furnishing of food, drinks, or lodging to patrons, bowling alleys, and golf courses may remain open for the conduct of their regular business, but may not sell alcoholic beverages during the

closing hours mentioned above. An establishment remaining open for the purpose of their regular business must, at all times, allow for open public access to the licensed establishment after such closing hours. In determining whether or not an establishment is open for the purpose other than selling alcoholic beverages, the burden shall be on the licensee.

(e) No person shall loiter in a licensed establishment after closing hours.

(f) No person shall carry out closed containers of alcohol beverages from a premises for which a Class "B" (Beer) or "Class B" (Liquor) license has been issued between the hours of Midnight and 6:00 a.m.

#### (6) DISORDERLY HOUSE.

(a) Duty to Maintain Order. A licensee under this section shall have a duty to maintain order and peace in and around the licensed premises. This duty shall extend to and include any adjacent parking lot or facility adjacent to and servicing the licensed premises.

(b) Police Power to Close Licensed Premises.

1. The Chief of Police may order any disorderly house closed until 8 a.m. the following day when, in the reasonable view of the Chief of Police, the licensee or person in charge failed to maintain peace and order as per (a) of this section, or the department otherwise believes that the public peace and safety is served by such closing by reason of threat to the bodily security, property, or peaceful repose of any member of the general public.

2. Outagamie County Health Department ("Department") The Department may order the temporary suspension of a restaurant and beverage license where an imminent health hazard exists on licensed premises pending a hearing. Such closing may act as grounds for suspension or revocation of a liquor license privilege under this chapter.

(c) Open Containers. A licensee or person in charge shall not allow the sale, service or consumption of alcohol beverages in open containers outside the licensed premises.

#### (7) OUTDOOR AREAS.

(a) New Applications. An application for a license pursuant to this chapter may include an outdoor area in the proposed premises. The inclusion of the outdoor area in the licensed premises shall be subject to review in the same manner as any other license application and the restrictions provided in this section.

(b) Amendment. A licensee may apply to amend a licensed premises to include an outdoor area. The request shall be filed with the Town Clerk no less than 15 days prior to the first date of use of the outdoor area. The application for amendment shall be subject to review in the same manner as any other license application, inspection by the Building Inspector and Fire Inspector, and the restrictions provided in this section.

(c) Physical Requirements.

1. Immediately Adjacent. A licensed outdoor area must be immediately adjacent to the indoor portion of the licensed premises.

2. Fencing. A licensed outdoor area must be enclosed by a temporary fence approved by the Police Department or a permanent fence or permanent structure approved by the Building Inspector.

3. Ingress. A licensed outdoor area shall have no more than one means of direct ingress from unlicensed areas. This subsection shall not be construed to limit the means of access to or from the outdoor licensed area to indoor licensed areas.

4. Signage. Licensee shall display signage indicating No Carry Outs Allowed outside of the licensed outdoor area.

5. Modification. The requirements of this subsection may be waived by a two-thirds majority vote of the Town Board.

(d) Noise. No musical instruments, radios, juke boxes, or other means of electric sound amplification may be used or operated in a licensed outdoor area after 10:00 p.m. weekdays and 11:00 pm. on Friday and Saturday.

(e) Unlicensed Outdoor Area. An unlicensed outdoor area adjacent to and used in conjunction with the licensed premises shall not be used for the purpose of serving or consuming alcoholic beverages.

(f) Licensee Responsibility. Any licensed outdoor area is subject to all regulations of this chapter and Ch. 125, Wis. Stats.

(g) Maintaining Order. The licensee shall maintain peace and order over any outdoor area adjacent to and used in conjunction with a licensed premises whether or not said outdoor area is licensed. Violation of this section may result in the Chief of Police exercising his authority under Sec. 6.08(6)(b), Freedom Municipal Code, and ordering any outdoor premises or the entire licensed area closed in the public interest.

(8) RESTRICTIONS ON USE OF PICNIC LICENSE.

(a) Licensed Operators Required. No person holding a picnic license, as defined at Sec. 6.01(10)(c), Freedom Municipal Code, shall permit the sale of fermented malt beverages unless a person holding an operator's license, also issued under this chapter, is in direct supervision and control of the area(s) in which the sale of fermented malt beverages is occurring. Where two areas of sale are used pursuant to (b) herein, at least one licensed operator must be present and in supervision of each area of sale.

(b) Outdoor Use of Picnic Licenses. Where a picnic license issued under this chapter is intended for use for an outdoor gathering, such as a picnic or fair, the following regulations shall apply:

1. No more than two separate areas may be used to dispense fermented malt beverages.

2. Town reserves the right to require one uniformed police officer to be present at the outdoor event at all times while fermented malt beverages are being sold or dispensed, when required as part of license.

(9) VIOLATIONS OF STIPULATION OR AGREEMENT. No licensee may violate a provision of a stipulation or other agreement entered into with the Town of Freedom or signed in consideration of a license issued by the Town under this chapter or Ch. 125, Wis. Stats. Any person who violates this provision shall be subject to a penalty as provided in Sec. 6.10, Freedom Municipal Code.

(10) ALLOWING ENTRY. No licensee or person in charge may refuse entry of a police officer, peace officer or agent of the Department of Revenue to the licensed premises at any reasonable time to determine whether Ch. 125, Wis. Stats., and this chapter are being complied with. "Reasonable time" includes without limitation all times when the premises is open.

(11) PYROTECHNICS AND FIREWORKS. No licensee or person in charge shall permit a pyrotechnics show or the use of fireworks on the licenses premises.

(12) COMPLIANCE MEETING. If required by the Police Chief, prior to or near the annual renewal date for liquor licenses all Class A, B and C liquor licensees shall attend a meeting with the Freedom Police Department to review the State and Town Alcohol Beverage License Laws and Regulations.

**6.09 OPERATOR'S LICENSE.**

(1) APPLICATIONS.

(a) Application for operator's licenses shall be made to the Town Clerk on a form supplied by the Town Clerk's Office.

(b) Upon receipt of an application, the Town Clerk shall forward the application to the Chief of Police for verification of the veracity of the application as well as research into the qualifications of the applicant in accordance with the requirements of Sec. 125.04, Wis. Stats.

(c) All applications shall be accurately completed in its entirety or shall be rendered void by the Town Clerk.

(d) The license fee set out in Sec. 6.05(7), Freedom Municipal Code, shall be submitted with the application.

(e) Operator licenses may be granted by the Town Board without further review in the event the Chief of Police approves of the application.

(f) The license shall be issued for a period of two consecutive licensing years. At all times while engaged in activities requiring a license issued pursuant to this section, the licensee shall keep the following items available for production upon request of any Town or State inspecting officer: the operator's license and a valid form of identification issued by a governmental agency containing a photograph of the licensee.

(2) PROVISIONAL LICENSE. The Town Clerk shall be authorized to issue a Provisional Operator's License upon receipt of the regular Operator's License application. The requirements and provisions of Ch. 125.17, Wis. Stats., relating to Provisional Operator's License are hereby adopted and made part of this Code as if set forth fully herein. Future amendments are also adopted prospectively, incorporated herein, and are intended to become a part of this Code.

### (3) DENIAL OF OPERATOR'S LICENSE.

(a) If the Chief of Police determines that any portion of the application is false or that the applicant does not possess the qualifications under Sec. 125.04, Wis. Stats., the license may be denied by the Chief of Police.

(b) The Town Clerk shall notify any applicant so denied.

(c) Any applicant whose application has been denied by the Chief of Police may appeal such determination to the Chief of Police. Upon appeal, the Town Board shall determine if the applicant possesses the qualifications of Sec. 125.04, Wis. Stats.

(4) **ISSUANCE OF LICENSE.** The Town Clerk shall not issue any operator's license until all the requirements above have been satisfied.

### **6.10 QUOTAS.**

(1) In the interest of promoting effective and efficient enforcement of this chapter, quotas are hereby established limiting the number of each of the following types of licenses which may be granted as follows:

(a) "Class A" Fermented Malt Beverage Licenses. At such time that any "Class A" Fermented Malt Beverage License is surrendered to the Town, the Town Board will address the disposition of any surrendered license.

(b) "Class B" Fermented Malt Beverage Licenses.

(c) "Class A" Intoxicating Liquor Licenses. A Class "A" fermented malt beverage license issued for the same premises as a "Class A" intoxicating liquor license shall not be included in the quota established in para. (a).

(d) Combination "Class B" Beer and Liquor Licenses. (State Quota)

Reserve "Class B" Licenses: (State Quota)

Reserve "Class B" Licenses cannot be transferred to another place or premises within the municipality.

When the Town has granted or issued a number of Class B Liquor Licenses equal to its quota, the Town may issue a Class B Liquor License to any of the following:

1. A full service restaurant that has a seating capacity of 300 or more persons.
2. A hotel that has 100 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 or more persons may be held.

(2) When the number of applicants for licenses exceeds the number available under the quotas set forth in this section, the Town Board will make a determination of the social and economic benefit of the proposed licensed venture to the Town. The Town Board will also determine if the applicant's establishment is in harmony with and

complimentary to other proposed or adopted plans for community development. At the discretion of the Town Board, the names of all applicants will be considered and the successful applicants be chosen and recommended by the Town Board for approval. The remaining applications will continue to be on file until the end of the license year applied for and may be reconsidered when other license opportunities become available.

#### **6.11 NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED.**

(1) PROHIBITIONS. It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of a licensed establishment which:

Shows his or her genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering; or

Shows any portion of the female breast below a point immediately above the tops of the areola; or

Shows the covered male genitals in a discernibly turgid status.

(2) EXEMPTIONS. The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(3) DEFINITIONS. For purposes of this ordinance the term "licensed establishment" means any establishment licensed by the Town Board of the Town of Freedom to sell alcohol beverages pursuant to Ch. 125, Stats. The term "licensee" means the holder of a retail "Class A", "Class B", Class "B", Class "A", or "Class C" license granted by the Town Board of the Town of Freedom pursuant to Ch. 125, Stats.

#### **6.12 PENALTIES.**

(1) DEFINITIONS. As used in this section, the following terms shall have the following meanings:

(a) Licensee. The person to whom the license has been issued or such person's agents, employees, or assigns.

(b) Violation. Any violation of this chapter, except violations of Sec. 6.02 Freedom Municipal Code, adopting Secs. 125.07(1), 125.07(4), 125.085, and 125.09(2), Wis. Stats.

(2) FORFEITURE. Any person violating a provision of this chapter where no penalty is specified shall be subject to a forfeiture of not less than \$1 nor more than \$500 for each offense.

(3) LICENSE SUSPENSION. A court shall suspend any license or permit issued under this chapter for:

(a) Not less than three nor more than seven days if the court finds that the licensee committed a violation within 24 months after committing one previous violation.

(b) Not less than seven nor more than 15 days if the court finds that the licensee committed a violation within 24 months after committing two previous violations.

(c) Not less than 15 nor more than 30 days if the court finds that the licensee committed a violation within 24 months after committing three previous violations.

(d) Not less than 45 nor more than 90 days if the court finds that the licensee committed a violation within 24 months after committing four previous violations.

(4) LICENSE REVOCATION. A court shall revoke any license or permit issued under this chapter if the court finds that the licensee committed a violation within 24 months after committing five previous violations.

(5) COUNTING. For purposes of counting previous violations under subsections (3) and (4) above, multiple violations arising out of the same incident and on the same date shall be considered a single violation.

(6) SPECIFIC VIOLATIONS. Any person violating Secs. 125.07(1), 125.07(4), 125.085, and 125.09(2), Wis. Stats., as adopted in Sec. 6.02, Freedom Municipal Code, shall be subject to the penalties provided therein.