

CHAPTER 11

SALE OF ALCOHOL BEVERAGES

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11.01 PURPOSE.

The purpose of this ordinance is to amend, update and codify all ordinances of the Town of Somers relating to the sale of alcohol beverages.

11.02 DEFINITIONS.

As used in this ordinance the following terms shall have the meanings indicated herein:

- (A) **Alcohol Beverages.** Shall mean fermented malt beverages and intoxicating liquor, including wine.
- (B) **Board.** Shall mean the Town Board of the Town of Somers.
- (C) **Brewer.** Shall mean any person who manufactures fermented malt beverages for sale or transportation.
- (D) **Clerk.** Shall mean the Town Clerk of the Town of Somers or the duly authorized Deputy Clerk.
- (E) **Club.** Shall mean an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain, and which only sells alcohol beverages incidental to its operation.
- (F) **Complainant.** Shall mean any adult residents of the Town of Somers who shall file a sworn, written complaint with the Town Clerk alleging one (1) or more violations of Chapter 125 of the Wisconsin Statutes or this ordinance.
- (G) **Controlled Substance.** Shall mean those substances listed in Schedule 1 as listed in §961.14, Wis. Stats. and Schedule 2, controlled substances, as listed in §961.16, Wis. Stats. and marijuana as set forth in §961.01(14), Wis. Stats.
- (H) **Department.** Shall mean the Wisconsin Department of Revenue.
- (I) **Fermented Malt Beverages.** Shall mean 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 one half of one percent (0.5%) or more of alcohol by volume.
- (J) **Hotel.** Shall mean all places where accommodations are offered for pay to transients, in five (5) or more rooms, and all places used in connection therewith and including a restaurant as defined in §254.61(3), Wis. Stats.

(K) **Intoxicating Liquor**. Shall mean all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one half of one percent (0.5%) or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages" which contain less than one half of one percent (0.5%) of alcohol by weight.

(L) **Legal Drinking Age**. Legal drinking age shall mean any person twenty-one (21) years of age. "Underage" person means a person who has not attained the legal drinking age.

(M) **License**. Shall mean an authorization to sell alcohol beverages issued by the Town Board under this ordinance. License issued under this ordinance is described as follows:

(1) **Retail Class "A" Fermented Malt Beverage License**. Authorizes retail sales of fermented malt beverages in original packages, containers and bottles for consumption off the premises where sold.

(2) **Retail "Class A" Intoxicating Liquor License**. Authorizes the retail sale of intoxicating liquor in original packages, containers and bottles for consumption off the premises where sold.

(3) **Retail Class "B" Fermented Malt Beverage License**. Authorizes retail sales of fermented malt beverages to be consumed whether on the premises where sold or off the premises.

(4) **Retail "Class B" Intoxicating Liquor License**. Authorizes retail sales of intoxicating liquor for consumption on the premises where sold, and authorizes the sale of intoxicating liquor in the original package or container, in multiples of not to exceed four (4) liters at any one time, to be consumed off the premises where sold. Wine may be sold for consumption off the premises in the original package or otherwise in any quantity.

(5) **Retail Class "C" Beverage License**. Authorizes the retail sale of wine by the glass or in opened original container for consumption on the premises sold.

(6) **Special Events (Picnic License)**. A Fermented Malt Beverage License issued under §125.26(c), Wis. Stats., and a Wine License issued under §125.51(10), Wis. Stats., to a bona fide club, fair association, agricultural societies, lodges or societies that have been in existence for not less than six (6) months prior to the date of application or to posts of veterans' organizations, authorizing them to sell fermented malt beverages at a particular picnic or similar gathering, or at a meeting or any such post, or during a fair conducted by such fair association or agricultural society. Applicant shall provide at all times while alcohol is being served at the licensed premises at least two (2) persons holding Operator's Licenses, or one (1) officer of the organization obtaining the license and one (1) person holding an Operator's License.

(N) **Operator's License.**

(1) A license which authorizes a person at least eighteen (18) years of age and who is, after review by the Town Board, found to be eligible for such license, who is neither the licensee nor the agent of the licensee to serve or sell alcohol beverages in any place operated under a Class "A", Class "B" or Class "C" License or permit. An Operator's License allows the person holding such license to serve alcoholic beverages without the immediate supervision of the licensee, agent, or a person holding an Operator's License on the premises at the time.

(2) **Provisional License.** A Provisional Operator's License may be issued by the Town Clerk to a person who has made an application for an Operator's License and whom the Clerk shall find, after investigation, to be eligible for an Operator's License under this ordinance or Wisconsin Statutes. Any Provisional License shall be valid until the Town Board shall act on the application, but not to exceed sixty (60) days. The Town Clerk may revoke, without Board action, a Provisional License for any false information contained on the application or if the Clerk shall learn that the licensee is not otherwise qualified for a regular Operator's License.

(3) **Temporary Operator's License.** A license issued to a person who is qualified for an Operator's License for a period of one (1) to fourteen (14) days, provided that the licensee is employed by or donating his or her services to a non-profit corporation. The period of time for which a Temporary License shall be valid shall be stated on the license and no person may hold more than one (1) Temporary License per year.

(O) **Non-intoxicating Beverages.** Beverages containing less than one half of one percent (0.5%) of alcohol by volume as defined in §66.0433, Wis. Stats.

(P) **Outdoor Area.** Shall mean that area adjacent the principal licensed building, not intended for year-around use, including decks and patios.

(Q) **Ordinance.** Shall mean ordinances of the Town of Somers.

(R) **Officer.** A sheriff, constable or other law enforcement officer, or any employee of the Department of Revenue or the Department of Justice authorized to act under Chapter 125 of the Wisconsin Statutes.

(S) **Permit.** Any permit issued by the Department of Revenue under Chapter 125 of the Wisconsin Statutes for any premises or person and permit issued by the Department of Revenue shall be subject to all the provisions of this ordinance as a licensee.

(T) **Person.** A natural person, sole proprietorship, partnership, limited liability company, corporation or association.

(U) **Premises.** The area limited to that described in a license or permit issued pursuant to this chapter.

(V) **Principal Business.** Shall mean the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to the business activity and analyzing sources of net income and gross income, together with consideration of the name, appearance and advertising.

(W) **Restaurant.** Any building, room or place where meals or lunches are prepared, served or sold to transients or the general public, and all places used in connection therewith as defined in §254.61(5), Wis. Stats.

(X) **Retailer.** Any person who sells, or offers for sale, any alcohol beverages to any person other than a person holding a permit or license under this ordinance.

(Y) **Statute or Regulation.** Shall mean any Federal or State law, rule, regulation, or administrative regulation other than this ordinance, relating to the sale or use of alcoholic beverages.

(Z) **Sell, Sold, Sale or Selling.** Any transfer of alcohol beverages for a consideration or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for of the sale for future delivery of alcohol beverages.

(AA) **Town.** The Town of Somers.

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

11.03 FEES.

Unless otherwise indicated, fees for licenses issued under this ordinance shall be as follows, plus an additional Five (\$5.00) Dollars for records check:

- (A) Class "A" Fermented Malt Beverage Retailer's License – \$100.00
- (B) "Class A" Intoxicating Liquor Retailer's License – \$500.00
- (C) Class "B" Fermented Malt Beverage Retailer's License – \$100.00
- (D) "Class B" Intoxicating Liquor Retailer's License – \$500.00
- (E) Class "C" Wine License – \$ 75.00

Premises licenses issued for less than twelve (12) months shall be prorated according to the number of months for which the license is issued.

- (F) Transfer of Premises License – \$10.00
- (G) Operator's License (2 Year. Period) – \$30.00
- (H) Provisional License – \$10.00
- (I) Temporary License (Special Events) – \$10.00

11.04 STATE STATUTES ADOPTED.

The provisions of Ch. 125, Wis. Stats., relating to the sale of alcohol beverages, except §125.56(2), §125.60, §125.61, and §125.66(3), Wis. Stats., exclusive of any provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this ordinance by reference. A violation of any of such provisions shall constitute a violation of this ordinance.

11.05 LICENSES REQUIRED.

(A) **Premises.** No person except as provided in §125.06, Wis. Stats., 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 as provided in this ordinance, nor without complying with all the provisions of this ordinance and all statutes, ordinances and regulations of the State and Town applicable thereto (See including, but not limited to, §125.04, Wis. Stats.)

(B) **Operator's License.** Class "A", Class "B", or Class "C" premises. No premises operated under a Class "A", Class "B" or Class "C" License may be opened for business unless there is upon the premises, either the licensee, the agent named in the license if the licensee is a limited liability company or corporation, or some person who has an Operator's License and is responsible for the acts of all persons selling or serving any fermented malt beverages, intoxicating liquors or wine to customers. For the purpose of this section, any member of the licensee's immediate family, if the licensee is an individual, who has attained the age of eighteen (18) years, shall be considered the holder of an Operator's License. No person, including the licensee's immediate family, other than the licensee or agent, may serve or sell alcohol beverages in any place operated under a Class "A" or Class "B" License, or under a Class "C" License or permit, unless said person has an Operator's License or is at least eighteen (18) years of age and is under the immediate supervision of the licensee, permittee, or agent, or a person holding an Operator's License, who is on the premises at the time of the service. No person may permit another to use his or her license or permit to sell alcohol beverages. The training course requirements of §125.17(6), Wis. Stats., shall be applicable to all license applicants.

- (1) All annual Operator's Licenses shall expire on June 30th.

(2) Provisional and Temporary Licenses are subject to §11.02(N)(2) and (3).

(C) **License Application.**

(1) **Form.** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on forms prescribed by the State Department of Revenue and filed with the Town Clerk. The fee prescribed for such license shall accompany the application. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall. Applications shall be signed and sworn to by the applicant as provided by §887.01, Wis. Stats. Upon approval, a duplicate copy of each application shall be forwarded by the Town Clerk to the State Department of Revenue.

(2) **Subsequent Changes.** If any fact given in an application subsequently changes, the licensee shall, within ten (10) days, file a notice in writing of such change with the Clerk.

(D) **License Investigation.** Each application for license whether an initial application or renewal thereof, shall be subject to investigation by the Sheriff or other law enforcement agency, who shall render such report to the Town Board, and to inspection of the premises by the Building Inspector and the Fire Chief.

(1) Inspection officials shall, when requested by the Board, furnish in writing the information derived from such investigation accompanied by a recommendation as to whether the license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as originally required. In determining the suitability of an application, consideration should be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and the premises, and the general fitness of the applicant.

(2) Inspections required by this section for either initial or renewal applications shall be made by the appropriate officials as soon possible after applications or complaints are filed with the Clerk. In the event that applications for renewal which are not timely made or applications for licenses which shall become effective during the licensing year, but after July 1st may be granted by the Board, but not issued by the Clerk until the required inspections have been made and favorable reports filed with the board. If such reports shall be satisfactory, the Board shall instruct the Clerk to issue the license.

(3) The results of the investigation by the Sheriff or other law enforcement agency, together with the results of the inspections performed by the Building Inspector and Fire Chief shall be reviewed by the Town Board for compliance with

§125.04, Wis. Stats., and §11.06 of these ordinances. The Town Chairperson may appoint one (1) or more members of the Town Board to act as a committee to review the results of the investigation and inspections and to make a recommendation to the Board.

(4) No license application shall be considered for action by the Town Board unless all investigations and inspections have been completed and the results of the same received by the Town Board no later than 12:00 noon on the Friday preceding the Board meeting at which action on the application is contemplated.

11.06 QUALIFICATIONS FOR LICENSES.

(A) **Natural Persons.** Licenses relating to alcohol beverages issued under this ordinance, to natural persons may be issued only to persons who fulfill all of the following requirements:

- (1) Do not have an arrest or conviction record subject to §111.321, §111.322, §111.335, and §125.12(1)(b), Wis. Stats.
- (2) Have been residents of the State continuously for at least ninety (90) days prior to the date of application.
- (3) Have obtained legal drinking age.
- (4) Have submitted proof of sales tax certificate.
- (5) Have completed within two (2) years prior to the date of application, a responsible beverage server training course consistent with §125.04(5), Wis. Stats.

(B) **Criminal Offenders.** No license related to alcohol beverages may, subject to §111.321, §111.322, §111.335, Wis. Stats., shall be issued under this ordinance to any natural person who has been a habitual law offender or has been convicted of a felony unless the person has been duly pardoned.

(C) **Corporations and Limited Liability Companies.** No license or permit may be issued to any corporation or limited liability company unless that entity meets the qualifications under §11.06(A)(1) and (4), above, and unless the agent of the entity appointed under these ordinances and applicable provisions of the Wisconsin Statutes and the officers and directors, or members or managers, of the entity meet the qualifications under §11.06(A)(1) and (3), above, and unless the agent of the entity appointed meets the qualifications under §11.06(A)(2) and (5), above. The requirement that the entity meet the qualifications under §11.06(A)(1) and (B) does not apply if the entity has terminated its relationship with all of the individuals whose actions directly contributed to the conviction(s).

(D) **Investigation.** No license under this ordinance shall be issued to any person or

entity until a satisfactory investigation of licensee's application has been made and action has been taken pursuant to §11.05(D)(3) of these ordinances.

(E) **Violators of Alcohol Beverage Laws or Ordinances.**

(1) No retail Class "A", "B" or "C" Licenses shall be issued to any person who has been convicted of a violation of any Federal or State intoxicating liquor, or fermented malt beverage law or the provisions of this ordinance during a period of one (1) year prior to such application. A conviction of a member of a partnership or the partnership itself shall make the partnership or any member thereof ineligible for such license for a period of one (1) year.

(2) A Corporate License or Limited Liability Company License will be subject to requirements of §125.04(5)(c), Wis. Stats.

(F) **Delinquent Taxes, Fees, Assessments and Utility Bills.** No license shall be issued or renewed to any person or for any premises where any Town personal property tax, assessments, forfeitures and fines, Town utility bills or any other amount due to the Town or its utilities are delinquent and unpaid.

(G) **Operator's Licenses.** No Operator's License shall be issued to persons who fail to fulfill all of the following requirements:

(1) Do not have an arrest or conviction record subject to §111.321, §111.322, §111.335 and §125.12(1)(b), Wis. Stats.

(2) Are at least eighteen (18) years of age.

(3) Have completed within two (2) years prior to the date of application, a responsible beverage server training course consistent with §125.04(5), Wis. Stats. This subparagraph (3) shall not apply to applicants for temporary Class "B" Licenses under §125.26(6), Wis. Stats., who are not required to hold a seller's permit under subchapter III of Chapter 77 of the Wisconsin Statutes or to applicants for temporary "Class B" Licenses under §125.51(10), Wis. Stats., who are not required to hold a seller's permit under subchapter III of Chapter 77.

(4) The applicant shall not be a habitual law offender or a convicted felon unless the applicant has been duly pardoned.

11.07 LICENSING -- GENERALLY.

(A) **Form And Expiration of Licenses.** All licenses shall be numbered in the order in which they are issued and shall state clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the licensee and unless sooner revoked, shall expire on June 30 thereafter.

The Clerk shall affix the affidavit as required by §125.04(4), Wis. Stats.

(B) **Transfer of Licenses.**

(1) No license shall be transferred from place to place or from person to person except as provided by §125.04(12), Wis. Stats.

(2) If the licensee shall die, his administrator may continue or sell the business. If there is a sale, however, the purchaser must obtain a new license and must qualify as any other applicant.

(3) If any applicant should die during the pendency of his application, his administrator may nominate a successor who must, however, qualify and be subject to all the requirements imposed by law for such license.

(4) No license shall be transferred to any applicant who has procured the surrender and conditional cancellation of another such license from a holder where such license which has been conditionally surrendered is in jeopardy due to any pending legal proceeding which has been commenced for the purpose of revoking or suspending such license, and further providing that the licensee who is surrendering the license to be transferred is not indebted to any licensed wholesaler in violation of the credit restrictions set forth in §125.33(7) and §125.69(4), Wis. Stats. Any person desiring to transfer a license shall be required to show full proof of payment of any personal property tax for personal property utilized at the premises to which the conditionally surrendered license is issued, based on a current tax bill, if available, if not, applicant shall be required to show proof of payment into an escrow account with the Town, in an amount equal to the prior years mill rate times the current year's assessed valuation. Furthermore, no such conditionally surrendered license shall be transferred unless and until any other fines, fees, or charges owed to the Town have been paid in full.

(C) **Inactive Licenses Prohibited.** Within one hundred twenty (120) days from the issuance of a "Class A" Intoxicating Liquor License, "Class B" Intoxicating Liquor License, Class "A" Fermented Malt Beverage License, Class "B", Fermented Malt Beverage License, or a Class "C" License, the licensee shall be open for business with adequate stock and equipment. In the event of said licensee's failure to commence business within such time, said license shall be subject to revocation by the Board after a public hearing. The Board may, upon application of the licensee and for good cause shown by the licensee, extend the time for an additional period of time. Any premises which shall be issued a "Class A" Intoxicating Liquor or Class "A" Fermented Malt Beverage License or a "Class B" Intoxicating Liquor or Class "B" Fermented Malt Beverage License, or a Class "C" License, who, after being issued a license, shall cease doing business or fail to remain active in said licensed business for a period of ninety (90) days, shall be subject to revocation as set forth in this section.

(D) **Posting And Care of Licenses.** Every license issued under this chapter shall be posted and at all times displayed as provided in §125.04(10), Wis. Stats. No person shall post such license

or permit any other person to post it upon the premises other than those mentioned in the application, or knowingly deface or destroy such license.

(E) **Outside Activity Area.**

(1) An alcohol beverage license granted by this ordinance shall not include sales or activities outside of the principal building unless such outside area is specifically included as part of the license or unless a special permit extension is issued by the Town Board. Any such special permit shall be restricted to such terms and conditions as the Board shall determine after considering the particular location of the outdoor premises in relation to neighboring residences, buildings or structures. This section shall be applicable to gardens, decks and patios. Any special permits shall include the hours during which the outdoor activity will be permitted, and any other conditions including fencing, insurance and quantity and type of artificial lighting. There shall be no music or entertaining performances to be held on the outside premises unless specifically permitted as provided herein. Each permit for outside activity shall be determined on a case by case basis and with rules, regulations and conditions as determined by the Board for the particular location.

(F) **Statutory Requirements.** Class "A", "B" and "C" Licenses shall be issued only to persons eligible therefor as set forth in §125.04(5)(7) and §125.33(3)(b), Wis. Stats.

(G) **Location.**

(1) Unless waived by majority vote of the Town Board, no retail Class "A" or Class "B" License may be issued for premises, the main entrance of which is less than three hundred (300') feet from the main entrance of any public school, parochial school, hospital or church, The distance shall be measured by the shortest route along a highway from the closest point of the main entrance of such school, church or hospital or main entrance of the premises covered by the license. This prohibition shall not apply to any of the following:

(a) Premises covered by a license or permit prior to the occupation of real property within three hundred (300') feet by any school, hospital or church building.

(2) There shall be no Class "B" Fermented Malt Beverage License issued to any premises unless it shall be a combination of a "Class B" Intoxicating Liquor License, except that the Board may, in its discretion and subject to quota restrictions of this ordinance, grant a Class "B" Fermented Malt Beverage License to any restaurant in the Town. The term "restaurant" shall be the same as defined in §11.01(W).

(H) **Health And Sanitary Requirements.**

(1) No Class "B" Fermented Malt Beverage License, "Class B" Intoxicating Liquor License or Class "C" License shall 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 regulations of the State Department of Health and Social Services applicable to restaurants and to all such ordinances and regulations adopted by Kenosha County. In the event that there shall be a health and sanitary complaint issued after a license is issued, the licensed premises shall be subject to suspension until the premises shall be brought into compliance.

(I) **Class "A" Combination Licenses Required.**

(1) No person shall hold a "Class A" Intoxicating Liquor License unless said licensee also holds or has been issued a Class "A" Retail Fermented Malt Beverage License. Loss of a Class "A" Fermented Malt Beverage License by suspension, revocation or non-renewal shall automatically suspend, revoke or non-renew a "Class A" Intoxicating Liquor License.

(J) **Restriction on Fermented Malt Beverage License.**

(1) Class "A" Fermented Malt Beverage Licenses shall be issued only to "Class A" Intoxicating Liquor establishments or to persons who shall operate and continue to operate a retail grocery store.

(K) **Separation of Licensed Premises.**

(1) There shall be no "Class A" Intoxicating Liquor License and Class "B" Combination Intoxicating Liquor and Fermented Malt Beverage License or Class "C" Liquor License issued for the same or connecting premises.

(2) No premises operating under a Combination Class "A" Intoxicating and Fermented Malt Beverage License shall be conducted in connection with any other business on the same premises, unless the area from which the intoxicating liquor is sold, shall be arranged and constructed in such a manner as to permit and facilitate the area to be securely closed during the hours and times specified by Wisconsin Statutes.

(3) No Class "A" Malt Beverage License or "Class A" Intoxicating Liquor License shall be granted for any premises not located on street level.

(4) Except in the case of hotels, no person may hold a Class "A" License and either a Class "B" License or permit and Class "B" or Class "C" License for the same premises or for connecting premises, except for hotels, if either type of license or permit is issued for the same or connecting premises already covered by the other type of license. The license last issued is void. If both licenses or

permits are issued simultaneously, both are void.

(5) A Class "C" License may be granted for a restaurant under the following conditions:

(a) The total sales of alcohol beverages accounts for less than fifty (50%) percent of gross receipts.

(b) The restaurant does not have a barroom as defined in §125.53(3m), Wis. Stats.

(c) The quota set forth herein prohibits the Town from granting a Class "B" License.

(d) A Class "C" License may not be issued to a foreign corporation or a person acting as agent for, or in the employ of another.

(L) **License Quotas.**

(1) There shall be a quota of the number of licenses issued, divided by the population of the Town as determined by the Department of Administration for Revenue Sharing Distribution.

(2) "Class A" Retail Intoxicating Liquor Licenses shall be whichever is the greatest; one (1) license for each one thousand two hundred fifty (1,250) population or fraction thereof, or the number of licenses granted as of the 1st day of July, 1978.

(3) Class "A" Retail Fermented Malt Beverage Licenses shall be whichever is the greatest; one (1) license for each one thousand (1,000) population or fraction thereof, or the number of licenses granted as of the 1st day of July, 1978.

(4) In computing the number of licenses which may be granted under the above limitations, the Board shall not consider or count those licenses or applicants for such a license that have been granted or hold a "Class A" Intoxicating Liquor License. Upon the surrender or revocation of a "Class A" Intoxicating Liquor License issued for any premises, the Class "A" Fermented Malt Beverage License for such premises shall be automatically revoked unless the licensee held a Class "A" Fermented Malt Beverage License on the 1st day of July 1978.

(5) "Class B" Intoxicating Liquor. Section 125.51 (4), Wis. Stats., relating to quotas for "Class B" Retail Intoxicating Liquor Licenses is hereby adopted as if set forth in full in this provision.

11.08 RESTRICTIONS FOR UNDERAGE PERSONS.

(A) Sales of Alcohol Beverages.

- (1) No person may procure for, sell, dispense or give away any alcohol beverages to any underage person, not accompanied by his or her parent, guardian or spouse who has attained legal drinking age.
- (2) No licensee or permittee shall sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained legal drinking age.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol by an underage person on premises owned by the adult or under the adult's control. This section does not apply to alcohol beverages used exclusively as part of a religious service.
- (4) No adult may intentionally encourage or contribute to the violation of underage prohibitions set forth in subsection (2).

(B) Presence in Places of Sale.

- (1) An underage person not accompanied by his or her parent, guardian, or spouse, who has attained legal drinking age may not enter, knowingly attempt to enter, or be in any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose, except for the transaction of business pertaining to licensed premises, with or for the licensee or his or her employee. The business may not be amusement, or the purchase, receiving or consumption of edibles or beverages, or similar activities which normally constitute activities to a customer on the licensed premises.
- (2) This restriction does not apply to:
 - (a) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the licensee of which the licensed premises is a part.
 - (b) An underage person who enters or is on a Class "A" premises for the purpose of purchasing items other than alcohol beverages. Such underage person may not remain on the premises after the purchase.
 - (c) Hotels, drugstores, grocery stores, bowling centers, service stations and regularly established athletic fields.
 - (d) Ski chalets, golf courses and club houses, race tracks licensed

under Chapter 562 of the Wisconsin Statutes, curling clubs and private soccer and tennis clubs.

(e) Premises operated under both a Class "B" or Class "C" License and a restaurant permit where principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or Class "C" License and a restaurant license, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

(C) **Underage Persons Prohibitions.** Any underage person who does any of the following is guilty of a violation:

(1) Procures or attempts to procure alcohol beverages from a licensee or permittee.

(2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.

(3) Enters, knowingly attempts to enter, or is on licensed premises in violation of subsection (2) above.

(4) Falsely represents age for the purpose of receiving alcohol beverages from a licensee or permittee.

(5) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, and who knowingly possesses or consumes alcohol beverage, except that this section shall not apply to an underage person who possesses alcohol beverages during the course of employment, during his or her working hours, if employed by any of the following: a brewer, fermented malt beverage wholesaler, a retail license establishment, for the delivery of unopened containers to a home or vehicle of a customer.

(6) Intentionally carries an official identification card not legally issued to him or her, or an official identification card obtained under false pretenses, or one which has been altered or duplicated to convey false information.

(D) **Defense of Sellers.** Proof of all of the following facts by seller of alcohol beverages to an underage person is a defense to any prosecution for violation of this section:

(1) That the person falsely represented in writing and supported by other documentary proof that he or she had attained the legal drinking age.

(2) That the appearance of the purchaser was such that an ordinary and

prudent person would believe that the purchaser had attained the legal drinking age.

(3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

(E) **Registration Book.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purposes of this section. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that the person has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

(F) **Penalties For Violation.** Penalties and suspensions for violation of this section relating to underage persons as restricted by §125.07, Wis. Stats., as follows:

- (1) Sales of alcoholic beverages, see §125.07(4b), Wis. Stats.
- (2) Presence in place of sale, see §125.07(3)(12)(b), Wis. Stats.
- (3) Underage persons prohibition, see §125.07(4), Wis. Stats.

11.09 PREMISES, REGULATIONS & RESTRICTIONS.

(A) **Closing Hours.** No premises for which an Intoxicating Liquor or Fermented Malt Beverage License has been issued shall remain open for the sale of such alcohol beverages during the hours hereinafter set forth.

- (1) Class "A" Fermented Malt Beverage License between the hours of 12:00 midnight and 8:00 a.m.
- (2) "Class A" Intoxicating Liquor License, between the hours of 9:00 p.m. and 8:00 a.m.
- (3) Class "B" Fermented Malt Beverage License on premises consumption, between the hours of 2:00 a.m. to 6:00 a.m., Monday through Friday, and 2:30 to 6:00 a.m. on Saturday and Sunday, except no fermented malt beverage for off-premises consumption may be sold between the hours of 12:00 midnight and 6:00 a.m.
- (4) "Class B" Intoxicating Liquor License between the hours of 2:00 a.m. to 6:00 a.m., Monday through Friday and 2:30 a.m. to 6:00 a.m., Saturday and Sunday, except no intoxicating liquor for off-premises consumption may be sold

between the hours of 12:00 midnight and 6:00 a.m., except that on January 1, Class "B" fermented malt beverage and "Class B" Intoxicating Liquor License establishments are not required to close for on-premises consumption. However, the midnight to 6:00 a.m. rules shall apply for the sale of alcohol for off-premises consumption.

(5) Class "C" Wine License between the hours of 2:00 a.m. and 6:00 a.m., Monday through Friday, and 2:30 a.m. to 6:00 a.m., Saturday and Sunday, and are not required to close on January 1.

(B) **Disorderly Conduct And Gambling Prohibited.** Each licensed premises shall at all times be conducted in an orderly manner and no boisterous, disorderly, riotous or indecent conduct shall be allowed or permitted at any time.

(1) Gambling shall not be permitted except as authorized by State Statutes.

(2) This section shall also include conduct on the premises and all other areas, including parking lots, adjacent to and under the control of the licensee.

(C) **Performances.** No person shall perform any of the following acts in any premises licensed under this chapter:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law.

(2) The actual or simulated displaying of pubic hair, anus, vulva or genitals. Clothing or costumes worn by females shall be of non-transparent material and must encircle the body and the areola of the breast must be completely covered. The lower portion of the costume must completely cover the mons pubis and the cleavage of the buttocks; costumes worn by males must completely cover pubic hair, genitals and buttocks.

(D) **Sales by Clubs.** No club shall sell intoxicating liquors or fermented malt beverages except to members and guests invited by members.

(E) **Sales to Intoxicated Persons.** No licensee or permittee shall sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated, or to sell or give away to any known habitual drunkard.

(F) **Solicitation of Drinks Prohibited.** No person shall solicit or be allowed to solicit drinks on a licensed premises, parking lots or adjacent areas under the control of the licensee.

(G) **Cabaret License.** No licensee shall permit any dancing, live music performances, or by transcription, or other live entertainment which shall include amateur talent contests or

any other acts or stunts without first obtaining a Cabaret License.

(H) **Removal of Alcohol Beverages.** No person shall be permitted to remove any alcohol beverage in any open glass, can or container beyond the licensed premises. This provision shall not prevent the sale of intoxicating liquor package form, intended or appropriate for off premises use beyond the licensed premises, to be sold to any person provided that any container of alcohol shall not be opened until moved from the premises.

11.10 REVOCATIONS, SUSPENSIONS OR NON-RENEWALS.

Upon the filing of a complaint and in accordance with the procedures stated in §125.12, Wis. Stats., which is incorporated herein by reference, a license issued by the Town may be revoked or suspended or an existing license may be non-renewed or a new application may be denied.

11.11 EFFECT OF REVOCATION OF LICENSE.

Whenever any license issued for a premises shall be revoked by the Town Board, there shall be no license issued for the same premises for at least six (6) months from the date of such revocation. Whenever any license (either sale or operator's) shall be revoked by the Town Board, no license shall be issued to such person for a period of one (1) year from date of revocation. Suspensions and revocations shall be in addition to and not in lieu of other penalties set forth in this ordinance.

11.12 POSSESSION ON SCHOOL GROUNDS.

(A) **Prohibited.** Except as provided herein, no person shall 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.
- (3) While participating in school sponsored activities.

(B) **Exceptions.** Alcohol 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 and ordinances.

(C) **Definitions.** In this section, terms shall have the meanings prescribed below:

- (1) **Motor vehicle.** A motor vehicle owned, rented or consigned to a school.

(2) **School.** A public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(3) **School administrator.** The person designated by the governing body of a school as being ultimately responsible for the ordinary operations of a school.

(4) **School premises.** Premises owned, rented or under the control of a school.

11.13 PENALTIES AND FORFEITURES.

(A) **General Penalties.**

(1) Any person who shall be convicted of a violation of this ordinance for which there is not a specific penalty set forth herein, upon conviction, shall be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars for a first offense, together with costs of prosecution and not less than Five Hundred (\$500.00) Dollars nor more than One Thousand (\$1,000.00) for a second offense within one (1) year, together with cost of prosecution and in the event of failure to pay such fines and costs, shall be imprisoned in the County Jail, not to exceed thirty (30) days, each day of violation shall be a separate offense. Any forfeiture shall be in addition to any suspension by a court or §11.11 of this ordinance. In addition, any license or permit issued to a person who commits a violation of this ordinance may be revoked by a court or after notice by the Town Board.