

ORDINANCE NO. 2025-01

AN ORDINANCE TO REPEAL AND RECREATE CHAPTER 12 ENTITLED "LICENSES AND PERMITS," SECTION 13 ENTITLED "INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES" OF THE VILLAGE OF PALMYRA MUNICIPAL CODE

WHEREAS, the Village of Palmyra does currently regulate alcohol beverage licensing and permitting in the Village of Palmyra; and

WHEREAS, Chapter 125 of the Wisconsin State Statutes governs the production, storage, distribution, transportation, sale, and consumption of alcohol beverages; and

WHEREAS, Section 125.10(1) of the Wisconsin State Statutes permits any municipality to incorporate into its Municipal Code any portion of Chapter 125; and

WHEREAS, Section 125.10(1) also permits any municipality to adopt additional regulations for the sale of alcohol beverages, so long as the regulations are not in conflict with Chapter 125; and

WHEREAS, the Wisconsin Legislature recently adopted significant changes to Wisconsin Statutes Chapter 125 with 2023 Wisconsin Act 73; and

WHEREAS, the Village Board of the Village of Palmyra finds that incorporating and adopting the updated regulations for alcohol beverages promotes the health and safety of the Village of Palmyra residents and is in the best interest of the Village of Palmyra residents.

NOW THEREFORE, The Village Board of the Village of Palmyra, Jefferson County, Wisconsin, Does Hereby Ordain as Follows:

SECTION 1: Chapter 12 Entitled "Licenses And Permits," Section 13 Entitled "Intoxicating Liquor and Fermented Malt Beverages of the Village of Palmyra Municipal Code is hereby repealed and re-created as depicted in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 2: CONTINUATION OF EXISTING PROVISIONS

The provisions of this ordinance, to the extent that they are substantively the same as those of the ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances. In addition, the adoption of this ordinance shall not affect any action, prosecution or proceeding brought for the enforcement of any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance for the time that such provision was in

effect, and the repeal of any such provisions is stayed pending the final resolution of such actions, including appeals.

SECTION 3: SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE

This ordinance shall take effect and be in full force immediately upon passage and posting or publication as provided by law.

Dated this 7th day of April, 2025

VILLAGE OF PALMYRA

Kathy Weiss
Kathy Weiss, Village President

ATTEST:

Laurie Mueller
Laurie Mueller, Village Clerk

Published and posted this 18 day of April, 2025

EXHIBIT A

12.13 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES. (Rep. & recr. # 2020-04)

- (1) STATE STATUTES ADOPTED. The current and future provisions of Chapter 125, Wis. Stats., defining and regulating the types, sale, procurement, consumption, dispensing, and transfer of alcohol beverages, as well as provisions dealing with the suspension and revocation of alcohol beverage licenses and permits and including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein, are intended to be made part of this Ordinance in order to secure uniform statewide regulations of alcohol beverages in this State.
- (2) BASIC REQUIREMENTS.
- (a) Occupancy Permit and/or Approved Plan of Operation Required. No person on any licensed or permitted premises shall conduct any transactions regulated by this Ordinance unless a licensee or permittee holds a valid Occupancy Permit and/or an approved Plan of Operation, as may be required, issued by the Village. The Occupancy Permit and/or approved Plan of Operation shall be specific in detail as to what area of the premises shall be licensed or permitted for the sale of alcoholic beverages. Failure to hold any required Occupancy Permit or to have any required Plan of Operation or any violation of any required Occupancy Permit or any required Plan of Operation are grounds for suspension or revocation of any license or permit issued under this Chapter.
- (b) Wisconsin Seller's Permit Required. No person on any licensed or permitted premises shall conduct any transactions regulated under this section unless a licensee or permittee holds and maintains a valid Wisconsin Seller's Permit as required under §77.52 Wis. Stats., issued to the premises and licensee or permittee described in the license or permit during the period of licensing or permitting. Failure to hold a valid Wisconsin Seller's Permit or any violation of a Wisconsin Seller's Permit are grounds for suspension or revocation of any license or permit issued under this Chapter.
- (c) Separate License Required for Each Place of Sale. Except for licensed public warehouses, a license shall be required for each location or premises where alcohol beverages are stored, sold or offered for sale. See §125.04(1), Wis. Stats.
- (3) APPLICATIONS. A written application for any license or permit by the provisions of this Ordinance shall be on the form(s) provided by the Municipal Clerk.
- (a) Content. All applications other than operator's licenses shall contain all the information required under Section 125.04(3), Wis. Stats., and any other information required by the Municipal Clerk. Operator's license applications shall be on a form prescribed by the Municipal Clerk containing all information deemed necessary, including but not limited to name, residence, age, plus a written request of the holder of the alcohol beverage license hiring the applicant. The premises shall be physically described, including every room and storage space to be covered by the license and 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.

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- (b) Filing. All applications for licenses and permits to sell alcohol beverages shall be filed with the Village Clerk as required by State law. Operator's licenses and licenses issued under Section 125.26(6), Wis. Stats., for a picnic or other gathering lasting less than four (4) days must be filed with the Clerk at least 24 hours prior to granting of the license or permit.
- (c) List of Licensees. By July 15 of each year, the Clerk shall forward to the State Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager's or operator's license.
- (4) FEES.
- (a) Licenses and permits may be issued by the Municipal Clerk under the authority of the Village Board after payment of the appropriate fees and satisfaction of all conditions, which when so issued shall permit the holder to sell, deal or traffic in alcoholic beverages as provided in Chapter 125.
- (b) Any applicable publication fee and/or application fee and/or investigation fee shall be submitted with the license or permit application as established in paragraph (d) below.
- (c) The fees for licenses or permits which are not granted shall be refunded after deducting the application fee and all actual publication fees and investigation fees.
- (d) Fees for partial licensing or permitting years must be prorated if required by Chapter 125, Wis. Stats.. In all cases when an alcohol beverage license or permit is issued for a partial year, a minimum fee of \$25.00 and all actual publication fees and investigation fees must be paid.
- (e) Once any license or permit is issued, no return of any payment shall be made regardless of whether the license or permit is used for the entire year.
- (f) Fees for the following licenses shall be established by the Village Board from time to time by separate Resolution, provided that the fee shall be in an amount approved in Chapter 125 Wisconsin Statutes:
1. Class "A" Fermented Malt Beverages License.
 2. "Class A" Intoxicating Liquor License.
 3. "Class A" Liquor (Cider Only).
 4. Class "B" Fermented Malt Beverages License.
 5. Class "B" Picnic License under §125.26(6), Wis. Stats.
 6. "Class B" Intoxicating Liquor License.
 7. The fee for a reserve "Class B" liquor license shall be \$10,000.00 for initial issuance.
 8. "Class C" Wine License.
 9. Operators' License - Operator licenses shall be issued for not less than a 13-month, nor more than a 24-month period expiring on June 30.
 10. Provisional Operator License.
 11. Transfer from One Premises to Another.
 12. Temporary Operator License.

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13. Publication Fee - See §§985.08, 125.04(3)(g)(6), Wis. Stats.
 14. Investigation Fee.
 15. Booklet Fees.
 16. Program Fees.
 17. Application Fee.
 18. Cigarette and Tobacco Retailer License.
- (5) INVESTIGATION. Upon receipt of a license application under the provisions of this Ordinance, the Municipal Clerk shall forward a copy of the application to the appropriate persons to conduct an investigation of the applicant(s) as set forth below.
- (a) All Alcoholic Beverage Licenses. The Police Department, Fire Department, Health Department, and Building Inspector and other persons authorized, may conduct an investigation and inspection of the premises mentioned in the applications, to determine if the premises comply with all applicable regulations, ordinances and laws. The Village shall investigate all persons included in the application to determine the suitability and character of the applicants.
 - (b) Operator's Licenses. The Village shall conduct an investigation of all applicants to determine the suitability and character of the applicant.
 - (c) Reports. Upon completion of all investigations, written reports shall be submitted to the Municipal Clerk. The Clerk will then forward the application to the Village Board for action, if such action is necessary in accordance with Village Operator License approval policy.
 - (d) Review. The Village Board may refer any and all licenses to the appropriate committee for review and recommendation prior to action by the Village Board.
- (6) OPERATOR'S LICENSE.
- (a) Kinds of Licenses and Permits.
 1. Regular Operator's License. Regular operator's licenses may be granted to individuals by the Village Board and thereafter issued by the Municipal Clerk for the purposes of complying with Sections 125.32(2) and 125.68(2), Wis. Stats., and this Chapter.
 - a. Written Application. Operator's licenses may be issued only on written application on forms provided by the Clerk/Treasurer.
 - b. Procedure upon Application.
 - i. Upon receipt of an application for an operator's license with the appropriate fees, the Village Clerk shall notify the Chief of Police who shall investigate or cause to be investigated each application. He shall furnish to the Village Board the information derived from the investigation and a statement as to whether or not the applicant complies with the following standards:

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1. The applicant has not been convicted of 2 or more alcohol related offenses in the 3 years prior to the license application.
 2. The applicant is not a felon.
 3. The applicant has not been convicted of 2 or more non-traffic State or municipal violations in the 3 years prior to the license application.
 4. The applicant is otherwise of sound moral character and is otherwise able to comply with all laws and regulations pertaining to sale of alcohol beverages.
- d. The Police Chief shall forward his report and the Clerk shall forward the completed application form of the applicant to the Village Board. If deemed a suitable applicant of at least 18 years of age, the Village Board may issue an operator's license. Operator's licenses shall be operative only within the limits of the Village.
2. Provisional Operator's License.
- a. The Village Clerk, upon authorization by the Village President, may issue a provisional operator's license to an applicant in case of a bona fide emergency. An emergency shall be caused by such things as death, disability, absence of the regular operator on the premises and the like. The Village President, before authorizing such issuance, shall determine that the applicant has a satisfactory record, and probably would be issued a regular operator's license. The license shall be valid for a period of not to exceed 60 days unless sooner revoked by the Village Board.
 - b. The Village Board or its authorized designee may issue a provisional operator's license to a person who is enrolled in a training course and has applied for a regular operator's license pursuant to Section 125.17(6), Wis. Stats.
 - c. No provisional license shall be issued to any person who has been denied an operator's license by the Village Board or has had his operator's or manager's license revoked or suspended within the preceding 12 months.
 - d. Provisional licenses shall not be renewed.
 - e. The Village Clerk may revoke the provisional license if he discovers that the holder of the license made a false statement on the application.
3. Temporary Operator's Licenses. Temporary operator's licenses may be granted to individuals pursuant to Section 125.17(4), Wis. Stats., by the Village Board for the purpose of allowing said individuals to dispense and serve alcohol beverages under a license issued under Section 125.26(6) or Section 125.51(10), Wis. Stats., to a non-profit organization. No person may hold more than one license of this kind per year. Any temporary operator's license issued under this section shall be valid for any period from one day to 14 days, and the period for which it is valid shall be on the license.
- a. The Village Board may grant operator's licenses pursuant to this section as it deems fit.
 - b. All operator's licenses issued under this section shall expire on June 30 of each year.

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- c. All operator's licenses issued under this section entitle the holder thereon to be an operator in any licensed premises in the Village.
 - d. A temporary operator's license will only be issued to those persons who have attained the age of 18.
- (7) **RESTRICTION ON GRANTING LICENSES.** The following restrictions are imposed on all license and permits issued by the Village as authorized by §125.10(1), Wis. Stats. In addition to any provision contained in this Chapter, failure to comply with the following restrictions are grounds for suspension or revocation of any license or permit issued under this Chapter.
- (a) Statutory Requirements. Licenses and permits shall be issued only to those persons eligible under Chapter 125, Wis. Stats. Licenses and permits granted in error shall be void.
 - (b) Health and Sanitation Requirements. No retail Class A or Class B alcohol beverage license shall be issued for any premises which does not conform to the sanitary safety and health requirements of the State of Wisconsin, Department of Industry, Labor, and Human Relations pertaining to buildings electrical and plumbing, to the rules and regulations of the State Department of Health and Social Services applicable to restaurants, if the premise is licensed to serve food, and to all such rules and regulations as to building, health and sanitation adopted by the Village, the County, the State or the Federal government.
 - (c) Delinquent Taxes, Assessments, Claims, et al.
 - 1. No initial or renewal alcohol beverage license shall be issued for any premises or property for which taxes, assessments, forfeitures, or claims for the Village are delinquent and unpaid, or if any violation of any Village Code exists.
 - 2. No initial or renewal license or permit shall be issued under this Code to any person who is:
 - a. Delinquent in the payment of any taxes, assessments, or other claims owed the Village.
 - b. Delinquent in the payment of a forfeiture resulting from the violation of any ordinance of the Village.
 - c. Delinquent in the payment of any taxes to the State or County.
 - 3. If at any time the premises, property, and/or person is delinquent in the payment of any taxes, assessments, fees, forfeitures, or other claims of the Village said delinquency shall be grounds for suspension or revocation of any license or permit issued under this Chapter.
 - (d) Location. No license shall be issued hereunder for any of the following premises:
 - 1. Any premises in a residential district.
 - 2. Any premises which does not comply with Section 125.68(3), Wis. Stats.
 - 3. No retail Class B license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises.

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4. This paragraph shall not apply to premises licensed as such on June 30, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.
- (e) Separate Premises or Limited Access Area. Every person, firm or corporation applying for a new or renewal of an existing Class "A" Fermented Malt Beverage License, a "Class A" Intoxicating Liquor License, a "Class A" Liquor (Cider Only) License, a combination Class "A" Fermented Malt Beverage License and "Class A" Liquor (Cider Only) License or combination Class "A" Fermented Malt Beverage License and "Class A" Intoxicating Liquor License shall submit to the Finance Committee and receive approval from the Village Board of a site plan and plan of operation with a diagram or photograph of the proposed or existing sale and display area for the intoxicating liquors and/or fermented malt beverages prior to the issuance of any such license(s). The Finance Committee shall review the proposed plan of operation and shall make a recommendation to the Village Board as to its approval or disapproval; in addition to other standards created for the issuance of liquor licenses set forth in this ordinance and the Wisconsin Statutes. The site plan and plan of operation shall be such as to ensure that minors do not have reasonable access to acquire intoxicating liquors and fermented malt beverages as well as satisfying the following requirements:
1. For Class "A" Fermented Malt Beverage Licensees, and Combination Class "A" Fermented Malt Beverage and "Class A" Liquor (Cider Only) Licensees one of the following is required:
 - a. An area must be designated for the display of intoxicating liquors and fermented malt beverages and; said area must be able to be closed off from reasonable access during the closing hours set forth in section 12.13(9)(e) and; the licensee location must have multiple employees on duty at all times while the store is open who are in a position to supervise the sale of the intoxicating liquors and fermented malt beverages and; the licensee shall provide a detailed security plan which will be subject to approval by the Director of Police Services to ensure that minors do not have reasonable access to acquire intoxicating liquors and fermented malt beverages; or
 - b. A partition between that portion of the premises used for display and sale of intoxicating liquors and fermented malt beverages and incidental sale of snacks and foods, and that portion of the premises used for sale and display of other merchandise so as to completely separate a self-service liquor department from other departments. Ingress and egress shall not be permitted between such department and other departments by the public except for emergencies; or
 - c. An area for sale and display of intoxicating liquors and fermented malt beverages access to which shall be limited to employees of the licensee only.
 2. For "Class A" Intoxicating Liquor Licensees, and Combination Class "A" Fermented Malt Beverage and "Class A" Intoxicating Liquor Licensees one of the following is required:
 - a. An area must be designated for the display of intoxicating liquors and fermented malt beverages and; said area must be able to be closed off from reasonable access during the closing hours set forth in section 12.13(9)(e); and

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- b. The licensee location must have 4 or more employees on duty at all times while the store is open who are in a position to supervise the sale and prevent the theft of the intoxicating liquors and fermented malt beverages; and
 - c. The licensee shall provide a detailed security plan which will be subject to approval by the Director of Police Services to ensure that minors do not have reasonable access to acquire intoxicating liquors and fermented malt beverages and to prevent theft of the beverages. To meet this standard a licensee must demonstrate to the Director of Police Services, layers of access control, accountability of personnel, and sufficient procedures for dealing with theft to minimize police service impacts from the same; and
 - d. A partition between that portion of the premises used for display and sale of intoxicating liquors and fermented malt beverages and incidental sale of snacks and foods, and that portion of the premises used for sale and display of other merchandise so as to completely separate a self-service liquor department from other departments and provide a detailed security plan, which will be subject to approval by the Director of Police Services to ensure that minors do not have reasonable access to acquire intoxicating liquors and fermented malt beverages and to prevent theft of the beverages. To meet this standard a licensee must demonstrate to the Director of Police Services, accountability of personnel, and sufficient procedures for dealing with theft to minimize police service impacts from the same. Ingress and egress shall not be permitted between such department and other departments by the public except for emergencies.
- (f) Quotas. The number of persons and places that may be granted a retail Class B liquor license under this section is limited as provided in §125.51(4), Wis. Stats and the number of persons and places that may be granted a Class A retail license for beer and intoxicating liquor within the Village under this section will be not more than five.
- (g) Age Requirement. No license hereunder, except an operator's license, shall be granted to any person who has not attained the legal drinking age. Operator's licenses may be issued only to applicants who have attained the age of 18.
- (h) Effect of Revocation of License. Whenever any license has been revoked, at least 12 months shall elapse before another license shall be granted to the person whose license was revoked.
- (i) Class B Licensed Premises to Be on Street Level. A retail Class B license shall be issued only for that portion of a premises located on the street level. This restriction shall not apply to a bona fide club, society or lodge in existence not less than 6 months prior to application nor prohibit any hotel holding a State permit from supplying beverages in original containers to bona fide patrons in rooms rented by such patrons.
- (j) Issuance for Sales in Dwellings Prohibited. No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverages in any dwelling house, flat or residential apartment.
- (8) **CONDITIONS OF LICENSE.** The following conditions are imposed on all license and permits issued by the Village as authorized by §125.10(1), Wis. Stats. In addition to any provision contained in this Chapter, failure to comply with the following conditions is grounds for suspension or revocation of any license or permit issued under this Chapter.

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- (a) Consent to Inspection. Every applicant obtaining a license thereby consents to the entry of the police or other authorized representatives of the Village or the State at any reasonable time for the purpose of inspection and search, and consents to the removal from said premises all things found in violation of Municipal Ordinances or State Law and consents to the introduction of such things as evidence in any prosecution that may be brought for such offenses.
- (b) Safety and Sanitation Requirements. Each licensed premises shall be maintained and conducted in a sanitary manner and shall be a safe and proper place for the purpose being used.
- (c) Sales by Operators Only. No person other than a Class "B" or "Class B" licensee or licensed operator or member of the licensee's immediate family living on the premises who is at least of age to consume alcoholic beverages shall serve any alcoholic beverages on any premises operated under a Class B license. The Village Board may grant an exception to this section to holder of six-month Class B Beer licenses issued under §125.26(5) and Class B Picnic licenses under §125.26(6) provided that such licensee shall have at least one licensed operator on the premises at all times who shall be responsible for supervising all persons dispensing fermented malt beverages under such licenses.
- (d) Sales on Credit Prohibited. No retail licensee shall sell or offer to sell any alcohol beverage to any person on credit except by a hotel to a resident guest, by a restaurant to a patron, a club to a bona fide member, and by grocers and pharmacists who maintain a credit system in connection with other purchases. No licensee shall sell alcohol beverages on a passbook or store order, or receive goods, wares, or merchandise in exchange for alcohol beverages.
- (e) Orderly Conduct Required. Every licensed premise shall be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed.
- (f) Gambling Prohibited. Gambling shall not be permitted on a licensed premises, unless authorized by State law. Slot machines or other devices of chance are prohibited and shall not be kept on the premises, unless authorized by State Law.
- (g) Lewd, Obscene Performances Prohibited. No licensee shall advertise, produce, perform or allow any lewd, obscene, or indecent performance of any kind on the premises.
- (h) Sale to Intoxicated Persons Prohibited. No licensee, agent, operator or server shall sell, give, procure or otherwise furnish any alcohol beverages to an intoxicated person.
- (i) Underage Persons. No licensee shall employ any underage person to serve, sell, dispense, or give away an alcohol beverage unless authorized by State Law or the General Codes of the Village. The current and future provisions of Section 125.10(2), Wis. Stats., and Sections 125.07(4)(a), (b) or (bm), and 125.09(2), are adopted and made a part of this section by reference. A violation of any such provision shall constitute a violation of this section. Any future amendments, revisions, modifications or additions of the statutes incorporated herein are intended to be made part of this ordinance in order to secure uniform statewide regulations of alcohol beverages in this state.
- (j) Controlled Substance Use Prohibited. Any licensee, partner, agent, authorized representative or employee who is convicted of the use, possession, delivery or intent to deliver, any controlled substance defined and regulated under Chapter 161, Wis. Stats., may be considered grounds for the revocation or suspension of any license provided for in this ordinance.

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- (k) Regulation of Entertainment and Entertainers. No Class B licensee shall employ or permit to perform on the premises any entertainer, except a member of a band, a vocalist, a piano or organ player or a comedian. All such entertainers shall be fully clothed in such a manner as is acceptable in all public places. No licensee shall allow any entertainment which makes an appeal to prurient interests. Dancing among patrons, but not between patron and employee is permitted upon permit and with the approval of location by the Fire Chief.
- (l) Solicitation of Drinks Prohibited. No person shall solicit or be allowed to solicit drinks on a licensed premises.
- (m) Sales by Clubs. No club shall sell alcoholic beverages except to members and to guests invited by members.
- (n) Identification Records. In accordance with §125.07(7) Wis. Stats., every retail Class A licensee shall cause a book to be kept by such licensee or their employee, or both, shall require any person who has shown documentary proof of age, who substantiates their age to allow the legal purchase of intoxicating liquor, to sign such book if the age of such person is questioned. The book shall show the date of purchase, the identification used in making the purchase, the address of the purchaser and their signature.
- (o) Sale of Beer in Disposable Bottles Restricted. No person required to hold a license under par. (2)(a) of this section, or anyone acting as agent or employee of such person, shall sell or, for the purpose of evading this section, give away fermented malt beverages contained in disposable bottles (bottles for which a return deposit is not required) between 6 p.m. and 8 a.m.
- (p) Posting and Care of Licenses. Every license or permit required under this section shall be framed and 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 premises other than those mentioned in the application, or knowingly deface or destroy such license.
- (q) Corporations. No corporation organized under the laws of this State, any other state or foreign country may be issued any alcohol beverage license or permit unless such corporation meets the requirements of §125.04(6), Wis. Stats.
- (r) Commercial Quadricycles. Subject to § 125.10(5)(b), the Village prohibits the consumption of fermented malt beverages by passengers on a commercial quadricycle within the Village.
- (s) Local Option. The holder of a Retail "Class B" Liquor License or on "Class C" licensed premises as authorized under s. 125.51 (3r) (a) shall be permitted to sell, deal and traffic in intoxicating liquors in the original packages or containers to be consumed off the licensed premises or containers if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. Off premises sales shall cease at midnight of each day. It is intended by this section that the packaged sales from Class "B" licensed premises will not be permitted after midnight under the option granted herein and further provided, however, that no single-container sale of fermented malt beverages can be made unless originally packaged as a single container or if a smaller package exists within a larger container.
- (t) Open Carry. No person shall possess an opened container of alcohol beverage or drink an alcohol beverage in any vehicle, alley, park, public street or other public place except at community functions

or events authorized by specific action of the Governing Body or public places for which a license or permit has been granted.

- (u) Municipal Ordinance Violations. Any license or permittee holder, who is convicted of violating any Village Ordinance, such violation is grounds for the revocation or suspension of the license or permit.
 - (v) False Information in an Application. If a person knowingly provides materially false information in an application for a license or permit under this Chapter or on a full-service retail outlet form, and if a person materially violates any representation made in an affidavit under §125.20(6)(a)6. or (c) 4. Wis. Stats., such action is grounds for the revocation or suspension of the license or permit.
 - (w) No-Sale Event Permits. If a property owner is issued a no-sale event permit by the Division of Alcohol Beverages, the property owner must inform the Village of the event, including the expected guest count, immediately upon issuance of the permit. The property owner shall provide the Village Clerk with a copy of the permit and must comply with all provisions of §125.09, Wis. Stats.
 - (x) Full Service Retail Location. The Village Board may, as a part of its approval process of a full-service retail location, include as conditions of approval any of the provisions of this Chapter and the Village's Zoning Code.
- (9) MISCELLANEOUS GENERAL PROVISIONS.
- (a) Transfer of Licenses.
 - 1. The transfer of every alcohol beverage license shall be governed by §125.04(12), Wis. Stats.
 - 2. No transfer of operator's license is permitted.
 - 3. If the transfer is approved by the Village Board pursuant to §125.04(12)4, Wis. Stats., all conditions set forth under this Code shall be complied with.
 - 4. Failure to conform with the terms of license transfer shall be grounds for denial, suspension or revocation of license.
 - (b) Non-Use of License or Permit. Non-use of a license or permit issued under this ordinance shall be grounds for cancellation, suspension, revocation or non-renewal of the license or permit in accordance with the provisions of this ordinance and the laws of Wisconsin in either of the following circumstances:
 - (1) The license or permit issued under this Chapter is not used within sixty (60) days after its issuance; or
 - (2) The license or permit issued under this Chapter's usage is discontinued for sixty (60) or more days in aggregate in any licensing year.
 - (c) Non-Renewal of License. Before renewal of any license or permit issued under this ordinance is refused, the licensee or permittee shall be given written notice of any charges or violations or reasons proposed for non-renewal, and shall have an opportunity to be heard before the Village Board.
 - (d) Violations by Agents and Employees. A violation of this ordinance by an authorized agent or employee of the licensee shall constitute a violation by the licensee.
 - (e) Closing Hours. Closing hours shall be as set by State Statute with the following applicable local options:

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1. If a wholesale license, between 5 p.m. and 8 a.m., except on Saturday when the closing hour shall be 9 p.m.
 2. If a Retail Class "A" Fermented Malt Beverage License, between midnight and 8 a.m.
 3. If a Retail "Class A" Intoxicating Liquor License, between 9 p.m. and 8 a.m.
 4. If a Retail Class B License, between 2 a.m. and 6 a.m. weekdays, and between 2:30 a.m. and 6 a.m. Saturdays and Sundays. On January 1, premises operating under a Class B license are not required to close. No package, container or bottle sales may be made after midnight.
 5. Hotels and restaurants, the principal business of which is the furnishing of food and lodging to patrons, bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but no intoxicating liquors or fermented malt beverages shall be sold during prohibited hours.

(10) REVOCATION AND SUSPENSION OF LICENSES.

- (a) Procedure. Whenever the holder of any alcohol beverage license under this Ordinance violates any portion of this ordinance, proceedings for the revocation or suspension of the license may be instituted in the manner and under the provisions established under Chapter 125.12, Wis. Stats. In addition, the Village Board, by its own motion by adoption of a resolution may begin proceedings for the revocation or suspension of such license.
- (b) Incompatibility. Whenever the Village Board or the Municipal Clerk, as agent thereof, is made aware of an incompatibility in the operation of a licensed premises in relation to its surrounding or nearby environment or a licensed premises is in violation of any condition established or required at the issuance of the license or of this Code or the State law including all requirements regarding the duty to supervise employees, proceedings for the purpose of revoking, establishing new conditions, or continuing the license under previous conditions will be initiated under the same procedures as provided in sub. (a).
- (c) Ordinance Violation. If any license holder is convicted of violating any Village Ordinance, such violation is grounds for the revocation of the license.
- (d) Operator's Licenses. Suspension or revocation of operator's licenses granted pursuant to this ordinance shall be governed as follows:
 1. Any committee as established by the Village Board may revoke or suspend an operator's license following a hearing held by the Committee. Notice shall be mailed to the licensee not less than eight (8) days prior to the hearing or upon personal service of notice not less than two (2) days prior to the hearing.
 2. Appeal from the decision of the Committee may be made by the licensee upon filing a petition for review by the full Village Board by presenting the petition and paying a fee of \$100.00 to the Municipal Clerk. The Village Board shall schedule a hearing not more than thirty (30) days from the date the appeal is filed.
- (e) Revocation for Nonuse. Non-use of a license or permit issued under this Chapter shall be grounds for revocation of the license or permit in accordance with the provisions of this Chapter and the Wisconsin Statutes in either of the following circumstances:

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1. The license or permit issued under this Chapter is not used within sixty (60) days after its issuance; or.
 2. The license or permit issued under this Chapter's usage is discontinued for sixty (60) or more days in aggregate in any licensing year..
- (f) Repossession of License or Permit. Whenever any license or permit under this section shall be revoked or suspended by the Village Board or action of any court, the Clerk shall notify the licensee or permittee of such suspension or revocation and notify the Chief of Police, who shall take physical possession of the license or permit wherever it may be found and file it in the Clerk's office.
- (11) BEER GARDEN LICENSES REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" PREMISES.
- (a) Required For Outdoor Consumption. No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under permit granted by the Village Board. The permits are a privilege in which no rights vest and therefore may be revoked by the Village Board at its pleasure at any time, or shall otherwise expire on June 30 of each year. No person shall consume or have in his possession alcohol beverages on any unenclosed part of a licensed premises which is not described in a valid beer garden permit.
 - (b) Limitations on Issuance of Beer Garden Permits. No permit shall be issued for a beer garden if any part of the beer garden is within 100 feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. No permit shall be issued for a beer garden if the beer garden area is greater than 50 percent of the gross floor area of the adjoining licensed premises. Each applicant for a beer garden permit shall accurately describe the area intended for use as a beer garden and shall indicate the nature of fencing or other measures intended to provide control over the operation of the beer garden. Every beer garden shall be completely enclosed with a fence or wall not less than 6 feet in height. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the beer garden. There shall be a licensed operator with the beer garden at all times the beer garden is in operation.
 - (c) Adjoining Property Owners to be Notified of Pendency of Applications. All property owners within 150 feet of the proposed beer garden shall be notified of the pendency of application for a beer garden permit by first class mail.
 - (d) State Statutes Enforced Within Beer Garden. Every permittee under this section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the beer garden permit by the Village Board.
- (12) RESTRICTIONS ON SPECIAL CLASS "B" FERMENTED MALT BEVERAGE PICNIC OR SPECIAL EVENT LICENSE.
Groups that have been granted a special Class "B" fermented malt beverage license shall comply with the following conditions of license:
- (a) A responsible representative of the organization seeking such license shall execute a release of liability form as provided by the Village Clerk.
 - (b) No person shall have in his possession or consume any intoxicating liquors where special Class "B" fermented malt beverage picnic or special event license has been issued for the premises.

(13) NONRENEWAL OF LICENSES. Before renewal of any license issued under this section is refused, the licensee shall be given written notice of any charges or violations against him or the reasons proposed for nonrenewal and a copy of any proposed motion for nonrenewal and shall have an opportunity to be heard before the Village Board.

(14) PENALTIES.

(a) General Penalty Provisions.

(1) Any person who violates a provision of Chapter 125 Wis. Stats., for which a penalty is not specified shall be penalized not less than \$100.00 and up to not more than \$1,000 or imprisoned for up to 90 days in jail or both for each day that a violation is determined to exist.

(2) A license issued in violation of Chapter 125, Wis. Stats. is void.

(3) Any person who violates §125.04(1), Wis. Stats. by selling, manufacturing or distributing alcohol beverages without an appropriate license shall be penalized not less than \$100.00 and up to not more than \$10,000 or imprisoned for not more than 9 months or both for each day that a violation is determined to exist.

(4) Any person who sells, or possesses with intent to sell, intoxicating liquor without holding the appropriate license or permit may be penalized not less than \$100.00 and up to not more than \$10,000 or imprisoned for not more than 9 months or both for each day that a violation is determined to exist.

(5) Any person who gives away alcoholic beverages or using any other means to evade the laws relating to the sale of alcohol beverages may be penalized not less than \$100.00 and up to not more than \$10,000 or imprisoned for not more than nine months or both for each day that a violation is determined to exist.

(6) Any licensee who allows another person to use his or her license to sell alcohol beverages, shall have his or her license revoked.

(b) Specific Penalty Provisions. Chapter 125 Wis. Stats., includes specific penalties which are incorporated herein pursuant to Section 1 above.

