

Section 5.01

Do not print this page

**Section 5.02 Alcohol Beverages:
Fermented Malt Beverages, Intoxicating liquor and Wine Ordinance**

ANY AND ALL ORDINANCES OR REGULATIONS OF THE TOWN OF UNION PREVIOUSLY ENACTED INVOLVING CH. 125 OF THE WISCONSIN STATUTES OR RELATED TO THE PROVISION THEREOF ARE HEREBY REPEALED, REVOKED AND ABROGATED AND IN PLACE THEREOF THIS ORDINANCE IS ADOPTED:

(1) State Statutes Adopted

The provisions of Chapter 125, Wis. Stats., are hereby adopted by reference and made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by an Statute incorporated herein by reference is required or prohibited by this Chapter unless amended or modified by the provisions of this Ordinance. Any future amendment, revisions or modifications of the Statutes incorporated herein are intended to be made a part of this Chapter in order to secure uniform statewide regulation of alcohol beverage control.

(2) Definitions

The definitions set forth in §125.02 Wis. Stats. or in other sections of Chapter 125 are incorporated by reference herein.

(3) License Required

No person, firm or corporation shall vend, sell, deal or traffic in or have in their possession with intent to vend, sell, deal or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or cause the same to be done, without having procured a license as provided in this Chapter nor without complying with all the provisions of this Chapter, and all statutes and regulations applicable thereto.

(4) Classes of Licenses

- A. **Retail “Class A” Intoxicating Liquor License:** A retail “Class A” intoxicating liquor license, when issued by the Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors only in original packages or containers and to be consumed off the premises so licensed.
- B. **Retail “Class B” Intoxicating Liquor License:** A retail “Class B” intoxicating liquor license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed and in the original package or container in multiples not to exceed four (4) liters at any one (1) time, to be consumed off the premises, except that wine may be sold in the original package or otherwise in any other quantity to be consumed off the premises.
- C. **Class “A” Fermented Malt Beverage Retailer’s License:** A Class “A” retailer’s fermented malt beverage license, when issued by the Town Clerk under the authority

of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1st. The license shall expire on the following June 30th.

D. Class “B” Fermented Malt Beverage Retailer’s License:

i. License: A Class “B” fermented malt beverage retailer’s license, when issued by the Town Clerk under the authority of the Town Board, shall entitle the holder thereof to possess, sell or offer for sale, fermented malt beverages, either to be consumed upon the premises where sold or away from such premises. The holder may also sell beverages containing less than one-half (½) of a percentum of alcohol by volume, without obtaining a special license to sell such beverages. Such license may be issued after July 1st. The license shall expire on the following June 30th.

ii. Application: Class “B” licenses may be issued to any person qualified under Sec. 125.04(5), Wis. Stats. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction shall not apply to a hotel or restaurant which is not a part of or located on the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for at least six (6) months before the date of application. A Class “B” license for a hotel, restaurant, club, society or lodge may be issued in the name of an officer who shall be personally responsible for compliance with this Chapter. Except as provided in Sec. 125.31, Wis. Stats., Class “B” licenses may not be issued to brewers or fermented malt beverage wholesalers.

E. Package Liquor Sales for Class “B” Licenseholders (Taverns, Supper Clubs, etc):

The Town Board does hereby elect to come within the provisions of Sec. 125.51(3)(b), Wis. Stats., to the extent that a retail Class “B” license shall permit its holder to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises so licensed, and in the original package or containers, in multiples not to exceed four (4) liters at any one time, and to be consumed off the premises so licensed, except that wine may be sold in the original package or otherwise in any quantity to be consumed off the premises; provided however, that said original package or original container sale must occur at or across the bar in the premises so licensed; further provided that nothing contained in this section shall be construed to permit a retail Class “B” licenseholder to operate an intoxicating liquor store or to advertise or hold out to the public that he/she operates such a liquor store.

F. Temporary Class “B” Fermented Malt Beverage License:

i. License: As provided in Sec. 125.26(1) and (6), Wis. Stats., temporary Class “B” fermented malt beverage licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans’ organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. Such license is valid for dates as approved by the Town Board.

- ii. Application: Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a park, the applicant shall specify the main point of sale facility.

G. Temporary “Class B” Wine License:

- i. License: Notwithstanding Sec. 125.68(3), Wis. Stats., temporary “Class B” licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six (6) months before the date of application and to posts of veterans’ organizations authorizing the sale of wine containing not more than six percent (6%) alcohol by volume in an original package, container or bottle or by the glass if the wine is dispensed directly from an original package, container or bottle at a particular picnic or similar gathering, at a meeting of the post, or during a fair conducted by the fair association or agricultural society. No fee may be charged to a person who, at the same time, applies for a temporary Class “B” beer license under Sec. 125.26(6), Wis. Stats., r the same event.
- ii. Application: Application for such license shall be signed by the president or corresponding officer of the society or association making such application and shall be filed with the Town Clerk together with the appropriate license fee for each day for which the license is sought. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of fifteen (15) days prior to the meeting of the Town Board at which the application will be considered for events of more than three (3) consecutive days. If the application is for a license to be used in a park, the applicant shall specify the main point of sale facility.

H. Retail “Class C” License:

- i. In this Subsection “barroom” means a room that is primarily used for the sale or consumption of alcohol beverages.
- ii. A “Class C” license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold.
- iii. A “Class C” license may be issued to a person qualified under Sec. 125.04(5), Wis. Stats., for a restaurant in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom if the municipality’s quota prohibits the municipality from issuing a “Class B” license to that person. 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.
- iv. A “Class C” license shall particularly describe the premises for which it is issued.

(5) License Fees:

There shall be the following classes of licenses which, when issued by the Town Clerk under the authority of the Town Board after payment of the license fee and publication costs hereinafter specified shall permit the holder to sell, deal or traffic in intoxicating liquors, fermented malt beverages or wine as provided herein or in Chapter 125, Wis. Stats.:

- A. **Class “A” Fermented Malt Beverages Retailer’s License:** The annual fee for this license shall be as established by resolution of the Town Board. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - B. **Class “B” Fermented Malt Beverage License:** The annual fee for this license shall be as established by resolution for the Town Board. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than twelve (12) months shall be prorated according to the number of months or fraction thereof for which the license is issued.
 - C. **Temporary Class “B” Fermented Malt Beverage License:** The fee for this license shall be as established by resolution of the Town Board.
 - D. **Temporary “Class B” Wine License:** The fee for this license shall be as established by resolution of the Town Board. However, there shall be no fee if the Temporary Wine License is obtained along with a Temporary Fermented Malt Beverage License.
 - E. **“Class A” Intoxicating Liquor Retailer’s License:** The annual fee for this license shall be as established by resolution of the Town Board.
 - F. **“Class B” Intoxicating Liquor Retailer’s License:** The annual fee for this license shall be as established by resolution of the Town Board. This license may be issued at any time for six (6) months in any calendar year, for which fifty percent (50%) of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.
 - G. **“Class C” Wine License:** The annual fee for this license shall be as established by resolution of the Town Board. The fee for less than twelve (12) months shall be prorated.
 - H. **Reserve “Class B” License:** Pursuant to and in accordance with s.125.51(3) S. and 125.51(4) Wis. Stats. there is hereby created a Reserve “Class B” license available to applicants for such license in the Town. Such license shall be subject to the provisions of the Statutes referred to herein as to number and the minimum fees to be charged for said license. Currently, the Town has one (1) reserve “Class B” License available.
- (6) Application for License:**
- A. **Contents:** Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by Secs. 887.01 to 887.04 Wis. Stats., and shall be filed with the Town Clerk not less than fifteen (15) days prior to the granting of such license. The premises shall be physically described to include every room and storage space to be covered by the license, including all rooms not separated by a solid wall or joined by

connecting entrances.

- B. **Corporations:** Such application shall be filed and sworn to by the applicant if an individual, by the president and secretary, of a corporation.
 - C. **Publication:** The Town Clerk shall publish each application for a Class “A”, Class “B”, “Class A”, “Class B” or “Class C” license. There is no publication requirement for temporary Class “B” picnic beer licenses under Sec. 125.51(10), Wis. Stats. The application shall be published once in the official Town newspaper, and the costs of publication shall be paid by the applicant at the time the application is filed, as determined under Sec. 985.08, Wis. Stats.
 - D. **Amending Application:** Whenever anything occurs to change any fact set out in the application of any Licensee, such Licensee shall file with the issuing authority a notice in writing of such change within ten (10) days after the occurrence thereof.
 - E. **Quota:** License quotas shall be as prescribed in Chapter 125, Wis. Stats.
- (7) **Qualifications of Applicants and Premises:**
- A. **Residence Requirements:** A retail Class “A” or Class “B” fermented malt beverage or “Class A” or “Class B” intoxicating liquor license shall be granted only to persons who are citizens of the United States and who have been residents of the State of Wisconsin continuously for at least ninety (90) days prior to the date of application.
 - B. **Applicant to have Malt Beverage License:** No retail “Class B” intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a Class “B” retailer’s license to sell fermented malt beverages.
 - C. **Right to Premises:** No applicant will be considered unless they have the right to possession of the premises described in the application for the license period, by lease or by deed.
 - D. **Age of Applicant:** Licenses related to alcohol beverages shall only be granted to persons who have attained the legal drinking age.
 - E. **Corporate Restrictions:**
 - i. No license or permit may be issued to any corporation unless the corporation meets the qualifications under Sec. 125.04(a)1 and 4 and (b), Wis. Stats., unless the agent of the corporation appointed under Sec. 125.04(6) and the officers and directors of the corporation meet the qualifications of Sec. 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under Sec. 125.04(6) meets the qualifications under Sec. 125-04(a)1 and (b) does not apply if the corporation has terminated its relationship with all of the individuals whose actions directly contributed to the conviction.
 - ii. Each corporate applicant shall file with its application for such license a statement by its officers showing the names and addresses of the persons who are stockholders together with the amount of stock held by such person or persons. It shall be the duty of each corporate applicant and Licensee to file with the Town Clerk a statement of transfers of stock within forty-eight (48) hours after such transfer of stock.
 - iii. Any license issued to a corporation may be revoked in the manner and under the procedure established in Sec. 125.12, Wis. Stats., when more than fifty percent (50%) of the stock interest, legal or beneficial, in such corporation is held by any person or persons not eligible for a license under this Chapter or

- under the state law.
- iv. **Sales Tax Qualification:** All applicants for retail licenses shall provide proof as required by Sec. 77.61(11), Wis. Stats., that they are in good standing for sales tax purposes (i.e., hold a seller's permit) before they may be issued a license.
 - v. **Connecting Premises:** Except in the case of hotels, no person may hold both a "Class A" license and either a "Class B" license or permit, a Class "B" license or permit, or a "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 or permit, the license or permit last issued is void. If both licenses or permits are issued simultaneously, both are void.
 - vi. **Limitations on Other Business; Class "B" Premises:** No Class "B" license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class "B" license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class "B" premises. No other business may be conducted on premises operating under a Class "B" license or permit. These restrictions do not apply to any of the following:
 - a. A hotel.
 - b. A restaurant, whether or not it is a part of or located in any mercantile establishment.
 - c. A combination grocery store and tavern.
 - d. A combination sporting goods store and tavern in towns, villages and 4th class cities.
 - e. A combination novelty store and tavern.
 - f. A bowling alley or recreation premises.
 - g. A club, society or lodge that has been in existence for six (6) months or more prior to the date of filing application for the Class "B" license or permit.

(8) Limitation - Dangerous Weapons:

No license or permit of any kind or nature shall be granted to any person, organization or club, whether or not open to the public, which engages in an activity in which a "dangerous weapon" as defined in s.939.22(10) Wis. Stats. is discharged on the premises or adjoining property owned, leased or occupied by such person, organization or club.

(9) Investigation:

The Town Clerk shall notify the Fire Inspector and Building Inspectors and, as appropriate, pertinent law enforcement agencies of each renewal or new application, and these officials shall inspect or cause to be inspected each application and the premises, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license.

These officials shall furnish to the Town Clerk in writing, who shall forward to the Town Board, the information derived from such investigation accompanied by a recommendation as to whether a license should be granted or refused. No license shall be renewed without a re-inspection of the premises and report as original required.

(10) Approval of Application:

- A. No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the Town are delinquent and unpaid.
- B. No license shall be issued unless the premises conform to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Board of Health and locale Board of Health applicable to restaurants. The premises must be properly lighted and ventilated, must be equipped with separate sanitary toilet and lavatory facilities equipped with running water for each sex and must conform to all Ordinances of the Town.
- C. Consideration for the granting or denial of a license will be based on:
 - i. Arrest and conviction record of the applicant, subject to the limitations imposed by Secs. 111.321, 111.322, and 111.335, Wis. Stats.:
 - ii. The financial responsibility of the applicant;
 - iii. The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - iv. Generally, the applicant's fitness for the trust to be reposed.
- D. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offence" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town Board reserves the right to consider the severity, and the facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

(11) Granting of License:

- A. Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the Town Board, the Town Clerk shall issue to the applicant a license, upon payment by the applicant of the license fee to the Town. The full license fee shall be charged or the whole or fraction of any year.
- B. If the Town Board denies the license, the applicant shall be notified in writing, by registered mail or personal service, of the reasons for the denial. The notice shall also inform the applicant of the opportunity to appear before the Town Board and to provide evidence as to why the denial should be reversed. Such written notice shall

be mailed or served upon the applicant at least ten (10) days prior to the Town Board meeting at which the application is to be reconsidered.

(12) Transfer and Lapse of License:

- A. In accordance with the provisions of Sec. 125.04(12), Wis. Stats., a license shall be transferable from one premises to another if such transfer is first approved by the Town Board. An application for transfer shall be made on a form furnished by the Town Clerk. Proceedings for such transfer shall be had in the same form and manner as the original application. The fee for such transfer is Ten Dollars (\$10.00). Whenever a license is transferred, the Town Clerk shall forthwith notify the Wisconsin Department of Revenue of such transfer. In the event of the sale of a business or business premises of the Licensee, the purchaser of such business or business premises must apply to the Town of reissuance of said license and the Town, as the licensing authority, shall in no way be bound to reissue said license to said subsequent purchaser.
- B. Whenever the agent of a corporate holder of a license is for any reason replaced, the Licensee shall give the Town Clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the Town Board, the successor agent shall have the authority to perform the functions and be charged with the duties of the original agent. However, said license shall cease to be in effect upon receipt by the Town Clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or other peace officer of the municipality in which the license was issued. The corporation's license shall not be in force after receipt of such notice or after a regular or special meeting of the Town Board until the successor agent or another qualified agent is appointed and approved by the Town.

(13) Numbering of License:

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 clearly the specific premises for which granted, the date of issuance, the fee paid and the name of the Licensee. The Town Clerk shall affix to the license their affidavit as provided by Sec. 125.04(4), Wis. Stats.

(14) Posting Licenses;Defacement:

- A. Every person licensed in accordance with the provisions of this Chapter shall immediately post such license and keep the same posted while in force in a conspicuous place in the room or place where said beverages are drawn or removed for service or sale.
- B. It shall be unlawful for any person to post such license or to be permitted to post it upon premises other than those mentioned in the application or knowingly to deface or destroy such license.

(15) Conditions of License:

All retail Class "A", Class "B", "Class A", "Class B" and "Class C" licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this Section, and subject to all other Ordinances and regulations of the Town applicable thereto:

- A. **Consent to Entry:** Every applicant procuring a license thereby consents to the entry of law enforcement authorities or duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles there had in violation of Town Ordinances or state laws, and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- B. **Employment of Minors:** No retail “Class B” or Class “B” licenses shall employ any underage person, as defined in the Wisconsin Statutes, but this shall not apply to hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcoholic beverages.
- C. **Disorderly Conduct Prohibited:** Each licensed premises shall, at all times, be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- D. **Licensed Operator on Premises:** There shall be upon premises operated under a “Class B”, Class “B”, or “Class C” license, at all times, the Licensee, members of the Licensee’s immediate family who have attained the legal drinking age, and/or some person who shall have an operator’s license and who shall be responsible for the acts of all persons serving as waiters, or in any other manner, any fermented malt beverages to customers. No person other than the Licensee shall serve fermented malt beverages in any place operated under a “Class B”, Class “B”, or “Class C” license unless they possess an operator’s license, or there is a person with an operator’s license upon said premises at the time of such service.
- E. **Health and Sanitation Regulations:** The rules and regulations of the State Board of Health governing sanitation in restaurants shall apply to all “Class B” liquor or “Class C” licenses issued under this Chapter. No “Class B” or “Class C” license shall be issued unless the premises to be licensed conform to such rules and regulations.
- F. **Restrictions Near Schools and Churches:** No retail Class “A”, Class “B”, “Class A” or “Class B” license shall be issued for premises, the main entrance of which is less than five hundred (500) 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 maintenance entrance of such school, church or hospital to the main entrance to such premises. This Subsection shall not apply to premises licensed as such on June 30, 1047, nor shall it apply to any premises licensed as such prior to the occupation of real property within five hundred (500) feet thereof by any school building, hospital building or church building.
- G. **Clubs:** No club shall sell or give away any intoxicating liquors except to bona fide members and guests invited by members.
- H. **Gambling Prohibited:** Except as authorized by state law, no gambling or game of chance of any sort shall be permitted in any form upon any premises licensed under this Chapter or the laws of the State of Wisconsin.
- I. **Credit Prohibited:** No retail Class “A”, Class “B”, “Class A”, “Class B” or “Class C” liquor, wine or fermented malt beverage Licensee shall sell or offer for sale any alcohol beverage to any person or persons by extending credit, except hotel credit extended to a resident guest or a club to a bona fide member. It shall be unlawful for

such Licensee or permittee to sell alcohol beverages to any person on a passbook or store order or to receive from any person any goods, ware, merchandise or other articles in exchange for alcohol beverages.

- J. **Licensee or Permittee Responsible for Acts of Help:** A violation of this Chapter by a duly authorized agent or employee of a Licensee or permittee under this Chapter shall constitute a violation by the Licensee or permittee. Whenever any Licensee or permitted under this Chapter shall violate any portion of this Chapter, proceedings for the suspension or revocation of the license or permit of the holder thereof may be instituted in the manner prescribed in this Chapter.
- K. **Restriction on Alteration of Premises:** Class “B” licenseholders or Class “C” licenseholders shall not substantially alter the premises for which the license was issued without obtaining approval of the Town. Failure to comply with this Subsection shall, in addition to other penalties, constitute a violation of this Chapter and shall subject the licenseholder to possible proceedings regarding suspension or revocation of license as provided in Sec. 125.12(2)(a) and 125.12(2)(b), Wis. Stats.
- L. **Drive-In Sales Prohibited:** It is a violation of this Chapter to sell or dispense intoxicating liquor or fermented malt beverages by means of the use of a drive-in facility. It is a violation of this Chapter to sell or dispense intoxicating liquor or fermented malt beverages to anyone while they are seated in a motor vehicle. Sales must be made upon the premises for which the license has been issued.
- M. **Licensee Fee to Be Prorated:** For license applicants applying other than at the beginning of the July 1st licensing date, the fee for such license shall be prorated on a monthly basis with any part of the a month being counted as a full month.
- N. **Sales Tax Permit:** No license shall be issued by the Town Clerk until the proposed licensee furnishes to the Town Clerk proof that a Wisconsin Sales Tax Permit has been issued to such licensee by the State of Wisconsin.
- O. **Federal Tax Stamp:** No license shall be issued to any person until such person has obtained a valid federal special tax stamp appropriate to his/her business as required by Sec. 176.05(3)(a), Wis. Stats.

(16) Closing Hours

Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats., and shall be further restricted as follows:

- A. **Class “A” Fermented Malt Beverage Retailer’s Licenses:** Between 9:00 p.m. and 8:00 a.m. no person may sell fermented malt beverages upon any premises for which a Class A license has been issued. The purpose of this Subsection is to prohibit all carry-out sales of beer and malt beverages after 9:00 p.m. During the hours that sale of carry-out alcoholic beverages is prohibited, such areas or equipment from which such beverages are offered for sale shall be secured or cordoned off if other parts of the premises remain open to the public.
- B. **Class “B” Fermented Malt Beverage Retailer’s License:** Between 9:00 p.m. and 8:00 a.m. no person may sell fermented malt beverages upon any premises for which a Class B fermented malt beverage license has been issued in an original unopened package, container or bottle to be consumed off the licensed premises. The purpose of this Subsection is to prohibit all carry-out sales of beer and fermented malt beverages after 9:00 p.m.

- C. **Class “A” License for Sale of Intoxicating Liquors:** Between 9:00 p.m. and 8:00 a.m. no person shall sell intoxicating liquors upon any premises for which a Class A license has been issued for the sale of intoxicating liquors. The purpose of this Subsection is to prohibit all carry-out sales of intoxicating liquors.
- D. **Class “B” License for Sale of Intoxicating Liquors:** Between 9:00 p.m. and 8:00 a.m. no person shall sell intoxicating liquors upon any premises for which a Class “B” license for the sale of intoxicating liquors has been issued in an original unopened package, container or bottle to be consumed off the license premises. The purpose of this Subsection is to prohibit all carry-out sales of intoxicating liquors after 9:00 p.m.
- E. **Class “B” Licenses - On-Premises Consumption:**
 - i. Premises for which a retail Class “B” liquor and fermented malt beverage license has been issued shall be closed between the hours of 2:00 a.m. and 6:00 a.m, Monday through Friday, and 2:30 a.m. and 6:00 a.m., Saturday and Sunday. There shall be no closing hours on January 1st.
 - ii. Hotels and restaurants, whose principal business is the furnishing of food or lodging to patrons shall be permitted to remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours above.
 - iii. The licensee or permittee and one (1) employee shall be permitted to check out receipts, check the licensed premises for security and do minor cleaning during the closing times established above. For the purpose of this Section, entertainers shall not be included with the definition of employees. Under no circumstances shall the consumption of alcohol beverages be permitted after the designated closing time. Commercial janitorial service personnel shall be allowed to enter the licensed premises for the purpose of cleaning after closing hours. The premises shall be well lighted during cleanup. Prior approval must be requested and granted by the Town Board for any variance of the exigent circumstances.
- F. **Class “A” Retail Licensed Premises - Other Uses:** A premises used for purposes other than Class “A” sales must comply with the closing hours encumbered above if over fifty percent (50%) of the floor area of the premises are used for or devoted to intoxicating liquor and/or fermented malt beverage sales. Otherwise, such premises may remain open for whatever retail hours it chooses, but no sales of intoxicating liquors or fermented malt beverages shall take place during the closing hours encumbered herein.

(17) Revocation and Suspension of licenses; Non-Renewal:

- A. **Procedure:** Whenever the holder of any license under this Chapter violates any portion of this Chapter, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- B. **Abandonment of Premises:** Any Licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference they may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The losing of the licensed premises for at least six (6) months shall be prima facie evidence of the

abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town for which a quota exists limiting the number of such licenses that may be issued by the Town shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

- C. **Revocation for Noncompliance:** The Town Board of the Town of Union may revoke any license hereunder at any time for any violation of the provisions of this Ordinance.
- D. **Revocation and Suspension of Licenses:**
- i. Procedure: Except as hereinafter provided, the provisions of Sec. 125.12, Wis. Stats., shall be applicable to proceedings for the revocation or suspension of all licenses or permits granted under this Chapter. Revocation or suspension proceedings may be instituted by the Town Board upon its own motion by adoption of a resolution.
 - ii. Automatic Revocation: Any license or permit issued under the provisions of this Chapter shall stand revoked without further proceedings upon the conviction of a licensee or permittee or their employee, agent or representative of a second offense under Chapter 125, Wis. Stats., or any other state or federal liquor or fermented malt beverage law or any felony.
 - iii. Repossession of License or Permit: Whenever any license or permit under this Chapter shall be revoked or suspended by the Town Board or action of any court, it shall be the duty of the Clerk to notify the licensee or permittee of the suspension or revocation and to notify any applicable law enforcement official who shall take physical possession of the license or permit wherever it may be found and file it in the Town Clerk's office.
- E. **Denial of Renewals:** Before denial of any renewal, the licensee shall be given written notice of any violation or reason for nonrenewal. The licensee shall be entitled to a hearing.
- F. **Other Provisions:** Any license issued pursuant to this Chapter shall be subject to such further regulations and restrictions as may be imposed by the Town Board by amendment to this Section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations their license may be revoked in accordance with this Section. In case of revocation of any license or any violation of any provision of this Chapter in accordance with this Section or by the court or for any reasonable cause except the imposition of new restrictions, no refund shall be made of any part of the license fee.
- G. **Public Emergency License Suspension:** If two-thirds (2/3) of the members of the Town Board of the Town of Union find and determine, at a regular or special meeting of the Town Board, that a public emergency exists directly affecting the public welfare and safety, the Town Board may, by a two-thirds (2/3) vote of the members of the Town Board, order an immediate closing of all Class "A" licensed premises for the duration of the public emergency, not to exceed five (5) days, unless the Town Board finds the public emergency continues to exist, in which event, the Town Board may continue the order for successive periods not to exceed five (5)

days each in duration.

(18) Operator's License Required:

- A. **Operator's Licenses; Class "A", Class "B" or "Class C" Premises:** Except as provided under Sec. 125.32(3(b) and Sec. 125.07(3)(a)10, Wis. Stats., no premises operated under a Class "A", Class "B", or "Class C" license or permit may be open for business unless there is upon the premises the Licensee or permittee, the agent named in the license or permit if the Licensee or permittee is a corporation, or some person who has an operator's license and who is responsible for the acts of all persons serving any fermented malt beverages to customers. An operator's license issued in respect to a vessel under Sec. 125.27(2), Wis. Stats., is valid outside the municipality that issues it. For the purpose of this Section, any persons holding a manager's license under Sec. 125.18, Wis. Stats., or any member of the Licensee's or permittee's immediate family who has attained the age of eighteen (18), shall be considered the holder of an operator's license. No person, including a member of the Licensee's or permittee's immediate family, other than the Licensee, permittee or agent, may serve fermented malt beverages in any place operated under a Class "A", Class "B", or "Class C" license or permit unless they have an operator's license or is at least eighteen (18) years of age and is under the immediate supervision of the Licensee, permittee, agent or a person holding an operator's license, who is on the premises at the time of service.
- B. **Use by Another Prohibited:**
- i. No person may allow another to use their Class "A" or Class "B" license or permit to sell alcohol beverages.
 - ii. The license or permit of a person who violates Subsection (b)(1) above shall be revoked.
- C. **Exceptions:** The provisions of this Article shall not apply to the following persons:
- i. The holder of a Class "B" license or Class "C" license when they are serving or dispensing intoxicating liquor, fermented malt beverages or wine on the premises for which they hold such license.
 - ii. The spouse, son or daughter of a hold of a Class "B" license or Class "C" license who is living in the same household as the holder of the license and who is over eighteen (18) years of age and serving or dispensing intoxicating liquor, fermented malt beverages and wine on the premises for which the holder of the license has been issued is licensed.
 - iii. Waitresses and waiters provided that they are dispensing or serving intoxicating liquor, fermented malt beverages or wine at or across a bar.

(19) Procedure Upon Application for Operator's License:

- A. The Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk only to persons eighteen (18) years of age or older. Operator's licenses shall be operative only within the limits of the Town.
- B. The Town Board may issue an operator's license, which license shall be granted only upon application in writing on forms to be obtained from the Town Clerk. Prior to issuance off an operator's license, the investigating authority shall conduct an

investigation of the applicant including, but not limited to, requesting information from the State, surrounding municipalities, and/or any community where the applicant has previously resided concerning the applicant's arrest and conviction record. Based upon such investigation, the investigating authority shall recommend, in writing, to the Town Board approval or denial of the application. If the investigating authority recommends denial, the investigating authority shall provide, in writing, the reasons for such recommendation.

(20) Duration of Operator's License

Licenses issued under the provisions of this Chapter shall be valid for a period of one (1) year and shall expire on the thirtieth (30th) day of June.

(21) Issuance or Denial of Operator's License:

- A. After the Town Board approves the granting of an operator's license, the Town Clerk shall issue the license. Such licenses shall be issued and numbered in the order they are granted and shall give the applicant's name and address and the date of the expiration of such license.
- B. If the application is denied by the Town Board, the Town Clerk shall, in writing, inform the applicant of the denial and the reasons therefore.
- C. Consideration for the granting or denial of a license may be based on:
 - i. Arrest and conviction record of the applicant, subject to the limitations imposed by Sections 111.321, 111.322, and 111.335, Wis. Stats.;
 - ii. The financial responsibility of the applicant;
 - iii. The appropriateness of the location and the premises where the licensed business is to be conducted; and
 - iv. Generally, the applicant's fitness for the trust to be reposed.
 - v. If a Licensee is convicted of an offense substantially related to the licensed activity, the Town Board may act to revoke or suspend the license.
- D. An application may be denied based upon the applicant's arrest and conviction record if the applicant has been convicted of a felony (unless duly pardoned) or if the applicant has habitually been a law offender. For purposes of this licensing procedure, "habitually been a law offender" is generally considered to be an arrest or conviction of at least two (2) offenses which are substantially related to the licensed activity within the five (5) years immediately preceding the license application. Because a license is a privilege, the issuance of which is a right granted solely to the Town Board, the Town Board reserves the right to consider the severity, and facts and circumstances of the offense when making the determination to grant, deny or not renew a license. Further, the Town Board, at its discretion, may, based upon an arrest or conviction record of two (2) or more offenses which are substantially related to the licensed activity within the five (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

(22) Training Course:

- A. Except as provided in Subsection (b) below, the Town Board may not issue an operator's license unless the applicant has successfully completed a responsible beverage server training course at any location that is offered by a vocational,

technical and adult education district and that conforms to curriculum guidelines specified by the board of vocational, technical and adult education or a comparable training course that is approved by the educational approval board or unless the applicant fulfills one of the following requirements:

- i. The person is renewing an operator's license.
 - ii. Within the past two (2) years, the person held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license.
 - iii. Within the past two (2) years, the person has completed such a training course.
- B. The Town Board may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (1) above and shall revoke that license if the applicant fails successfully to complete the course in which they enroll.
- C. The training course required herein shall not apply to the following persons:
- i. A person who is renewing an operator's license.
 - ii. A person who, within the past two (2) years held a Class "A", Class "B", or "Class A" or "Class B" license or permit or a manager's or operator's license issued pursuant to Ch. 125, Wis. Stats.
 - iii. A person has completed a training course as described herein within the past two (2) years.

(23) Display of License:

Each license issued under the provisions of this Chapter shall be posted on the premises whenever the operator dispenses beverages or be in their possession, or carry a license card.

(24) Revocation of Operator's License:

Violation of any of the terms or provisions of the State law or of this Chapter relating to operator's licenses by any person holding such operator's license shall be cause for revocation of the license.

(25) Outside Consumption:

A. Alcoholic Beverages in Public Areas:

- i. Regulations: No person in the Town shall carry or expose to view, any open can, bottle or other container of malt beverages, intoxicating liquor or other alcoholic beverages or drink from the same on any sidewalk, street, alley, parking lot or other public place, without prior written approval of the Town Board. For purposes of this Section, "a public place" shall be construed to mean any location within which, at the time the person is apprehended, is open to access to persons not requiring specific permission of the owner to be at such location including, without exclusion by reason of enumeration, all parking lots serving commercial establishments. In no event, shall a private yard or driveway in a residentially zoned district be construed to be a "public place".
- ii. Private Property Held Out For Public Use: It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the Town unless the property is specifically named as being part of a licensed premises.

- iii. Leaving Licensed Premises With Open Container:
 - a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
 - b. It shall be unlawful for any patron to leave a licensed premises with an open container containing alcohol beverage.
- iv. Exceptions:
 - a. The provisions of this Section may be waived by the Town Board for duly authorized events.
 - b. Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area pursuant to this Code of Ordinances, provided that the provisions of this Chapter are fully complied with.

(26) Sale to Underage or Intoxicated Persons Restricted:

A. Sales of Alcohol Beverages to Underage Persons:

- i. No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- ii. No licensee or permittee may 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 the legal drinking age.
- iii. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- iv. No adult may intentionally encourage or contribute to a violation of Subsection (a)(1) or (b).

B. Sale of Alcohol Beverages to Intoxicated Persons:

i. Restrictions:

- a. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- b. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

(27) Underage Person's Presence in Place of Sale; Penalty:

A. Restrictions: An underage person not accompanied by his or her parent, guardian or spouse who has not attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for purpose except the transaction of business pertaining to the 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 of a customer of the premises. This Subsection does not apply to:

- i. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the

- licensed premises consists or is a part.
- ii. An underage person who enters or is on a “Class A” or Class “A” premises for the purpose of purchasing other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
 - iii. Hotels, drug stores, grocery stores, bowling alleys, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities as defined in Sec. 125.51(5)(b) 1.d, Wis. Stats., which are owned by a county or municipality, or centers for the visual, or performing arts.
 - iv. Ski chalets, golf courses and golf clubhouses, racetracks licensed under Chapter 562, Wis. Stats., curling clubs, private soccer clubs and private tennis clubs.
 - v. Premises operated under both a “Class B” or Class “B” license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a “Class B” or Class “B” license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
 - vi. Premises operating under both a “Class C” license and a restaurant permit.
 - vii. An underage person who enters or remains in a room on Class “B” or “Class B” licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection.
 - viii. A person who is at least eighteen (18) years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
 - ix. An underage person who enters or remains on Class “B” or “Class B” licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator’s license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises.

(28) Underage Persons; Prohibitions; Penalties:

- A. **Prohibitions:** Any underage person who does any of the following is guilty of a violation:
 - i. Procures or attempts to procure alcohol beverages from a licensee or permittee.
 - ii. Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.
 - iii. Enters, knowingly attempts to enter or is on licensed premises.

- iv. Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- B. **Adult to Accompany:** Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.

(29) Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

(30) Effective Date

This Ordinance is effective on publication. The town clerk shall properly post or publish this ordinance as required under §60.80, Wis stats.

Adopted this _____ day of _____ 20__ by the Town Board of the Town of Union, Rock County, Wisconsin.

[Signature of Town Chairman]

Kendall Schneider
Town Board Chairman

Date

Posted this _____ day of _____, 20 ____.