

LICENSES AND PERMITS

13.01 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) STATE STATUTES ADOPTED. The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages, except provisions therein relating to penalties to be imposed, 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 any statutes incorporated herein by reference is required or prohibited by this Chapter. 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 regulation of alcohol beverage control.

State Law Reference: Chapter 125, Wis. Stats.

(2) DEFINITIONS. As used in this Chapter the terms, “Alcoholic Beverages,” “Intoxicating Liquors,” “Principal Business,” “Legal Drinking Age,” “Premises,” “Sell,” “Sold,” “Sale,” “Restaurant,” “Club,” “Retailer,” “Person,” “Fermented Malt Beverages,” “Wholesalers,” “Retailers,” “Operators,” and “Non-Intoxicating Beverages” shall have the meaning given them by Chapter 125, Wisconsin Statutes.

(3) LICENSE REQUIRED. No person, firm or corporation shall vend, sell, deal or traffic in or have in his 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 provision of this Chapter, and all statutes and regulations applicable thereto, except as provided by Sections 125.16, 125.27, 125.28 and 125.51 of the Wisconsin Statutes.

(4) CLASSES OF LICENSES.

(a) Class A Licenses.

(i) Retail “Class A” Intoxicating Liquor License. A retail “Class A” intoxicating liquor license, when issued by the Village Clerk-Treasurer, under the authority of the Village 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.

(ii) Class “A” Fermented Malt Beverage Retailer’s License. A retail Class “A” fermented malt beverage license, when issued by the Village Clerk-Treasurer, under the authority of the Village 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.

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(b) Class B Licenses.

(i) Retail “Class B” Intoxicating Liquor License. A retail “Class B” intoxicating liquor license, when issued by the Village Clerk-Treasurer, under the authority of the Village 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.

(ii) Class “B” Fermented Malt Beverage Retailer’s License. A Class “B” fermented malt beverage retailers license, when issued by the Village Clerk-Treasurer, under the authority of the Village 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 (1/2) of a percentum of alcohol by volume.

(iii) Temporary Class “B” Fermented Malt Beverage 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.

(iv) Temporary “Class B” Wine License. As provided in Sec. 125.68(3), Wis. Stats., temporary “Class B” wine license 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 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 the original package, container or bottle at a particular picnic association or agricultural society.

(c) Class C Licenses.

(i) Retail “Class C” Wine License. A “Class C” Wine License authorizes the retail sale of wine by the glass or in an opened container for consumption on the premises where sold.

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(ii) A “Class C” license may be issued to a person qualified under Section 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.

(iii) For the purpose of this ordinance, “barroom” is defined as a room that is primarily used for the sale or consumption of alcoholic beverages.

(iv) A “Class C” license shall particularly describe the premises for which it is issued.

(d) Wholesaler’s License. A wholesaler’s fermented malt beverage license, when issued by the Village Clerk-Treasurer under authority of the Village Board, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages only in original packages or containers to dealers, not to be consumed in or about the premises of said wholesaler.

(e) Reserved License. The licenses as calculated in accordance with Wisconsin State Statutes 125.51(4)(br) that are part of the Village’s quota but were not issued on December 1, 1997.

(5) LICENSE ANNUAL FEES.

(a) Village Board to establish fees. The fees for licenses issued pursuant to this ordinance shall be established by Resolution of the Village Board.

(b) All license applications shall include the cost of publication as prescribed by the Village’s official newspaper which may change annually

(c) There shall be no fee for a temporary “Class C” Wine License if obtained along with a Temporary Fermented Malt Beverage License.

(d) “Class A” Intoxicating Liquor License, “Class B” Intoxicating Liquor License, a Class “B” Fermented Malt Beverage License and a “Class C” Wine License for a period less than a 12 month licensing year shall be prorated.

(e) “Class B” Intoxicating Liquor License and Class “B” Fermented Malt Beverage 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.

(6) LICENSE APPLICATION.

(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 Village Clerk-Treasurer 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

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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/applicants if an individual or partnership, by the president and secretary of a corporation, and all parties in an LLC.

(c) Publication. The Village Clerk-Treasurer 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) Fermented Malt Beverage or temporary "Class C" wine licenses under Section 125.26, Wis. Stats. The application shall be published once in the official Village 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) License 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 Chapter 125 Wis. Stats.

(7) QUALIFICATIONS FOR LICENSES AND PERMITS.

Qualifications for licenses and permits issued under this ordinance are as set forth in this ordinance and the requirements of *Chapter 125 Wisconsin Statutes*.

(8) INVESTIGATION

(a) The Village Clerk-Treasurer shall notify the Chief of Police, Fire Inspector and Building Inspector of each 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 application 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 application is a proper recipient of a license. These officials shall furnish to the Village Clerk-Treasurer in writing, who shall forward to the Village 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 originally required.

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(b) The Administration and Finance Committee shall have the right to call any applicant for a Intoxicating Liquor or a Fermented Malt Beverage license before it for an oral examination as to the matters that appear on the applicant's written application form and other relevant matters.

(9) 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 Village 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 local 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 Village.

(c) Consideration for 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 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 Village Board, the village 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 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.

10. 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 Village Board, the Village Clerk-Treasurer shall issue to the applicant a license, upon payment by the applicant of the license fee to the Village.

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(b) Whenever an application for renewal of a license has been refused or an application for an original license as been rejected, the applicant shall be notified in writing, by registered mail or personnel service, of the refusal to renew or to issue the license and the reasons for the denial. The applicant shall be entitled to file a written request for hearing before the Village Board to provide evidence as to why the denial should be reversed. The request for hearing shall be filed with the Village Clerk no later than fifteen (15) days after the receipt of notice that the application for renewal or issuance of the license has been rejected. After filing of the application for hearing, such hearing shall be held at the next properly noticed and regularly scheduled meeting of the Village Board of the Village of Elkhart Lake. The applicant shall be informed that the reconsideration of the application shall be held in closed session, pursuant to Sec 19.85(1)(b), Wis. Stats., unless the applicant requests such reconsideration be held in open session and the Village Board consents to the request.

(c) Each license shall be numbered in the order in which issued and shall specifically state the premises for which issued, the date of issuance, the fee paid and the name of the licensee.

(d) With exception of 13.01(5e) all licenses shall remain in force until the first (1st) day of July next after the granting thereof, unless sooner revoked in the manner provided by Sec. 125.12 and 125.13, Wis. Stats.

11. CONDITIONS OF LICENSE.

All retain 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 Chapter, and subject to all other Ordinances and regulations of the Village applicable thereto.

(a) Every person licensed in accordance with the provision of this Chapter shall immediately post such license and keep the same posted while in force in 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.

(c) Closing hours shall be established in conformance with Sec. 125.32(3), Wis. Stats.

(d) Consent to Entry. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the Village 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 Village

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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.

(e) 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.

(f) 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.

(g) There shall be at all times, upon the licensed premises the licensee, the agent named in the license if the licensee is a corporation or limited liability company, or some person who shall have an Operator's License and who shall be responsible for the acts of all persons selling or serving, as waiters or in any other manner, any alcohol beverages to customers. No person other than the licensee, or the agent named in the license if the licensee is a corporation or limited liability company, shall serve or sell alcohol beverages in any place operated under a license unless he/she shall possess such Operator's license, or unless he/she shall be under the immediate supervision of the licensee, agent or a person holding an Operator's license.

(h) 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 and "Class C" wine 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.

12. REVOCATION, SUSPENSION OR NON-RENEWAL OF LICENSE.

(a) The following provisions shall apply to the revocation, suspension or non-renewal of any license issued pursuant to this Ordinance.

(i) Complaint. Any resident of the Village may file a sworn written complaint with the Village Clerk alleging one or more of the following about any person or other entity licensed pursuant to this chapter:

(1). The person has violated any provision of this ordinance.

(2). The person keeps or maintains a disorderly or riotous, indecent or improper house.

(3). The person has sold or given away any intoxicant to any underage person, or to persons intoxicated or bordering on intoxication, or to known habitual drunkards.

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(4). The person has failed to maintain the premises according to standards prescribed for sanitation by the State Division of Public Health, or in whose premises persons are permitted to loiter for purposes of prostitution.

(5). The person has not observed and obeyed any lawful order of the Village Board or police officers of the Village.

(6). The person does not possess the qualifications required under this chapter to hold the license.

(7). The person has been convicted of manufacturing or delivering a controlled substance under Sec. 161.41 (1), Wis. Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under Sec. 161.41 (1m), Wis. Stats.; or of possessing, with intent to manufacture or deliver, or of manufacturing or delivering a controlled substance under a substantially similar federal law or a substantially similar law of another state.

(8). The person knowingly allows another person, who is on the premises for which the license under this chapter is issued, to possess, with the intent to manufacture or deliver, or to manufacture or deliver a controlled substance.

(ii) Notice of Hearing on Complaint. Upon the filing of the complaint, the Village Board shall issue a Notice of Hearing on Complaint, signed by the Clerk and directed to any peace officer in the municipality who shall serve said Notice upon the licensee in the manner provided under Ch. 801, Wis. Stats., for service in civil actions in circuit court. The Notice shall set forth the nature and content of the complaint filed with the Village and shall command the licensee complained of to appear before the Village Board on a day and time and at a place named in the Notice, not less than three (3) days and not more than ten (10) days from the date of issuance, and show cause why the license should not be revoked or suspended. The Notice and a copy of the complaint shall be served on the licensee at least three (3) days before the time at which the licensee is commanded to appear.

(iii) Procedure on Hearing.

(1) If the licensee does not appear as required by the summons, the allegations of the complaint shall be taken as true and if the Village Board finds the allegations sufficient, the license shall be revoked. The Clerk shall give notice of the revocation to the person whose license is revoked.

(2). The President of the Village Board, or his designee, shall conduct the hearing, administer oaths to all witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in Sec. 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

(2) If the licensee appears as required by the notice and denies the complaint, both the complainant and the licensee may produce witnesses, cross-examine witnesses and be represented by counsel. The licensee shall be provided a written transcript of the hearing at his or her expense. All proceedings and testimony

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shall be recorded on tape and transcribed unless waived by both the complainant and licensee. If either party requests a stenographic recording and transcription, Village staff shall make the necessary arrangements, but the expense shall be borne by the requesting party. The Village Clerk shall mark and receive all exhibits admitted into the record.

(iv) Decision of the Village Board.

(1). Within twenty (20) days of the completion of the hearing, the Village Board shall submit its findings of fact, conclusions of law and decision. The Committee shall provide the complainant and the licensee with a copy of the decision.

(2). The decision of the Village Board shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the Village the actual cost of the proceedings.

(3). If the Village Board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Village Board finds the complaint is true, it shall determine the sanctions to be imposed against the licensee. Sanctions include a warning, a fine not to exceed \$500, suspension of license or revocation of license.

(4). The Village Clerk shall give notice of the sanctions imposed to the licensee.

(v) Effect of Revocation. When a license is revoked under this subsection, the revocation shall be recorded by the Village Clerk and no other license issued under this chapter shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of the revocation.

(vi) Judicial Review. The action of the Village Board in granting or failing to grant, suspending or revoking any license, or the failure of the Village Board to revoke or suspend any license for good cause, may be reviewed by the circuit court for the county in which the application for the license was issued, upon application by any applicant, licensee or resident of the Village.

(vii) Non-renewal of License. The Village Attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the Village Board to hear evidence that a license issued pursuant to this chapter should not be renewed. The Village Board shall, in writing, notify the licensee of the consideration of non-renewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the non-renewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for non-renewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subdivisions

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(a) and (b) shall apply. The commencement of this action shall stay action by the Village Board on the licensee's application until the decision of the Village Board is final.

(viii) Other Provisions. Any license issued pursuant to this order shall be subject to such further regulations and restrictions as may be imposed by the Village Board of the Village of Elkhart Lake 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 her/his license may be revoked in accordance with this section. In case of revocation of any license or any violation of any provision of this ordinance 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.

(ix) Demerit Point System.

(1) There is hereby established a point system for the purpose of guiding the Administration and Finance Committee in the suspension or revocation of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate State Statutes and/or Village of Elkhart Lake ordinances and to take consistent action against such licenses.

(2) There is hereby assigned the following demerit points for each type of violation:

<u>TYPES OF VIOLATIONS</u>	<u>ORD./WISS #</u>	<u>DEMERIT POINTS (per incident)</u>
Sale to person under age 21		80
Person under age 21 on premises		80
Sale to intoxicated person		80
False statement on application		70
Failure to be licensed		100
Unauthorized transfer/use of license		90
Conducting unlawful business		150
No licensed bartender on premise		40
Open after hours		50

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(4) Suspension and revocation of licenses. The police department shall notify the Administration and Finance Committee of the Village of Elkhart Lake of any conviction which result in the assessment of demerit points against any licensee. following this notification, or the filing of a complaint pursuant to Wisconsin Statutes 125.12, the Committee shall hold a hearing if required and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

(aa) For demerit points totaling 25-149 within a 12 month period, a warning to the licensee of the consequences of additional violations.

(bb) For demerit points totaling 150-199 within a 12-month period, suspension of the license for a period of not less than 10 days nor more than 90 days.

(cc) For demerit points totaling 200 or more within an 18- month period, revocation of the license. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises. and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(5) Scope. Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in Wisconsin Statutes 125.12. Notwithstanding the requirements of this section, the Administration and Finance Committee of the Village of Elkhart Lake may require the appearance before it of any licensee at any time.

13. CLOSING HOURS

Closing hours shall be established in conformance with Sec. 125.32(3), Wisconsin Statutes.

14. OPERATOR'S LICENSE REQUIRED.

(a) An operator's license for retail Class "A", "Class A", Class "B", "Class B" or "Class C" premises pursuant to Sec. 125.17 of the Wisconsin Statutes, may be issued by the Village Board to persons eighteen years of age, of good moral character who have been citizens of the United States and residents of Wisconsin continuously for not less than one year prior to the filing of said application.

(b) The written application shall be filed with the village Clerk-Treasurer stating the name, residence, age and sex of the applicant, together with such pertinent information as to fitness of the applicant as the Clerk-Treasurer shall require.

(c) A certificate of completion of a State of Wisconsin certified Bartender's Awareness Course shall accompany the written application.

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(d) A fee shall accompany the application which will be set by resolution of the Board of Trustees of the Village of Elkhart Lake from time to time.

(e) The Clerk-Treasurer shall forward the application to the Chief of Police for further investigation as is relevant.

(f) After approval by the Chief of Police the License shall be forwarded to the Administration and Finance Committee of the Village of Elkhart Lake who may call the applicant in for an oral examination as to the matters that appear on their application or other matters that are deemed relevant to the committee.

(g) The Administration and Finance Committee will forward with a recommendation the Operator License application to the Village Board to approve or deny.

(h) A granted operator's license shall be in effect until June 30th of the year next ensuing.

15. PROVISIONAL OR TEMPORARY LICENSES.

(a) Provisional Licenses. The Village Clerk-Treasurer may issue provisional operator's license in accordance with Sec. 125.17(5) Wisconsin Statutes. The provisional operator's license shall expire sixty (60) days after its issuance or when an operator's license is issued to the holder, whichever is sooner.

(i) The applicant for such provisional license must present evidence to the Clerk-Treasurer establishing that the applicant is enrolled in an Alcohol Awareness Training Program established pursuant to Sec. 125.17(a) Wisconsin Statutes.

(ii) A fee shall accompany the application which will be set by resolution of the Board of Trustees of the Village of Elkhart Lake from time to time.

(iii) A provisional license may not be issued to a person who has been denied and operator's license or to any person who has had his operator's license revoked or suspended within the preceding twelve months.

(iv) The Village Clerk-Treasurer may revoke the provisional license issued if he discovers that the holder of the license made a false statement on the application.

(b) Temporary License. The Clerk-Treasurer may issue a temporary operator's license provided that:

(i) This license may be issued only to operators employed by, or donating their services to, nonprofit corporations.

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(ii) The license is valid for any period from one (1) to fourteen (14) days, and the period for which it is valid shall be stated on the license.

(iii) No person may hold more than three (3) licenses of this kind per licensing year.

16. ISSUANCE OR DENIAL OF OPERATOR'S LICENSES.

(a) Issuing an Operator's License. After the Village Board approves the granting of an operator's license, the Village Clerk-Treasurer shall issue the license. Such licenses shall be issued and numbered in the order that they are granted and shall give the applicant's name and address and the date of the expiration of such license.

(b) Denying an Operator's License.

(i) If the application is denied by the Village Board, the Village Clerk-Treasurer shall, in writing, inform the applicant of the denial, the reasons therefore, and of the opportunity to request a reconsideration of the application by the Village Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant at least ten (10) days prior to the Board's reconsideration of the matter. At such reconsideration hearing, the applicant may present evidence and testimony as to why the license should be granted.

(ii) If, upon reconsideration, the Board again denies the application, the Village Clerk-Treasurer shall notify the applicant in writing of the reasons therefore. An applicant who is denied any license upon reconsideration of the matter, may apply to Circuit Court pursuant to Sec. 125.12(2)(d), Wisconsin Statutes, for review.

(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, 1n3 111.335, Wisconsin Statutes;

(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 offender" is generally considered to be an arrest or conviction of at

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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 Village Board, the Village 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 Village 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 (5) years immediately preceding, act to suspend such license for a period of one (1) year or more.

17. TRAINING COURSE.

(a) Except as provided in Subsection (b) below, the Village Board may not issue a liquor license to a sole proprietor or LLC, an operator, or appoint an agent for a corporation unless the applicant has successfully completed a responsible beverage server training course certified by the State of Wisconsin unless the applicant fulfills one of the following requirements:

(i) The applicant is renewing an operator's license.

(ii) Within the past two (2) years, the applicant has held a Class "A", Class "B", "Class A", "Class B", or "Class C" license or permit or a manager's or operator's license within the State of Wisconsin.

(iii) Within the last two (2) years, the person has completed such a training course.

(b) The Clerk-Treasurer may issue a provisional operator's license to a person who is enrolled in a training course under Subsection (a) above and shall revoke that license if the applicant fails successfully to complete the course in which he or she is enrolled.

18. ENFORCEMENT

A violation of this section by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder. Whenever the holder of any license or permit under this section shall violate any portion of this section or any regulation adopted pursuant thereto, proceedings for the revocation of said license or permit may be instituted in the manner and under the procedure established by Secs. 125.12 and 125.13 of the Wisconsin Statutes, and the provisions therein relating to the granting of a new license shall likewise be applicable.

19. PENALTIES

(a) Forfeitures for violations of Secs. 125.07(1)-(5) and 125.09(2) of the Wisconsin Statutes, adopted by reference in Section 13.01 of the Code of Ordinances of the Village of Elkhart Lake, shall conform to the forfeiture penalty permitted to be imposed for violations of the comparable State Statute, including and variations or increases for subsequent offenses.

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(b) Any person who shall violate any provision of this Chapter of the Code of Ordinances of the Village of Elkhart Lake, except as otherwise provided in Subsection (a) herein or who shall conduct any activity or make any sale for which a license is required without a license, shall be subject to a forfeiture as provided by Resolution of the Board of Trustees of the Village of Elkhart Lake from time to time plus the costs of prosecution; and in case such forfeiture and costs are not paid forthwith, then by imprisonment in the County Jail until paid or until discharged by due course of law, but in any case, not less than three (3) months, nor more than one year.

(c) If, for a violation of any other provision of this section, by a forfeiture as provided by Resolution of the Board of Trustees of the Village of Elkhart Lake from time to time plus the costs of prosecution; and in case such forfeiture and costs are not paid forthwith, then by imprisonment in the County Jail until paid or until discharged by due course of law, but in any case, not more than (60) days, and any license issued shall be subject to revocation by the court which tried the violation, or as provided by subsection (12) in this Chapter. In the event of conviction for second offense under this section, or any conviction for a violation of Chapter 125 of the Wisconsin Statutes, any license which may have been issued by the Village shall, without notice, be forthwith forfeited by the order of the court which tried the violation, and such court and the clerk thereof shall file a copy of such order in the office of the Clerk-Treasurer of the Village of Elkhart Lake.

(d) Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes.

20. DELINQUENT TAXES AND ASSESSMENTS.

No alcohol beverage license shall be granted for any premises for which taxes, assessments, water and sewer charges, or other claims of the Village of Elkhart Lake are delinquent and unpaid. No licenses shall be granted to any person:

(a) Delinquent in payment of any taxes, assessments or other claims owed to the Village of Elkhart Lake;

(b) Delinquent in payment of any water and sewer charges to the Village of Elkhart Lake Water Utility.

(c) Delinquent in payment of a forfeiture resulting from a violation of any ordinance of the Village of Elkhart Lake; or

(d) Delinquent in payment to the State of Wisconsin of any state taxes owed.

21. FAILURE TO USE LICENSE.

The failure of any license holder to use the "Class B" and Class "B" liquor and malt beverage license by not operating a business thereunder for a period of not less than ninety (90) consecutive days during the license year may be grounds for forfeiture of the licenses during the license period or for non-renewal of the license pursuant to Wisconsin Statutes Section 125.12.

RESOLUTION _____ - 2006
VILLAGE OF EKLHART LAKE
SHEBOYGAN COUNTY, WISCONSIN

LICENSE AND FORFEITURE SCHEDULE
CHAPTER 13

BE IT RESOLVED, that the Village of Elkhart Lake hereby sets the following license fee and forfeiture schedule for the licensing year beginning July 1st, 2006 and until such a time that the Board of Trustees resolves a change:

NEW FEES***

Class "A" – Beer-----	\$100.00
Class "B" –Beer-----	\$100.00
"ClassA" Liquor-----	\$250.00
"Class B"—Liquor-----	\$300.00
"Class C" Wine-----	\$100.00
Reserved-----	\$10,000.00
Publication-----	\$15.00

Cigarette-----\$100.00

Vending Machine-----\$15.00

Operator's License New or Renewal-----\$15.00

FORFEITURES***

Selling intoxicating liquor without a license or permit -----\$25.00 to \$200.00

Violation of any other provision of this ordinance -----\$25.00 to \$100.00