

Town of Merrimac, Sauk County, Wisconsin  
Ordinance #2019-33  
Alcoholic Beverages

**WHEREAS**, in accordance with Chapter 125 of the Wisconsin Statutes, the Town of Merrimac, Sauk County, Wisconsin, desires to establish standards under which provisional operator's licenses may be issued; and

**WHEREAS**, Merrimac Ordinance 2008-02 adopted on April 8, 2008 vacated Ordinance #1-79 limiting the number of Class "A: beer licenses and Ordinance #3-78 limiting Class "B" license; and

**WHEREAS**, Town of Merrimac Ordinance 2014-15 was adopted August 14, 2014 prohibiting the issuance of Licenses or Permits for Nonpayment of Taxes, Assessments and Claims; and

**WHEREAS**, Town of Merrimac Ordinance 3-91 adopted October 1, 1991 also addresses the restriction of the issuance of liquor licenses;

**NOW, THEREFORE BE IT RESOLVED**, the Town Board of the Town of Merrimac rescinds Merrimac Ordinance 3-91 and adopts the following ordinance related to Alcoholic Beverages:

**Section 1      Strict Compliance Required.**

It shall be unlawful for any person, firm, association, corporation or limited liability company to sell, or keep for sale, at wholesale or retail, or permit to be sold, or kept for sale, at wholesale or retail, within the Town of Merrimac, any alcohol beverages except in strict accordance with this chapter's provisions.

**Section 2      Statute adopted.**

The statutory provisions of Chapter 125 of the Wisconsin Statutes, describing and defining regulations with respect to alcoholic beverages are hereby adopted and by reference made a part of this Chapter as if set forth in full herein; except for those provisions requiring imprisonment or provisions permitting the Town to enact standards different from that set forth by the legislature. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter unless there is specific provision to the contrary. Any future amendments, revisions or modifications of the statutes incorporated herein are made part of this Chapter. In the event of a conflict between the provisions of this Chapter and any statute, the Chapter controls unless expressly forbidden by the statute. If the statute authorizes the Town to enact a provision in its sole discretion and the Chapter does not so provide, the Town shall be deemed to have declined to act.

**Section 3      Definitions.**

Whenever the following terms are used in this Chapter, they shall be construed as follows:

- A.      Alcohol beverages.** Means fermented malt beverages, wine and intoxicating liquor.
- B.      Brewer.** Means any person who manufactures fermented malt beverages for sale or

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transportation.

- C. **Brewery premises.** Means all land and buildings used in the manufacture or sale of fermented malt beverages at a brewer's principal place of business.
- D. **Club.** Means an organization, whether incorporated or not, which is the owner, lessee or occupant of a building or portion thereof used exclusively for club purposes, which is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain and that only sells alcohol beverages incidental to its operation.
- E. **Department.** Means the state of Wisconsin Department of Revenue.
- F. **Fast food restaurant.** Means a restaurant serving food primarily prepared in advance and sold to its customers at a counter, and/or a restaurant utilizing a drive-through facility.
- G. **Fermented malt beverages.** Means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar containing one-half percent (0.5 %) or more of alcohol by volume.
- H. **Full-service restaurant.** Means a restaurant where meals are primarily prepared individually for the customer and are served to customers at their table by wait staff. A restaurant that is a fast food restaurant, or that has drive-through facilities is not considered a full-service restaurant.
- I. **Intoxicating liquor.** Means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing one-half percent (0.5 %) or more of alcohol by volume, which are beverages, but does not include 'fermented malt beverages' that contain less than five percent (5 %) of alcohol by weight.
- J. **Legal drinking age.** Means twenty-one (21) years of age.
- K. **License.** Means an authorization to sell alcohol beverages issued by a municipal governing body under this Chapter.
- L. **Permit.** Means any permit issued by the Department under this Chapter.
- M. **Person.** Means a natural person, sole proprietorship, partnership, limited liability company, corporation or association.
- N. **Premises.** Means the area described in a license or permit.
- O. **Principal business.** Means the primary activity as determined by analyzing the amount of capital, labor, time, attention and floor space devoted to each business activity and by analyzing the sources of net income and gross income. The name, appearance and advertising of the entity may also be taken into consideration if they are given less weight.
- P. **Restaurant.** Has the meaning as defined in s. 254.61(5), Wis. Stats., and whose sale of alcohol beverages accounts for less than fifty percent (50%) of the establishment's gross receipts.
- Q. **Sell, sold, sale or selling.** Means any transfer of alcohol beverages with consideration, or any transfer without consideration if knowingly made for purposes of evading the law relating to the sale of alcohol beverages, or any shift, device, scheme or transaction for obtaining alcohol beverages, including the solicitation of orders for, or the sale for future delivery of, alcohol beverages.

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- R. **Under the influence.** Means not only all the well-known and easily recognized conditions and degrees of intoxication, but any abnormal mental or physical condition that is the result of indulging to any degree in alcohol beverages and that tends to deprive a person of the clearness of intellect and control of himself or herself that he or she would otherwise possess.
- S. **Underage person.** Means a person who has not attained the legal drinking age.
- T. **Wholesaler.** Means a person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer or to another person who holds a permit or license to sell alcohol beverages at wholesale.
- U. **Wine.** Means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain one-half percent (0.5 %) or more of alcohol by volume.

**Section 4 License Classifications.**

- A. **Class “A” Licenses.** A Class “A” license authorizes retail sales of fermented malt beverages within the Town of Merrimac, for off-premise consumption only.
- B. **“Class A” Licenses.** A “Class A” license authorizes retail sales of intoxicating liquor to consumers only in original packages for off-premise consumptions. They may offer taste samples of wine or intoxicating liquor on premises. “Class A” retailers may not make retail sales or offer taste samples of any intoxicating liquor other than cider.
- C. **Class “B” Licenses.** A Class “B” license authorizes retail sales of fermented malt beverages to be consumed either on the premises where sold or off the premises, provided that only fermented malt beverages in original packages or containers may be removed from the premises where sold.
- D. **“Class B” Licenses.** A “Class B” license authorizes retail sales of wine, fermented malt beverages and intoxicating liquor for consumption on the premises where sold by the glass and to be consumed on the licensed premises where sold and the sale of wine, fermented malt beverages and intoxicating liquor in the original package or container in multiples not to exceed four (4) liters at any one time and to be consumed off the licensed premises, except that wine may be sold in the original container or otherwise in any quantity to be consumed off the premises. “Class B” licenses are restricted by a population based quota per Wisconsin Statute 125.51 (4). When a “Class B” reserve license becomes available, applicants are subject to an initial issuance fee of not less than \$10,000 in accordance with Wisconsin Statute 125.51(3)(e)(2). When there are no regular or reserve “Class B” licenses available, exceptions to the “Class B” quota for the following two types of businesses may be made so long as they meet with the requirements of Section 5 of this ordinance:
  - 1. A full-service restaurant that has a seating capacity of 300 or more persons; or
  - 2. A hotel that has 100 or more rooms of sleeping accommodations and that has either an attached restaurant with a seating capacity of 150 or more persons or a banquet room in which banquets attended by 400 persons or more may be held.
- E. **Temporary Class “B” Licenses.** A Temporary Class “B” License may be issued to qualified applicants in accordance with the provisions of s. 125.26 (6), Wis. Stats.

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- F. **“Class C” Licenses.** A “Class C” license authorizes the retail sale of wine by the glass or in opened original containers for consumption on the premises when the quota limiting the number of “Class B” Licenses as set forth in s. 125.51 (4) Wis. Stats. has been filled or the retailer does not meet the siting requirements for a “Class B” license.
- G. **Wholesaler’s License.** A Wholesaler’s license shall permit its holder to sell and keep for sale, within the Town of Merrimac, alcohol beverages in their original packages or containers to dealers to be consumed elsewhere than on the premises where stored or sold.
- H. **Operator’s License.** An Operator’s license shall permit its holder to serve or sell alcohol beverages.

**Section 5 Licensing Requirements.**

- A. **License or permit, when required.** No person may sell, manufacture, rectify, brew or engage in any other activity for which Chapter 125, Wis. Stats., provides a license, permit, or other type of authorization without holding the appropriate license, permit or authorization issued under this Chapter.
- B. **Licenses or permits issued in violation of this Chapter.** No license or permit may be issued to any person except as provided in this Chapter. Any license or permit issued in violation of this Chapter is void.
- C. **Application for licenses.**
  - 1. **Contents.** The Town Clerk shall provide an application form prepared by the Department for each kind of license issued under this Chapter. Said application shall be completed by the applicant containing the information required by s. 125.04, Wis. Stats., and any additional information the Town requests, signed by the applicant and verified by oath of the applicant and filed with the Town Clerk.
  - 2. **Publication of application for license.** The Town Clerk shall publish in the town’s official newspaper a notice of such application, containing the name and address of the applicant, the kind of license applied for, and the location of the premises to be licensed. At the time of filing the application the applicant shall pay to the Town Clerk the cost of said publications.
  - 3. **Time of filing and acting on applications.** Applications and renewal applications for all classes of licenses, which are to be acted upon at the first meeting in June of each year, must be filed on or before twenty-eight (28) days of this meeting. The Town Clerk may accept new applications throughout the course of the year and shall notice such application for consideration by the town board in accordance with Wisconsin Statute.
  - 4. **The Town Board authorizes the Town Clerk to review all Operator’s License applications and issue the Operator’s Licenses in accordance with Wisconsin Statute.** If the clerk refuses to issue a new Operator’s License, the Clerk shall transmit to the applicant by first-class mail the Clerk’s decision and shall state the reason thereof.
  - 5. **Training course.** No licenses shall be issued 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

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

- a. The person is renewing an operator's license.
  - b. Within the past two (2) years, the person held a "Class A", "Class B", "Class A", or "Class B" license or permit or a manager's or operator's license.
  - c. Within the past two (2) years, the person has completed such a training course.
5. Refusals to issue new license or permit. If the Town Board decides not to issue a new license or permit under this chapter, such denial shall include a reason. The Town Clerk shall transmit to the applicant by first-class mail, the Town Board's decision and shall state the reason thereof.

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

**F. Criteria for granting the license.**

1. The Town Board shall answer certain questions in the affirmative before it shall be proper to grant a license. Among the questions, but not limited thereto, shall be those questions following, and it is mandatory for the said Board to consider these conditions on any request for a "Class A" Beer or "Class B" Malt Beverage and Liquor License, or combination thereof or "Class B" Fermented Malt Beverage Licenses, and the Board shall not issue such a license until it finds the answers to the following questions to be in the affirmative:
  - a. Are the premises and the building in which the licensee is to be conducting business in accordance with the state of Wisconsin building codes and the Town of Merrimac Zoning ordinance?
  - b. Is the building sightly and will its construction and operation be in such a manner that it will not create, add to, or aggravate the general welfare of the Town of Merrimac?
  - c. Does granting the license have a valid purpose?
  - d. Will the aesthetic propensities of the building and the operation generally, including fencing, grounds, parking and otherwise, contribute to the community's general attractiveness?
  - e. Has the Town Board considered the availability of the sale of the product that will be sold under this license in its total quantum capacity available to the residents, tourists, passers-through and others that will be affected and have access to same and is it the Town Board's decision that adding this license will not create an oversupply that would be adverse to the health, safety, general welfare and public peace, safety and order of the community?

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- f. Has the Town Board carefully considered the application in its entirety, including such background material as shall be lawful as it may require within the orbit of proper inquiry in this respect, and also the personnel involved in the operation, and is the Town Board satisfied that there is no one operating who is a convicted felon or who is not a person of good character and that every applicant and all employees and/or agents etc. are people of good character and that the application itself meets with all of the legal requirements of the laws of the state of Wisconsin and the Town of Merrimac's ordinances?
  2. Issuance of a "Class B" license. The Town Board may in its sole discretion issue "Class B" licenses to qualified applicants. In reviewing an application for a "Class B" license the Town Board shall, in addition to other requirements of this Chapter, and of *Wisconsin Statutes Chapter 125*, investigate and determine whether the premises meets the qualifications for a "Class B" license. In making its determination of whether a particular application qualifies for a "Class B" license the Town Board shall consider, in addition to the requirements of paragraph F (1) above, the following factors in making its determination:
    - a. Whether the premises defined in the application constitutes a full-service restaurant that has a indoor seating capacity of at least 100 or more persons; or
    - b. Whether issuing the site license is in the public interest.
    - d. For purposes of this paragraph seating capacity means the indoor seating capacity of the restaurant.
  3. Discretionary authority of the Town Board. The fact that a particular premises meets the qualifications set forth in Subparagraphs F(1) and (2) above does not entitle said premises to a license, the issuance of which remains the sole discretion of the Town Board considering all factors relevant to the issuance of said license.
- G. Expiration dates.** Except as otherwise provided in this Chapter all licenses and permits issued under this Chapter shall expire on June 30 of each year.
- H. License framed and posted.** Licenses for the sale of alcohol beverages shall be enclosed in a frame having a transparent front that allows the license to be clearly read. All licenses shall be conspicuously displayed for public inspection at all times in a room or place where the activity subject to licensure is carried on.
- I. Transfer of licenses and permits.**
1. From place to place. With the exception of a "Class B" license that is non-transferable, a license may only be transferred to another place or premises with the Town Board's approval. The Town Board may permit one (1) transfer during the license year provided the licensee proves to the Town Board's satisfaction the new premises is in full and complete compliance with all state, county, and town laws, regulations and ordinances; the owner and/or lien holder of the existing premises consents to the transfer in writing, and that such transfer is not detrimental to the public interest. Application to transfer shall be filed with the Town Clerk along with payment of a transfer fee in the amount of ten dollars (\$10.00).
  2. From Person to Person.

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- a. Licenses to sell alcohol beverages may not be transferred to persons other than the licensee without the Town Board's approval. If the licensee, or an applicant for a subsequently granted license, dies, becomes bankrupt or makes an assignment for the benefit of creditors during the license year or after filing the application, then under such circumstances or others deemed sufficient by the Town Board in its discretion, the Town Board may, upon application, transfer the license to the licensee's designee provided such designee complies with all the requirements under this Chapter applicable to original applicants, except that a surviving spouse shall be exempt from payment of the license fee for the year in which the transfer takes place.
- b. Upon the happening of any of the events under Paragraph (a) above, the personal representative, the surviving spouse, if a personal representative is not appointed, the trustee, or the receiver may continue or sell or assign the business.
- c. Businesses may be continued under Paragraph (b) above only if the personal representative or surviving spouse is a U.S. citizen.

**J. Limitation upon issuance of licenses.**

1. Issuance of "Class A" licenses.
  - a. "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses that will be issued within the Town shall only be issued to qualifying businesses meeting the standards established in Chapter 125, Wisconsin Statutes and in Subparagraph b below.
  - b. Standards for licensing of premises for "Class A" Fermented Malt Beverage and Intoxicating Liquor sales. Only the following businesses are eligible for "Class A" Fermented Malt Beverage and Intoxicating Liquor licenses provided they meet all other requirements of this Chapter:
    - i. Full service grocery stores open twelve (12) months a year with a minimum of fifty thousand (50,000) square feet of interior space. The liquor area must be located in a separate room either inside the grocery store or connected by a door from the inside of the store to an attached structure. This structure could have an outside entrance as long as there is an interior entrance from the grocery store.
    - ii. Liquor stores open twelve (12) months a year with a minimum of five thousand (5000) square feet of interior space and with a minimum inventory of one hundred seventy-five thousand dollars (\$175,000). For purposes of this provision liquor store means a retail store in which the sale of alcoholic beverages exceeds eighty percent (80%) of its gross sales. No liquor store may be located within one thousand (1000) feet of an existing liquor store.
    - iii. Retail stores offering occasional sales of liquor and/or wine in special promotions in combination with other goods provided that the full retail value of the alcoholic beverage constitutes less than fifty percent (50%) of the price or the promotion. For purposes of this provision, up to four special promotions may be held during a

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- license year.
- 4. Retail stores holding “Class A” licenses in effect at the time of enactment of this Section.
- c. “Class A” Fermented Malt Beverage and Intoxicating Liquor licenses are not transferable to another location.
- 2. “Class B” Fermented Malt Beverage License.
  - a. No “Class B” Fermented Malt Beverage license shall be issued in the Town of Merrimac except:
    - (1) in restaurants where full-course meals are served, and where food is predominantly the major sales item, computed by gross sales, floor area and general use of the restaurant, or
    - (2) in restaurants or hotels meeting the criteria specified in § 125.51(4)(v), Wis. Stats.
  - b. No “Class B” license shall be issued hereunder for the sale of alcohol beverages on any premises unless such premises complies with and conforms to all ordinances, health, sanitation, building and fire regulations of the Town and the state.
  - c. Off-premises sale of liquor in original packages. Holders of “Class B” Fermented Malt Beverage and Intoxicating Liquor licenses may sell liquor in the original package for off-premises consumption, not to exceed one-gallon per sale. Such sales shall be made either by the licensee or by a licensed bartender or employee licensed for such purposes.
- 3. “Class B” License (Picnic). Original “Class B” licenses may be issued by the Town Board 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 prior to the application date 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 application shall be filed with the Town Board at least thirty (30) days prior to the granting of the license. The Town Board may issue a license for an application that is not timely filed provided it finds it has all the information necessary to make an informed decision. The license shall be issued upon written application, and for such time, not to exceed four (4) days, as shall be designated by the Board and shall be subject to such restrictions as imposed by the Board. The Town Clerk is authorized to issue renewal “Class B” picnic licenses to previously approved applicants.
- 4. Class C License.
  - a. A Retail “Class C” license may be issued to a person qualified under § 125.04 (5), Wis. Stats., for a restaurant operating under a restaurant license issued by the state of Wisconsin, in which the sale of alcohol beverages accounts for less than fifty percent (50%) of gross receipts and which does not have a barroom.
  - b. Each applicant for a “Class C” license shall disclose on the application the



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receipts for the sale of alcohol beverages and the percentage of such sales to the gross sales.

**Section 6      General Provisions and Hours.**

- A.      No license where pending violation.** No license shall be issued, renewed or granted hereunder to any person, firm, corporation, limited liability company or organization for any premises as a result of the sale or transfer of the business, stock in trade or furnishings of said premises, to a new applicant while there is pending against the former licensee thereof any proceedings for the violation of any provisions of the Town of Merrimac's general ordinances, which on conviction would result in automatic forfeiture of said license.
- B.      Hours.** All licensees and Classes of licenses are to prohibited from selling alcohol or be open for business outside of the hours prescribed in Wisconsin Statute 125.32(3) and 125.68(4).
- C.      Intoxication.** It shall be unlawful for the licensee or any employee of a licensed establishment to be under the influence of an intoxicant, or a controlled substance or a combination of an intoxicant and a controlled substance, while performing services on the licensed premises.
- D.      Licenses for less than one (1) year.** A license may be issued after July 1 in any license year. The license shall expire on the following June 30. The fee for the license shall be prorated according to the number of months or fractions thereof remaining until the following June 30.
- E.** A Retail "Class A" and "Class B" license shall not both be issued for the same premises or connecting premises.
- F.** No person may hold both a "Class C" license and either a "Class A" or "Class B" license for the same premises or for connecting premises. No person may allow another to use his/her "Class C" license or permit to sell alcohol beverages.
- G.** No retail license shall be issued to any person who has not attained the legal drinking age.
- H.      Place-to-place deliveries.** No person may peddle any alcohol beverage from house to house where the sale and delivery are made concurrently.
- I.      Public notification of availability of "Class B" license.** In the event that a Reserve "Class B" Fermented Malt Beverage and Intoxicating Liquor License becomes available, the Clerk shall publish a Class I Notice pursuant to Chapter 985 of the Wisconsin Statutes notifying the public of the availability of the Reserve "Class B" license. That no hearing on an application for a Reserve "Class B" License may be held prior to thirty (30) days after publication of the notice.
- J.** The consumption of fermented beverages and intoxicating liquors shall be prohibited on commercial quadricycles.
- K.      No retail license shall be issued unless all fees, personal property taxes, and room taxes, are paid in full.**

**Section 7      Fees.**

The Town Board shall establish fees for licenses issued pursuant to this Chapter.

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**Section 8 License Revocation, Suspension or Nonrenewal.**

The following provisions shall apply to the revocation, suspension or nonrenewal of any license issued pursuant to this Chapter.

**A. Complaint.** Any Town resident may file a sworn written complaint with the Town Clerk alleging one (1) 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 Chapter.
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 be known habitual drunkards.
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 Town Board or Sauk County Sheriff's deputies.
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 § 161.41(1), Wis. Stats.; of possessing, with intent to manufacture or deliver, a controlled substance under § 161.41 (1 m), 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.

**B. Notice of hearing on complaint.** Upon the filing of the complaint, the Town Board shall issue a notice of hearing on complaint, signed by the Clerk and directed to any peace officer who shall serve said notice upon the licensee in the manner provided under Chapter 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 Town and shall command the licensee complained of to appear before the Town 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.

**C. Hearing procedure.**

1. If the licensee does not appear as required by the notice the allegations of the complaint shall be taken as true and if the Town 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 Town chair, or his designee, shall conduct the hearing, administer oaths to all

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witnesses and may issue subpoenas. So far as practicable, the rules of evidence provided in § 227.45, Wis. Stats., shall be followed. The complainant shall have the burden of proving the charges by a preponderance of the evidence.

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

**D. Town Board decision.**

1. Within twenty (20) days of the hearing completion, the Town 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 Town Board decision shall be a final determination for purposes of judicial review. If the complaint is found to be true, the licensee shall pay to the Town the actual cost of the proceedings.
3. If the Town Board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Town 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 five hundred dollars (\$500.00), suspension of license or revocation of license.
4. The Town Clerk shall give notice of the sanctions imposed to the licensee.

**E. Effect of revocation.** When a license is revoked under this Subsection, the Town Clerk shall record the revocation 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.

**F. Judicial review.** The Town Board action in granting or failing to grant, suspending or revoking any license, or the failure of the Town 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 Town resident.

**G. Nonrenewal of license.** The Town's Attorney, or special counsel appointed for such purposes may, after investigation, commence an action before the Town Board to hear evidence that a license issued pursuant to this Chapter should not be renewed. The Town Board shall, in writing, notify the licensee of the consideration of nonrenewal. 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 nonrenewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for nonrenewal, costs may be assessed against the licensee and any renewal application fee shall be forfeited. In all other respects, the provisions of Subdivisions (A) and (B) shall apply. The commencement of this action shall stay action by the Town Board on the licensee's application until the decision of the Town Board is final.

**H. Other provisions.** Any license issued pursuant to this order shall be subject to such further regulations and restrictions as the Town Board of the Town of Merrimac may impose by

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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 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.

**Section 9      Nudity, Nude Entertainment.**

This Section and Section 10 requires that any establishment hosting nude, semi-nude and other sexually explicit performances on premises that have municipal liquor and beer licenses shall not be:

- A.      Located within 500 feet of any area zoned for residential use;
- B.      Located within 500 feet of the property line of any of the following uses or facilities:
  - 1.      Church or other facility used primarily for worship or other religious purposes,
  - 2.      City, county, state, federal or other governmental public buildings, including, but not limited to: city halls, schools, libraries, police and fire stations and post offices,
  - 3.      Hospitals and convalescent facilities,
  - 4.      Parks and playgrounds,
  - 5.      Senior, youth or similar centers.

**Section 10     Penalties.**

- A.      Any person violating any provision of this Chapter or any condition included on a license application or on the license itself or who provides any false or inaccurate information on a written application shall be subject to a penalty of not more than five hundred dollars (\$500.00), unless a greater maximum penalty is specifically provided for in this Chapter, except that where a lower maximum penalty shall be provided by Chapter 125 of the Wisconsin Statutes for any specific offense such maximum penalty shall prevail for the same offense committed in violation of this Chapter.
- B.      Nothing in this Subsection shall in any way diminish the Town Board's authority to suspend, revoke or not renew any license issued pursuant to this chapter for any violation of this Chapter or other Town Ordinance or state law.
- C.      Any person, partnership or corporation who violates any of the provisions of the Sections 9 and 10 shall be subject to license suspension, revocation or nonrenewal as provided by Section 8 of this Chapter and § 125.12 (1), Wis. Stats., and a forfeiture of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00). A separate offense shall be deemed committed on each day on that a violation occurs or continues.

**Section 12. Severability.**

The various provisions of this Ordinance are deemed severable and it is expressly declared that the Town Board would have passed other provisions hereof irrespective of whether or not one or more provisions may be declared invalid. If any provision or the application thereof

Town of Merrimac, Sauk County, Wisconsin

Ordinance #2019-33

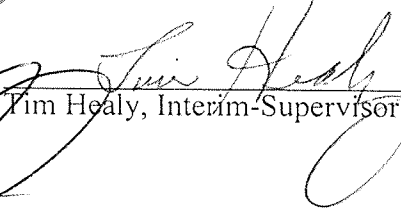
Alcoholic Beverages

to any person or circumstances is held invalid, the remainder of the Ordinance and application of such provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect.

The town clerk shall properly publish this ordinance as required under s. 60.80, Wis. Statutes.  
Adopted this 3rd day of July, 2019.



Charlie Hall, Interim Town Chair



Tim Healy, Interim-Supervisor



John Gaedke, Supervisor

ATTEST:



Tim McCumber

Town Administrator & Clerk – Treasurer