

TOWN OF LAFAYETTE
ALCOHOL CONTROL, FERMENTED MALT BEVERAGES
AND INTOXICATING LIQUORS

ORDINANCE 10 - 01

The Town Board of the Town of LaFayette, Walworth County, Wisconsin, does hereby ordain as follows:

SECTION 1.0 PURPOSE

The purpose of this ordinance is to allow the Town to regulate by license, license issuance, suspension and revocation, penalties or other specific actions at or near any alcohol beverage retail locations in the Town.

SECTION 2.0 STATE STATUTES ADOPTED

The provisions of Chapter 125, WI 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 statute 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 statewide regulation of alcohol beverage control.

SECTION 3.0 ADOPTION OF ORDINANCE

The Town Board of the Town of LaFayette, by this ordinance, adopted on proper vote with a quorum and by a roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to regulate by permit, revoke or suspend permits and enforce other specific actions at or near alcohol retail sales premises located in the Town and other regulatory and enforcement authority noted in this ordinance.

SECTION 4.0 DEFINITIONS

As used in this Chapter the terms "Alcoholic Beverages," "Intoxicating Liquors," "Principal Business," "Legal Drinking Age," "Premises," "Sell," "Sale," "Restaurant," "Club," "Retainer," "Person," "Fermented Malt Beverages," "Wholesalers," "Retailers," "Operators," and "Non-Intoxicating Beverages" shall have the meaning given them by Chapter 125, WI Statutes.

In addition, the following terms shall have the meanings set forth below:

- A. "Alcohol beverages" means fermented malt beverages, wine and intoxicating liquor.
- B. "Cider" means any alcohol beverage that is obtained from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7.0% alcohol by volume. Cider includes flavored, sparkling and carbonated cider.
- C. "Controlled substance" means a drug, substance or immediate precursor included in Schedules I to V of Subchapter II in Chapter 961, WI Statutes.
- D. "Fermented malt beverage" 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 zero point 5 percent (0.5%) or more of alcohol by volume.

- E. "Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol.
- F. "Intoxicating liquors" means all ardent, spirituous, distilled or vinous liquors, liquid, or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing point 5 percent (0.5%) or more of alcohol by volume, which are beverages, but does not include "fermented malt beverages".
- G. "Legal drinking age" means 21 years of age.
- H. "License" means an authorization to sell alcohol retail or wholesale beverages issued by the Town Board or its agent under the ordinance.
- I. "Licensee" means any person issued a license under this ordinance and Chapter 125, WI Statutes, by the Town.
- J. "Open" means conducting a business publicly at least seventy-two (72) hours per calendar year.
- K. "Permit" means any permit issued by the Town under this ordinance.
- L. "Permittee" means any person issued a permit by the Town under this ordinance.
- M. "Person" means a natural person, sole proprietorship, partnership, limited liability company, corporation, association or the owner of a single-owner entity that is disregarded as a separate entity under Chapter 71, WI Statutes.
- N. "Premises" means the area described in a license or permit.
- O. "Regulation" means any rule or ordinance adopted by a municipal governing body.
- P. "Retailer" or "retail" means any person who sells, or offers for sale, any alcohol beverages in the Town to any person other than a person holding a permit or a license under this chapter.
- 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.
- R. "Soft drink" means any liquid capable of being used for beverage purposes or liquor containing any degree of alcohol less than one-half of one percent by volume.
- S. "Tavern" means any place in which fermented malt beverages or intoxicating liquor are sold for consumption upon said premises.
- T. "Town" means the Town of LaFayette, Walworth County, Wisconsin.
- U. "Town Board" means the Board of Supervisors for the Town of LaFayette, Walworth County, Wisconsin and includes designees of the Board authorized to act for the Board.
- V. "Town Clerk" means the Clerk of the Town of LaFayette, Walworth County, Wisconsin.
- W. "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.

- X. "Underage person" means a person who has not attained the legal drinking age.
- Y. "WI Statutes" means the Wisconsin Statutes, including successor provisions to cited statutes.
- Z. "Wholesale" or "Wholesaler" means person, other than a brewer, manufacturer or rectifier, who sells alcohol beverages to a licensed retailer in the Town or to another person who holds a permit or license to sell alcohol beverages in the Town at wholesale.
- AA. "Wine" means products obtained from the normal alcohol fermentation of the juice or ripe grapes, other fruits, or other agricultural products, imitation wine, and compounds sold as wine, vermouth, cider, perry, mead and sake, if such products contain point five percent (0.5%) of alcohol by volume.

SECTION 5.0 LICENSES REQUIRED

No person, firm or corporation shall vend, sell, deal or traffic in, or have in his/her 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 ordinance nor without complying with all the provisions of this ordinance, and all statutes and regulations applicable thereto, except as provided by § 125.16, 125.27, 125.28 and 125.51, WI Statutes.

SECTION 6.0 CLASSES OF LICENSES

- A. **"Class A" Intoxicating Liquor Retailer's 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.
 - 1. "Class A" Intoxicating Liquor-Cider Only Retailer's License. A retail "Class A" intoxicating liquor-cider only license is for an applicant that holds a Class "A" Malt Beverage License for the same premises for which the "Class A" Intoxicating Liquor License application is made and provided that the application contains the condition that retail sales of intoxicating liquor are limited to cider. A person issued a "Class A" license under this provision may not make retail sales, or provide taste samples, of any intoxicating liquor other than cider.
- B. **"Class B" Intoxicating Liquor Retailer's 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.**
 - 1. 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 (1/2) of a per centum 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.

2. Application. Class "B" licenses may be issued to any person qualified under § 125.04(5), WI Statutes. Such licenses may not be issued to any person acting as agent for or in the employ of another except that this restriction does 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 § 125.31, WI Statutes, Class "B" licenses may not be issued to brewers or fermented malt beverage wholesalers.

E. Temporary Class "B" Fermented Malt Beverage License.

1. License. As provided in § 125.26(1) and (6), WI Statutes, 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. Such license is valid for dates as approved by the Town Board.
2. 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. Any person fronting for any group other than the one that applied shall, upon conviction thereof, be subject to a forfeiture of two hundred dollars (\$200) and will be ineligible to apply for a temporary Class "B" license for one (1) year. 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 Town park, the applicant shall specify the main point of sale facility.

F. Temporary "Class B" Wine License.

1. License. Notwithstanding § 125.68(3), WI Statutes, 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. No fee may be charged to a person who, at the same time applies for a temporary Class "B" beer license under § 125.26(6), WI Statutes, or the same event.
2. 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. Any person fronting for any group other than the one applied for shall, upon conviction thereof, be subject to a forfeiture of two hundred dollars (\$200) and will be ineligible to apply for a temporary "Class B" wine license for one (1) year. 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 Town park, the applicant shall specify the main point of sale facility.

- G. Fermented Malt Beverage Wholesaler's License.** A fermented malt beverage wholesaler's license, when issued by the Town Clerk under authority of the Town 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.

H. "Class C" Wine Retailer's License.

1. In this Subsection "bar room" means a room that is primarily used for the sale or consumption of alcohol beverages.
2. 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.
3. A "Class C" license may be issued to a person qualified under § 125.04(5), WI Statutes, 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 bar room 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.
4. A "Class C" license shall particularly describe the premises for which it is issued.

I. Operator's License a/k/a Beverage Server.

1. Regular. The Town may issue an Operator's License which shall be granted only upon an application in writing. See Section 12.0 for requirements necessary to obtain and continue to hold this license.
2. Provisional Operator's License.
 - a. Requirements. The Town Clerk may grant a Provisional Operator's License to an individual who complies with §125.084(5), WI Statutes, and who has also applied for a regular Operator's License and who has not been previously denied a license under this Chapter, subject to the following restrictions:
 - i. The applicant for a Provisional Operator's License must furnish an affidavit stating that he/she has not been a habitual law offender or have been convicted of a felony unless duly pardoned.
 - ii. Evidence that the applicant has either completed or enrolled in a training course required by § 125.17(6). In the event the applicant fails to successfully complete said course, the Provisional Operator's License shall be revoked.
 - iii. The fee for a Provisional Operator's License shall be as specified in Resolution of Alcohol Licensing Fee Schedule.
 - b. Restrictions.
 - i. No Provisional Operator's License may be issued to a person who has been denied an Operator's License by the Town Board.
 - ii. The Provisional Operator is limited to working for the sponsor unless and until a regular Operator's License is issued by the Town Board.
 - iii. The Provisional Operator's License shall expire sixty (60) days after its issuance or when a regular Operator's License is issued, whichever is sooner.
 - iv. The Town Board may revoke the Provisional Operator's License if it is discovered that the licensee of the Provisional Operator's License made a false statement on the application.

3. Temporary Operator's License.

- a) A person may be granted a Temporary Operator's License if employed by or donating their services to festivals or non-profit corporation.
- b) A person is limited to only one such license in a year.
- c) The license is valid for any period from one (1) to fourteen (14) days, and the period must be indicated on the license.
- d) The operator would pay a fee as specified in Resolution of Alcohol License Fee Schedule and the operator would be required to take the "responsible beverage" class and would be governed under the rules of that class.

SECTION 7.0 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 specified shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in this Ordinance and Chapter 125, WI Statutes:

- A. "Class A" Intoxicating Liquor Retailer's License
 - 1. "Class A" Intoxicating Liquor-Cider Only Retailer's License
- B. "Class B" Intoxicating Liquor Retailer's License
- C. Class "A" Fermented Malt Beverages Retailer's License
- D. Class "B" Fermented Malt Beverage Retailer's License
- E. Temporary Class "B" Fermented Malt Beverage License
- F. Temporary "Class B" Wine License
- G. Fermented Malt Beverage Wholesalers' License
- H. "Class C" Wine Retailer's License
- I. Operator's License: Regular, Provisional and Temporary Licenses

SECTION 8.0 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 provided by the Wisconsin Department of Revenue and shall be sworn to by the applicant as provided by § 887.01 to 887.04, WI Statutes, and shall be filed with the Town Clerk not less than fifteen (15) days prior to the meeting deciding whether the license shall be granted. 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, or 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 § 125.26, WI Statutes, or temporary “Class B” picnic wine licenses under § 125.51(10), WI Statutes. 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 § 985.08, WI Statutes.

- 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 Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” license under this Section is limited as provided in Chapter 125, WI Statutes.

SECTION 9.0 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 the 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 has not been issued a Class “B” retailer’s license to sell fermented malt beverages.
- C. Right to Premises. No applicant will be considered unless he has 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.
 - 1. No license or permit may be issued to any corporation unless the corporation meets the qualifications under § 125.04(a)1 and 4 and (b), WI Statutes, unless the agent of the corporation appointed under § 125.04(6) and the officers and directors of the corporation meet the qualifications of § 125.04(a)1 and 3 and (b) and unless the agent of the corporation appointed under § 125.04(6) meets the qualification under § 125.04(a)2. The requirement that the corporation meet the qualifications under § 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.
 - 2. 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.
 - 3. Any license issued to a corporation may be revoked in the manner and under the procedure established in § 125.12, WI Statutes, 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.
- F. Sales Tax Qualification. All applicants for retail licenses shall provide proof, as required by § 77.61(11), WI Statutes., that they are in good standing for sales tax purposes (i.e., hold a seller’s permit) before they may be issued a license.
- G. 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.

- H. 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:
1. A hotel.
 2. A restaurant, whether or not it is part of or located in any mercantile establishment.
 3. A combination grocery store and tavern.
 4. A combination sporting goods store and tavern in towns, villages and 4th class cities.
 5. A combination novelty store and tavern.
 6. A bowling alley or recreation premises.
 7. 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.

SECTION 10.0 PROCEDURE UPON APPLICATION

- 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 or age or older. Operator's licenses shall be operative only within the limits of the Town.
- B. All applications are subject to an investigation by Town-designated law enforcement authorities and/or other appropriate authority to determine whether the applicant and/or premises to be licensed complies with all regulations, ordinances and laws applicable thereto. 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.

SECTION 11.0 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 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 Town.
- C. Consideration for the granting or denial of a license will be based on:

1. Arrest and conviction record of the applicant, subject to the limitations imposed by § 111.321, 111.322, and 111.335, WI Statutes;
 2. The financial responsibility of the applicant;
 3. The appropriateness of the location and the premises where the licensed business is to be conducted; and
 4. 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 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 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.

SECTION 12.0 ISSUANCE OR DENIAL OF OPERATOR'S LICENSES

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 the date of the expiration of such license.

B. Denial of Application.

1. If the application is denied by the Town Board, the Town Clerk 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 Town Board in a closed session. Such notice must be sent by registered mail to, or served upon, the applicant. The applicant has the right to request reconsideration of the Board's decision and must notify the Board in writing. The Board shall send notice of the closed session regarding reconsideration 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.
2. If, upon reconsideration, the Board again denies the application, the Town Board 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 § 125.12(2) (d), WI Statutes, for review.

C. Considerations for Granting or Denying a License.

1. Consideration for the granting or denial of a license will be based on:
 - a) Arrest and conviction record of the applicant, subject to the limitations imposed by § 111.321, 111.322, and 111.335, WI Statutes;
 - b) The financial responsibility of the applicant;
 - c) The appropriateness of the location and the premises where the licensed business is to be conducted; and

- d) Generally, the applicant's fitness for the trust to be reposed.
- 2. 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. A license or permit shall not be denied on the grounds that the applicant lacks good moral character, unless there is evidence that the applicant would, if granted an initial or renewed license permit, pose a threat to the safety or welfare of patrons of the licensed or permitted establishment in which he or she would be employed. The following will be considered grounds for a determination that an applicant, licensee, or permittee lacks good moral character:

- 1. Suspension or revocation of a Class A, Class B, Operator's, or Manager's License under Chapter 125, WI Statutes, or this ordinance, or dismissal from a bartending job if all of the following apply:
 - a) There is a relationship between the reasons for the suspension, revocation or dismissal and the applicant's ability to competently tend bar without endangering the safety or welfare of the patrons of such bar.
 - b) The suspension, revocation or dismissal occurred within a year of the date of the application, or there has been more than one such suspension, revocation or dismissal within three (3) years of the date of the application.
- 2. Conduct exhibiting the use, within three (3) years of the date of the application, of alcoholic beverages or controlled substances, to an extent or in a manner dangerous to any other person, or to an extent that such use would impair his or her ability to competently tend the tavern business.
 - a) The applicant, licensee or permittee has habitually been a law offender or has been convicted of a felony and the circumstances of the crime or offenses are substantially related to the licensed activity, unless the person has been duly pardoned.
 - b) The applicant, licensee, or permittee is subject to a pending criminal charge and the circumstances of the pending criminal charge are substantially related to the licensed activity, unless the person has been duly pardoned.
 - c) The applicant, licensee or permittee has been convicted of one or more of the following:
 - i. Manufacturing, distributing or delivering a controlled substance or controlled substance analog under § 961.41 (1), WI Statutes.
 - ii. Possessing, with intent to manufacture, distribute or deliver, a controlled substance or controlled substance analog under § 961.41 (1m), WI Statutes.
 - iii. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under a federal law that is substantially similar to § 961.41 (1) or (1m), WI Statutes.
 - iv. Possessing, with intent to manufacture, distribute or deliver, or manufacturing, distributing or delivering a controlled substance or controlled substance analog under the law of another state that is substantially similar to § 961.41 (1) or (1m), WI Statutes.
- 3. If any Town committee or local law enforcement recommends to the Town Board denial of an operator's license or manager license or other license or permit on the basis provided herein, the applicant shall be given the opportunity to present evidence of rehabilitation. Such evidence may include, but is not limited to, letters of recommendation, evidence of family stability or educational advancement, satisfactory work performed, professional counseling, and participation in community activities.

4. If a license or permit is denied by the Town Board, the applicant shall have the right to file an appeal with the Town Clerk within thirty (30) days of the date of the decision, and to appear and be represented by legal counsel before the Town Board, to be heard, to present evidence in favor of the granting of the license or permit and to rebut the evidence presented in opposition to the granting of the license or permit. The hearing on the appeal shall be held within forty (40) days of the filing of the appeal. Notice of the time and place of the hearing on the appeal shall be mailed by the Town Clerk to the applicant by certified mail at least ten (10) days before the date of the hearing. The Town Board shall, after the hearing, comply with Chapter 125 by providing in writing the reasons for its decision to grant or not grant a license or permit. The Town Board shall comply with § 125.12 WI Statutes, in the denial, revocation, suspension, or non-renewal of a license or permit.

SECTION 13.0 LAPSE OF LICENSE

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 therefore 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.

SECTION 14.0 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 the name of the Licensee. The Town Clerk shall affix to the license his/her affidavit as provided by § 125.04(4) of the WI Statutes.

SECTION 15.0 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.

SECTION 16.0 CONDITIONS OF LICENSE

All retail Class "A", Class "B", "Class A", "Class B" and "Class C" and 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 WI 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 premise 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 he possesses 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 three hundred feet (300') 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, 1947, nor shall it apply to any premises licensed as such prior to the occupation of real property within three hundred feet (300') 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" 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 permittee 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. Improper Exhibitions. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:
1. Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 2. Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 3. Exposes any portion of the female breast at or below the areola thereof; or

4. Engages in or simulates sexual intercourse and/or any sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

SECTION 17.0 CLOSING HOURS

Closing hours shall be established in conformance with § 125.32(3), WI Statutes, and further restricted as follows:

A. Class "B" Licenses.

1. No premises for which a retail "Class B" liquor, Class "B" fermented malt beverage or "Class C" wine license has been issued shall be permitted to remain open for the sale of liquor or fermented malt beverages or for any other purpose 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.
2. Hotels and restaurants, the principal business of which is the furnishing of food or lodging to patrons, bowling alleys, indoor horseshoe-pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business but shall not sell liquor or malt beverages during the closing hours of Subsection (a)(1) above.

- B. Carryout Hours. Between 9:00 p.m. and 6:00 a.m., no person may sell, remove, carry out or permit to be removed or carried out from any premises having a "Class A" or Class "A" license, fermented malt beverages or intoxicating liquor in original unopened packages, containers or bottles or for consumption away from the premises.

SECTION 18.0 RESTRICTIONS ON TEMPORARY FERMENTED MALT BEVERAGE OR WINE LICENSES

It shall be unlawful for any person or organization on a temporary basis to sell or offer to sell any alcohol beverage upon any Town-owned property or privately-owned property within the Town of LaFayette, except through the issuance of a Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License issued by the Town Board in accordance with WI Statutes and as set forth in this Section. A Temporary Class "B" Fermented Malt Beverage License or Temporary "Class B" Wine License authorizing the sale and consumption of beer and/or wine on Town-owned property or privately-owned property may be authorized by the Town Board provided the following requirements are met:

- A. Compliance with Eligibility Standards. The organization shall meet the eligibility requirements of a bona fide club, association, lodge or society as set forth in § 125.26(6), WI Statutes, and shall fully comply with the requirements of this section. Members of an organization which is issued a temporary license and who are issued operators' licenses for the event may be required to attend a pre-event informational meeting to learn what rules and regulations apply and what the responsibilities of the bartenders and organization will be.
- B. Posting of Signs and Licenses. All organizations issued a temporary license shall post in a conspicuous location at the main point of sale and at all remote points of sale a sufficient number of signs stating that no fermented malt beverage shall be served to any under-age person without proper identification.
- C. Fencing.
 1. If necessary due to the physical characteristics of the site, the Town Board may require that organizations install a double fence around the main point of sale to control ingress and egress and continually station a licensed operator, security guard or other competent person at the entrance for the purpose of checking age identification. Where possible, there shall be only one

- (1) point of ingress and egress. When required, the double fence shall be a minimum of four (4) feet high and a minimum of six (6) feet between fences.
2. For indoor events, the structure used shall have suitable exits and open spaces to accommodate anticipated attendance. It should contain adequate sanitary facilities to accommodate the size of the group.
- D. Underage Persons Prohibited. No underage persons shall be allowed to assist in the sale of fermented malt beverages or wine at any point of sale, nor shall they be allowed to loiter or linger in the area of any point of sale.
- E. Licensed Operators Requirement. A licensed operator shall be stationed at all points of sales at all times.
- F. Waiver. The Town Board may waive or modify the requirements of this Section due to the physical characteristics of the licensed site.
- G. Insurance. The applicant for a temporary fermented malt beverage or wine license shall be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the license, the applicant may be required to furnish a Certificate of Comprehensive General Liability insurance with the Town of LaFayette. The applicant may be required to furnish a performance bond prior to being granted the license.

SECTION 19.0 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 he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least seventy-two (72) hours 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. The Town Board reserves the right to exempt a licensed premise from the one-hundred fifty (150) days requirement for special circumstances.
- C. License Revocation or Suspension. License revocation or suspension procedures shall be as prescribed by Chapter 125, WI Statutes.
- D. There shall be no refund of any alcohol beverage retail or wholesale license or permit fee paid to a party whose license is revoked under this ordinance.
- E. In lieu of a hearing, the Town Board may accept surrender of the alcohol beverage retail or wholesale license or permit and the Board shall then determine the time period before another application for the same type of license or permit will be accepted from the former licensee or permittee.
- F. Evidence and testimony at the hearing shall be given in open session. The Town Clerk shall post or arrange to post the hearing notice or publish in a format acceptable to the Town chair.

- G. Unless no disciplinary action, including reprimand or probation, is ordered by the Town Board, the alcohol retail sale or wholesale licensee or permittee shall reimburse the Town for costs of personal service, mailing, fax costs, copies, and any per diem paid for a Town officer to attend the hearing or other meeting due to a license violation. Unpaid costs assessed under this subsection shall accrue interest at the rate of five percent (5%) per annum if unpaid after thirty (30) days. Payment shall be required before any future alcohol retail or wholesale licensee or permittee or is issued or reinstated to the license or permit holder.
- A. Operator's Licenses; Class "A", Class "B" or "Class C" Premises. Except as provided under § 125.32(3)(b) and § 125.07(3)(a)10, WI Statutes, 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 § 125.27(2), WI Statutes, is valid outside the municipality that issues it. For the purpose of this section, any person holding a manager's license under § 125.18, WI Statutes, 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 he or she has 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 the service.
- B. Use by Another Prohibited.
1. No person may allow another to use his or her Class "A" or Class "B" license or permit to sell alcohol beverages.
 2. The license or permit of a person who violates Subsection (b)(1) above shall be revoked.

SECTION 20.0 COMPLIANCE CONDITIONS

- A. It shall be unlawful for any person 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 any alcohol beverage or soft drink, except in strict accordance with the provisions of this ordinance and state law. Any license or permit issued to any person under this ordinance and Chapter 125, WI Statutes, shall be contingent upon full compliance with this ordinance by the licensee or permittee. Any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured or rectified without a valid permit or license issued under this ordinance or Chapter 125 or 139, WI Statutes, or where persons are permitted to drink alcohol beverages in violation of this chapter is a public nuisance and may be closed until the activity in violation of this ordinance is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- B. It shall be unlawful for the licensee, permittee or any employee, operator or manager of a tavern or other licensed or permitted 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 or permitted premises of the Town.
- C. It is unlawful for any person, including any owner, tenant, employee, operator or manager of a tavern, who has engaged in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct in a Town tavern premises under circumstances in which such conduct tends to cause or provoke a disturbance and who has been ordered by the Town Board or law enforcement officer not to enter or to remain in a tavern or other licensed or permitted establishment to so enter or remain during any period after having been ordered not to enter or remain by a law enforcement

officer. An order prohibiting entry under this subsection may prohibit entry for a period up to six (6) months.

- D. As a condition of maintaining and keeping an alcohol beverage retail sale license for a tavern in the Town, any licensee of a tavern premise must stay open and continue in business and demonstrate business continuance satisfactory to the Town Board. Issuance or retention of a license by a party not open for business and not demonstrating business continuation is hereby declared by this ordinance to be against public policy for the Town. A determination by the Town Board that a person is not demonstrating business continuation establishes grounds for suspension or revocation of an alcohol beverage retail sale license. The Town Board shall issue a summons and set a hearing to determine whether the license shall be suspended or revoked under this subsection. The hearing shall be held not later than thirty (30) days after it is issued. The Town Board may make its decision effective on a later date, in its discretion. The procedure for the hearing shall be in accordance with § 125.12, WI Statutes. Testimony of any party, any eviction notice, court documentation or other valid evidence of such actions may be presented. All testimony shall be under oath. A person who was licensed or permitted for the tavern premises for an alcohol beverage retail tavern is not demonstrating business continuation if any of the following is demonstrated:
1. The person has not done business in tavern premises for at least fourteen (14) consecutive days.
 2. The person has voluntarily vacated the premises more than fourteen (14) days before the hearing held under the subsection.
 3. The person was ordered by a court of competent jurisdiction to vacate the premises at least fourteen (14) days before the hearing held under this Subsection.

**SECTION 21.0 UNDERAGE AND INTOXICATED PERSON/DISORDERLY HOUSE/
AFTER HOURS**

- A. Sale of Alcohol Beverages to Underage Persons; Restrictions.
1. No person may produce for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
 2. 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.
 3. 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 paragraph does not apply to alcohol beverages used exclusively as part of a religious service.
- B. Intoxicated Persons.
1. No person may procure for, sell, dispense or give away alcohol beverages to an intoxicated person.
 2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with an intoxicated person.
 3. No licensee or permittee may permit an intoxicated person to be on a licensed or permittee premise.
- C. After Hours. No licensee or permittee shall permit any person to be on the premises operated under a Class "A," "Class A," or "Class C" license or under a Class "B" or "Class B" license or permit during hours when the premises are not open for business unless these persons are performing job-related activities.

- D. Unsanitary or Unsafe Conduct. No licensee or permittee in charge and control shall fail to keep or maintain a tavern or other licensed or permitted premise in a sanitary and safe condition after written notice by the Department of Health and Family Services or the Town Board.

SECTION 22.0 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:
1. The person is renewing an operator's license.
 2. 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.
 3. 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 A. above and shall revoke that license if the applicant fails to successfully complete the course in which he or she enrolls.
- C. The Town Board may not require that applicants for operators' licenses undergo training in addition to that under subsection A., but may require applicants to purchase, at cost, materials that deal with relevant local subjects not covered in the course under subsection A.

SECTION 23.0 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 his/her possession, or carry a license card.

SECTION 24.0 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.

SECTION 25.0 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.

SECTION 26.0 PENALTIES

- A. A person who commits a violation of this Ordinance is subject to a forfeiture of:
1. Not more than one hundred dollars (\$100) if the person has not committed a previous violation within thirty (30) months of the violation.
 2. Not more than five hundred dollars (\$500) if the person has committed a previous violation within thirty (30) months of the violation.

3. Not more than one thousand dollars (\$1,000) if the person has committed two (2) previous violations within thirty (30) months of the violation.
 4. Not more than five thousand dollars (\$5,000) if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
- B. The Town Board shall suspend any license or permit issued under this ordinance to a person for:
1. Not more than three (3) days, if a Court finds that the person committed a violation under this ordinance within twelve (12) months after committing one previous violation; or
 2. Not less than three (3) days nor more than ten (10) days, if a Court finds that the person committed a violation under this ordinance within twelve (12) months after committing two (2) other violations; or
 3. Not less than fifteen (15) days nor more than thirty (30) days, if a Court finds that person committed the violation within twelve (12) months after committing three (3) other violations.
- C. For purposes of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.
- D. Any person that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture, plus the applicable surcharges, assessments and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 12th day of July 2017.

Daniel D Cooper, Chair

Passed this day: 07.12.2017

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: 07.12.2017

TOWN OF LAFAYETTE

AUTHORIZING A DESIGNATED MUNICIPAL OFFICIAL TO ISSUE ALCOHOLIC BEVERAGE OPERATOR’S AND PROVISIONAL LICENSES

ORDINANCE 10 – 01A

The Town Board of the Town of LaFayette, Walworth County, Wisconsin, does hereby ordain as follows:

SECTION 1.0 PURSUANT TO 2019 WISCONSIN ACT 166

The purpose of this ordinance is to allow the Town Board to designate another municipal official or designee to issue alcoholic beverage Operator Licenses and Provisional Licenses to authority to issue Beverage Operator Licenses and Beverage Provisional Operator Licenses allowed under 2019 Wisconsin Act 166. This will allow the businesses within the Town greater access and more flexibility in hiring personnel to fill their open positions.

SECTION 2.0 OPERATOR’S AND PROVISIONAL LICENSES

Under the provision of Chapter 125, WI State Statutes, the Town Clerk and/or Board designee may issue Operator’s Licenses and Provisional Licenses to individuals who:

- A. Meet the requirement of reaching the minimum age of 18 years
- B. Are not felons
- C. Make application in writing on prescribed form created (and updated) by the Town of LaFayette and thereby consent to a complete background check
- D. Provide all necessary additional documentation to prove they meet the standards set forth in Chapter 125, WI State Statutes
- E. Provide all necessary additional documentation to prove they meet the standards set forth by the Town of LaFayette ordinances and application requirements

SECTION 3.0 ISSUANCE, DENIAL OR REVOCATION OF AN OPERATOR’S AND PROVISIONAL LICENSES

The Town will follow rules as set forth as outlined in Chapter 125 of the WI State Statutes and in the Town of LaFayette *Ordinance 10-01 Alcohol Control, Fermented Malt Beverages and Intoxicating Liquors*, Section 12 and Section 24.

SECTION 4.0 SEVERABILITY

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the other provisions. The Town Board directs that all ambiguities in this ordinance be construed in favor of permitting the maximum degree of expression to protect First Amendment activity which is consistent with maintenance of public order, health and safety.

SECTION 5.0 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and posting. This Ordinance adopted by the Town Board of the Town of LaFayette on this 13th day of May 2020.

Daniel D Cooper, Chair

Barbara A Fischer, Town Clerk-Treasurer
Filed this day: 05.13.2020

TOWN OF LAFAYETTE

ADULT BOOKSTORES AND ADULT ENTERTAINMENT TAVERNS

ORDINANCE 10 - 02

The Town Board of the Town of LaFayette, Walworth County, Wisconsin hereby ordains as follows:

SECTION 1.0 PURPOSE AND FINDINGS

The purpose of this ordinance is to promote the comfort, health, safety and welfare of the citizens of the Town. The Town hereby relies upon the following findings in enacting this ordinance:

The presentation of entertainment featuring presentation of sexual activity and nudity in exchange for payment of money is part of a large and expanding sex trade and industry which commercializes human sexuality in a fashion which is degrading to women and men. The commercial sex trade is a global enterprise in which many thousands of people, some unwilling and many motivated by poverty or drug addiction, become enmeshed.

The sex trade depicts human sexuality in a manner which undermines the family and thereby undermines the very foundation of society itself. Pornography and live sex presentations may interfere with the development of healthy sexual interactions and undermine the family bonds which strengthen and maintain all civic and social institutions.

However, the Town also recognizes that, as interpreted by the United States Supreme Court, the First Amendment of the United States Constitution protects the rights of individuals to offer and to partake of certain forms of sexually-oriented entertainment. The Town of LaFayette, in adopting regulations, does not seek to interfere with the right of individuals to offer or to attend adult entertainment, or to sell, purchase or use adult-themed merchandise beyond the extent permitted by law. Further, in all procedures under these regulations, Town of LaFayette intends that adult businesses be afforded the full protection of due process.

The Town of LaFayette has been advised through publications, studies and information compiled by the Wisconsin Towns Association and other organizations that adult entertainment may, without proper regulations of the time, place and manner in which it is provided, create undesirable secondary impacts on the community. The regulations herein are founded on the experience of other communities, public hearing testimony and findings in reported cases which have sustained regulation of adult entertainment.

The Town of LaFayette is also concerned with the rights of those individuals in the Town of LaFayette who do not choose to present or attend adult entertainment or to purchase adult merchandise. These individuals have constitutionally protected rights to privacy and security in their property. These concerns cannot and do not justify forbidding the expression of protected speech. But, the broader community does have an interest in maintaining the order and preventing negative effects on the community from any business which will generate substantial customer volume, automobile traffic and impacts on neighboring properties yet preserve the right to engage in protected ideas or entertainment. These concerns warrant exercise by the Town of its police powers to assure that the exercise of First Amendment rights is not conducted to the detriment of the rights of others.

In order to assure that adult bookstore or adult entertainment taverns may operate without adversely impacting the community, and, therefore, to make it possible for individuals to exercise their First Amendment rights, the Town of LaFayette finds that it is necessary and appropriate to adopt a licensing ordinance which allows the Town to assure that adult bookstores or adult entertainment taverns are operated in a fashion which does not cause unacceptable impacts on the rights of others.

SECTION 2.0 AUTHORITY

Based upon the decisions by the United States Supreme Court in *City of Renton vs. Playtime Theatres, Inc.*, 475 US 41 (1986), *Young vs. American Minitheatres*, 426 US 50 (1976), and *Barnes vs. Glen Theatre, Inc.*, 501 US 560 (1991), the Town of LaFayette Town Board has the authority to act this ordinance.

SECTION 3.0 DEFINITIONS

For the purpose of this section the following words and phrases shall mean:

- A. **Adult Entertainment Taverns.** An adult entertainment tavern is any establishment including private clubs, whether or not licensed to sell fermented malt beverages or intoxicating liquor for consumption on premises pursuant to Chapter 125 of the Wisconsin Statutes, which is used for or offers performances or exhibitions by live entertainers which are distinguished or characterized by an emphasis on exposure to or a view of human genitals, the human pubic area, buttocks or anus; or a female's vulva or breasts below the top of the areola; or male genitals, whether or not in a discernibly turgid state, even if opaquely covered; or which includes or emphasizes acts or simulated acts or erotic touching, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus or the simulation of any sexual acts prohibited by Wisconsin Statutes.
- B. **Adult Bookstore.** An adult bookstore is any business, building, structure or place whose predominant purpose is selling magazines, books, videos, computer software, pay per view videos and/or audio programs which are distinguished or characterized by an emphasis on exposure to or a view of human genitals, the human pubic area, buttocks or anus; or a female's vulva or breasts below the top of the areola; or male genitals, whether or not in a discernibly turgid state, even if opaquely covered; or which includes or emphasizes acts or simulated acts or erotic touching, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus or the simulation of any sexual acts prohibited by Wisconsin Statutes, or which sells materials other than clothing designated or intended primarily for use in achieving or enhancing sexual gratification, but does not include live performances or the presence of nude entertainers.
- C. **Adult Entertainment.** Adult entertainment shall mean presentations or programming distinguished or characterized by an emphasis on exposure to or a view of human genitals, the human pubic area, buttocks or anus; or a female's vulva or breasts below the top of the areola; or male genitals, whether or not in a discernibly turgid state, even if opaquely covered; or which includes or emphasizes acts or simulated acts or erotic touching, sexual intercourse, masturbation, flagellation, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus or the simulation of any sexual acts prohibited by Wisconsin Statutes.
- D. **Booths, Cubicles, Rooms, Compartments or Stalls Separate From the Common Areas of The Premises.** Booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises shall mean any area separated, set off, divided, demarcated or isolated by walls, screens, plants, structures, fixtures or equipment, from the remaining bar room or rooms. The phrase "booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises" does not mean enclosures which are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment.
- E. **Board.** The Town Board of the Town of LaFayette.
- F. **Operator.** Any person, partnership, corporation, or other entity operating, managing, renting, conducting, maintaining or owning any adult bookstore or adult entertainment tavern.
- G. **Location.** A parcel of real estate.

- H. On-Demand Video System. Any machine, terminal, display, device or instrumentality which will show or present video adult entertainment if money or other form of payment is made.

SECTION 4.0 LICENSE REQUIRED

- A. Except as provided in Subdivision (D) below, from and after the effective date of this ordinance, no adult bookstore or adult entertainment tavern shall be operated or maintained in the Town without first obtaining a license to operate issued by the Town.
- B. A license may be issued only for one adult entertainment bookstore or one adult entertainment tavern at each location. Each adult entertainment tavern or adult bookstore requires a separate license.
- C. No license or interest in a license may be transferred to any person without approval of the Town, including transfer by sale of stock in a corporation or membership interests in an LLC or partnership interests which have the effect of changing more than twenty four percent (24%) of the original ownership interest, measured cumulatively from the commencement of the business.
- D. All adult entertainment taverns and adult bookstores existing at the time of passage of this ordinance must submit an application for a license within sixty (60) days of the passage of this ordinance. Such a pre-existing establishment may continue to operate while the license application and any review thereof is pending before the Town or court of record. If an application is not received within such sixty day (60) period, or the denial of such an initial license is ultimately sustained on review, then such existing adult bookstore or adult entertainment tavern shall cease operations immediately.

SECTION 5.0 APPLICATION FOR LICENSE

- A. Any person desiring to secure a license shall make application to the town clerk. The application shall be filed with the town clerk. A copy of the application shall be distributed promptly by the town clerk to the town chair, the Town Board, the county zoning administrator, the Walworth County Sheriff's Department and to the applicant. The Sheriff will be requested to perform a background check on the applicant, its principal officers and shareholders or owner. The clerk shall reject any application whose applicants fail to sign a written release of information authorizing the background check.
- B. The application for a license shall include a form provided by the town clerk. An applicant for a license interested directly in the ownership or operation of a business shall furnish the required information under oath. The application shall include signature block in which the applicant verifies that the applicant has read this ordinance, understands its requirements or has asked for interpretation of any requirements which the applicant does not understand. The application materials shall include the form and the following information:
1. Name, address and business phone number, fax number and email.
 2. Written proof that the individual is at least twenty one (21) years of age.
 3. The address of the adult entertainment bookstore or adult entertainment tavern to be operated by the applicant.
 4. If the applicant is a corporation, limited liability company or partnership, the application shall specify the name of the business entity, the date and state of incorporation, the name and address of the registered agent, and the names and addresses of all owners of the entity, stating their respective percentages of ownership.
 5. The names and contact phone numbers of individuals who may be contacted at any time, 24 hours per day, to respond to concerns or an immediate nature about operations at the adult bookstore and adult entertainment tavern which require an immediate response.

6. Sufficient documentation and supporting materials to demonstrate that the establishment meets and will meet all requirements of this ordinance, including floor plans, photographs or sketches of signage and other features subject to the regulations of this ordinance and operational plans showing how the applicant plans to meet the requirements of this ordinance.
- C. The clerk shall, within three (3) business days of receiving the application, review the application, with assistance of Town staff and officials, to determine whether the application is complete and the proper fee has been paid. If the application is complete and the fee has been paid, the clerk shall call a special meeting of the Town Board to be held within a seven (7) working day period following the determination that an application is complete.
 - D. A license shall be issued automatically unless the Town Board, within thirty (30) days after the date the application is referred to the Board by the clerk, determines that there are grounds upon which the license may be denied. The Town Board shall review the application and determine whether the proposed adult bookstore or adult entertainment tavern meets the requirements of this ordinance.
 - E. Whenever an application is denied, a license is not renewed or is proposed to be revoked, the town clerk shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held within ten (10) days thereafter before the Town Board. If a public hearing is requested, it shall be held within (10) days thereafter before the Town Board.
 - F. The Town Board shall make a determination on the suspension or revocation of the license within ten (10) days after the scheduled public hearing and shall provide notification of the determination in writing to the license within five (5) days of the determination. The notification shall contain reasons for the suspension and/or revocation of the license.
 - G. Judicial review by certiorari may be sought within thirty (30) days of a decision issued pursuant to Chapter 68, Wisconsin Statutes. If a licensee makes a timely appeal of the Board's determination to suspend or revoke a license, no suspension or revocation shall be effective until a final decision is rendered pursuant to Chapter 68, Wisconsin Statutes.
 - H. Failure or refusal of the applicant to provide any information requested in the course of investigation of the application shall be grounds for administrative denial thereof by the town clerk, provided that the applicant shall have been given written notice that failure to provide specified information will result in a denial of the application.

SECTION 6.0 STANDARDS FOR ISSUANCE OF LICENSE

To receive a license to operate an adult bookstore or adult entertainment tavern, the applicant and the proposed adult bookstore or adult entertainment tavern must meet the following standards, respectively:

- A. Standards Related to the Applicant. The applicant must meet all the following standards:
 1. The applicant, in the case of sole proprietorship, all partners in the case of a partnership, and all shareholders in the case of a corporation, or members of a limited liability company, must be at least twenty one (21) years of age.
 2. The applicants may not have any criminal convictions which reasonably relate to the applicant's suitability to manage an establishment which may require the ability to maintain crowd control and the protection of entertainers and patrons.
 3. The applicant may not have been involved in the operation as owner or part owner of any adult bookstore or adult entertainment tavern whose license has been revoked or application for a license denied within the past five (5) years.

B. Standards Related to the Site and Building of an Adult Bookstore. The applicant must demonstrate that the property and the building of an adult bookstore can meet the following physical standards:

1. The property shall have at least one (1) parking stall for every two (2) patrons it is capable of seating or serving at its maximum safe fire limit.
2. The building shall have a determined safe fire limit for occupancy calculated by the Fire Department based upon the square footage and physical characteristics of the building. The occupancy limit shall be communicated to the patrons and employees by signs posted at the entrance of the facility.
3. No area of the building may be made available for customers or patrons for the private viewing of any adult entertainment.
4. All portions of the building except restrooms and areas which are off limits to patrons shall be accessible to and from aisles and public areas of the adult bookstore and shall be unobstructed by any door, lock or other control type devices.
5. The lighting level of each booth, room or cubicle shall be a minimum of twenty (20) foot candles at all times as measured from the floor.
6. There shall be a video monitoring system by which the operator can continuously monitor activities outside the building but on the property and in any parking areas.
7. The establishment may not have flashing lights or decorative lighting other than non-intrusive illumination of parking lots, walk ways and entrances.
8. The interior of the establishment shall not be visible from the exterior, including at a time when entry doors are open.
9. The establishment shall place waste receptacles near the entrances to the adult bookstore to discourage carrying any litter out of the building.
10. The signage for the establishment may not include any depictions of nudity, and may refer to the establishment only as an "adult specialties" store. Other wording may be used if it is not of an overtly sexual nature.
11. The establishment shall be sound-insulated if necessary so that sound levels controlled to the levels specified in this ordinance.
12. If the facility has viewing booths, occupancy of the booths shall be limited to one person at a time. There shall be solid walls or partitions between each booth without any holes. The facility shall inspect and, as necessary, clean the booths between each use.
13. The facility may not, at the point of the real estate nearest, be within 2,500 feet of a school, church, park, health care institution, youth camp or another adult bookstore or an adult entertainment tavern.

C. Standards Related to Adult Entertainment Tavern.

1. The level of sound audible at the property line of the establishment may not exceed seventy (70) decibels from 12 noon to 10 p.m. or sixty (60) decibels from 10 p.m. to 12 noon.
2. The property shall have at least one parking stall for every two (2) patrons it is capable of seating at its maximum safe fire limit.

3. The building shall have a determined safe fire limit for occupancy calculated by the Fire Department based upon the square footage and physical characteristics of the building. The occupancy limit shall be communicated to the patrons and employees by signs posted at the entrance of the facility.
 4. No area of the building may be made available to customers or patrons for the private viewing of any adult entertainment.
 5. All portions of the building except restrooms and areas which are off limits to patrons shall be accessible to and from aisles and public areas of the Adult Entertainment Tavern and shall be unobstructed by any door, lock or other control type devices.
 6. The lighting level of each booth, room or cubicle shall be a minimum of ten (10) foot candles at all times as measured from the floor.
 7. There shall be a separate entrance for employees which shall be locked to prevent unauthorized access from the outside.
 8. There shall be separate restrooms and changing rooms for performers, entertainers and employees of the tavern.
 9. There shall be a video monitoring system by which the operator can continuously monitor activities outside the building but on the property and in any parking areas.
 10. The establishment may not have flashing lights or decorative lighting other than non-intrusive illumination of parking lots, walk ways and entrances.
 11. The interior of the establishment shall not be visible from the exterior, including at a time when entry doors are open.
 12. The establishment shall place waste receptacles near the entrance to the Tavern to discourage carrying any litter out of the building.
 13. The signage for the establishment may not include any depictions of nudity, and may refer to the establishment only as a "Gentleman's Club", "Burlesque Club" or similar wording not of any overtly sexual nature.
 14. The establishment shall be sound-insulated and sound levels controlled to the levels specified in this Ordinance.
 15. The facility may have neon signs and other signs if they are provided by manufactures of alcoholic beverages.
 16. The facility may not, at the point of the real estate nearest, be within two thousand five hundred feet (2,500') of a school, church, park, health care institution, youth camp or another adult entertainment tavern or an adult bookstore.
- D. Alternative Security Arrangements for Small Establishments. As used in this section, the term "small establishment" means an adult entertainment tavern which offers adult entertainment performances of five (5) hours or less on three (3) evenings per week or less and not more than seventy-five (75) times per year. A small establishment may submit a plan for use of security personnel or other crowd control systems in lieu of employing with the requirements of subsection C. 7, 8 and 9.

SECTION 7.0

ACTIVITIES PROHIBITED AT EITHER ADULT ENTERTAINMENT TAVERNS OR ADULT BOOKSTORES

- A. No patron of the establishment may engage in any type of sexual activity, ejaculate or engage in any act of sexual gratification while in the establishment or its parking areas.
- B. Patrons of the establishment may not be in a motor vehicle (other than a charter bus, taxi or contracted tour vehicle with a driver on board) which is located on the premises of the establishment for more than two (2) minutes. A person with a disability who requires more time to enter or exit a vehicle is exempt from this regulation.
- C. Patrons of the establishment may not be in a motor vehicle which is located on the premises of the establishment, or parked within five hundred feet (500') of the facility, with an employee or contractor of the establishment.
- D. Patrons of the establishment may not be allowed to congregate with employees or entertainers.
- E. Patrons may not remain on the premises of the building or any property owned or leased by any owner or partner of the owner of the adult entertainment bookstore or tavern for more than five (5) minutes after exiting the building, except that they may remain on any patio, porch or outside service area which is part of the licensed area for service of alcoholic beverages, or part of the approved area of the establishment provide that the operator maintains an orderly operation of that outside area.
- F. The establishment shall cease admitting patrons at such time as all off-street parking is full.

SECTION 8.0 FEES

A license fee of one-thousand five hundred dollars (\$1,500) is required to apply for an adult entertainment license. There shall be an annual renewal fee of seven hundred fifty dollars (\$750). The fees have been determined in an amount which is sufficient to recover a portion of the costs which the Town will incur in reviewing license applications.

SECTION 9.0 DISPLAY OF LICENSE

The license shall be displayed in a conspicuous public place in the adult bookstore or adult entertainment tavern.

SECTION 10.0 RENEWAL OF LICENSE

Every license issued pursuant to this ordinance shall terminate on June 30 of each year, unless sooner revoked, and must be renewed before operation is allowed on July 1. Any operator desiring to renew a license shall make application to the town clerk. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in quadruplicate with the town clerk. A copy of the application for renewal shall be distributed promptly by the town clerk to the Sheriff, the County Health Department and to the operator. The application for renewal shall be upon a form provided by the town clerk and shall contain such renewal information and data given under oath or affirmation as is required for an application for a new license as to any changes in the establishment's operations or physical setting.

SECTION 11.0 REVOCATION OF LICENSE

- A. The Town shall revoke a license for any of the following reasons:
 - 1. Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - 2. The operator or any employee of the operator violates any provision of this section or any rule or regulation adopted by the Town Board pursuant to this chapter. However, that in this case of a

first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the Board shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

3. The operator, at any time, becomes ineligible to obtain a license.
 4. Any cost or fee required to be paid by this chapter is not paid.
 5. Any intoxicating liquor or fermented malt beverage is served by the operator or consumed with knowledge of the operator of any premises of an adult bookstore or adult entertainment tavern not licensed pursuant to Chapter 125, WI Statutes.
 6. Any controlled substance forbidden by Chapter 161, WI Statutes, is used, sold or given away on the premises of the adult entertainment tavern or adult bookstores with knowledge of the operator or its employee.
- B. The Town, before revoking or suspending any license or permit, shall give the operator at least ten (10) working days written notice of the charges against the operator and the opportunity for a public hearing before the Town Board. If a public hearing is requested, it shall be held within ten (10) days thereafter before the Board. The Board shall make a determination on the suspension or revocation of the license within twenty (20) days of the scheduled public hearing and shall provide notification of the determination in writing to the licensee within five (5) days of the determination. The notification shall contain reasons for the suspension and/or revocation of the license. Appeal of the written determination of the Board to revoke or suspend a license shall be by judicial review by certiorari, which shall be sought within thirty (30) days of a decision. If a licensee makes a timely appeal of the Board's determination to suspend or revoke a license, no suspension or revocation shall be effective until a final decision is rendered.
- C. The transfer of an adult entertainment tavern or adult bookstore or purported transfer of a license of any interest in a license by the holder thereof without approval of the Town shall automatically and immediately revoke the license. If the holder of an adult entertainment tavern license proposes to transfer the alcohol license, the proposed holder of the alcohol beverage license must obtain an adult entertainment tavern license before continuing to provide adult entertainment. The term "transfer" as used in this paragraph shall include any sale of partial ownership interest in a corporate license holder.
- D. Any operator whose license is revoked shall not be eligible to receive a license for one (1) year from the date of the revocation. No location or premises for which a license has been issued shall be used as an adult bookstore or adult entertainment tavern for one (1) year from the date of revocation of the license.

SECTION 12.0 OPERATOR RESPONSIBILITY

- A. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs, either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- B. Any act or omission of any employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

- C. No employee of an adult establishment shall allow any minor to loiter around or frequent an adult bookstore or adult entertainment tavern or to allow any minor to view any activity allowed in an adult bookstore or adult entertainment tavern.
- D. The operator shall maintain the premises in a clean and sanitary condition at all times.
- E. Security personnel, protocols and resources which are shown to be sufficient to keep order in the tavern and the surrounding property.
- F. The applicant must have sufficient personnel so that the individuals licensed to serve alcoholic beverages will not be required to leave the bar at any time in order to handle security problems or other situations.
- G. The operator shall ensure compliance of the establishment and its patrons with the provisions of this ordinance.

SECTION 13.0 PATRON RESPONSIBILITY

- A. No person shall at any time engage in sexual activities, including but not limited to intercourse, fellatio, masturbation, cunnilingus, manual manipulation of the genitals of another, or use of a vibrator or insertion of an object into the anus, vagina or glans of another person, or cause any bodily discharge or litter associated with sexual activity while in the adult bookstore or adult entertainment tavern or the property or parking area associated with the tavern.
- B. No person shall remove, destroy or deface any signs or posters, or destroy or deface any information, brochures, or pamphlets, whether supplied by the Health Department or posted by the operator.
- C. No person shall damage or deface any portion of the building.

SECTION 14.0 ENFORCEMENT

It shall be the duty of the Town chair to administer and enforce the provisions of this ordinance. The operator shall afford the Town reasonable access to the premises to inspect the same and verify that the tavern meets the requirements of this ordinance. Every licensed premise shall be inspected at least once per calendar year.

SECTION 15.0 PENALTY

- A. In addition to the revocation, suspension or non-renewal of any license issued under this ordinance, any person found to be in violation of any provision of this ordinance shall be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) and in the case of an operator shall result in the suspension or revocation of any license up to one (1) year.
- B. The Town Board hereby finds that any ongoing violation of the provision of this ordinance is a threat to the peace and good order of the Town for which monetary penalties alone are not a sufficient remedy. Therefore, injunctive relief may be issued by a court if the harm to the community from continued violation of the ordinance outweighs the expressive character of the activity sought to be enjoined and the violator shall reimburse to the Town all costs of such litigation, including the Town's actual reasonable attorney and expert witness fees.
- C. Any tavern, restaurant, club or other facility open to the public which shows films rated NC-17 or films which fall within the definition of adult entertainment, or which has an On-Demand Video System may not show the film or locate the On-Demand Video System in any room or place which is open to persons under the age of eighteen (18). Any separate room or area established for an On-Demand Video System shall be monitored by the establishment operator.

SECTION 16.0 SEVERABILITY

If any provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the other provisions. The Town Board directs that all ambiguities in this ordinance be construed in favor of permitting the maximum degree of expression to protect First Amendment activity which is consistent with maintenance of public order, health and safety.

SECTION 17.0 EFFECTIVE DATE

This ordinance is effective on publication and posting.

The Town clerk shall properly publish this ordinance as required under § 60.80, WI Statutes.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 8th day of April 2009.

Bruno Schiffleger, Chair

Passed this day: 04.08.2009

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: 04.08.2009

TOWN OF LAFAYETTE

PLACEMENT OF WEIGHT RESTRICTIONS ON TOWN ROADS

ORDINANCE 10 - 03

The Town Board of the Town of LaFayette, Walworth County, Wisconsin, does hereby ordain as follows:

SECTION 1.0 PURPOSE

The purpose of this ordinance is to promote the safety and general welfare of the Town of LaFayette and other who travel the Town's highways by providing for the safe and orderly maintenance of the Town's highways.

SECTION 2.0 AUTHORITY

This ordinance is enacted pursuant to § 349.16(2) and 348.17, WI Statutes, which provides for the regulations of weight limitations on Town roads, and exceptions thereto.

SECTION 3.0 ADOPTION

No person, whether operating under a permit or otherwise, shall operate a vehicle with weight in excess of eight (8) tons on all roads, streets, highways, highway structures, or portions of highways when signs have been erected by the Town of LaFayette giving notice of such weight limitations, pursuant to § 349.16(2), WI Statutes, except when the vehicle is being operated under a permit expressly authorizing such weight limitation to be exceeded.

SECTION 4.0 WEIGHT RESTRICTIONS

The Town shall post weight restrictions, as it deems necessary in order to protect the roadbed, due to climatic conditions or other special or temporary conditions, when the roadbed would likely be seriously damaged or destroyed in the absence of weight limitations. Said signs shall be posted on or along the highways of the Town sufficient to give reasonable notice that a special weight limitation is in effect and the nature of that limitation.

SECTION 5.0 EXEMPTIONS TO WEIGHT RESTRICTIONS

The following vehicles are hereby exempted from the weight restrictions listed above: municipally owned vehicles, fire department vehicles, emergency medical services vehicles, utility vehicles, septic pumpers, school buses, garbage and/or recycling trucks contracted by the Town, milk haulers and agricultural feed trucks. Any and all vehicles shall leave such road and re-enter roads not prohibited by such weight restriction at the closest to its immediate destination and shall take the most practical route to its destination. Each exempted vehicle is allowed only to travel on the most direct route necessary to and from the destination point and said vehicle shall produce evidence of its destination point. Failure to produce evidence of its destination point will constitute a violation and be subject to prosecution.

SECTION 6.0 PERMITS

A vehicle may operate under a permit expressly authorizing said weight limitation to be exceeded. A permit does not authorize the holder to use the identified roads as a through road. Said permit shall be issued by the Town Chair or his/her designee. A seventy two (72) hour permit to transport a commodity

one way in a single load shall cost fifty dollars (\$50). There shall be a contract which provides that the Town will be reimbursed for any damages to the Town roads.

A seasonal permit to transport a commodity one way shall cost two hundred dollars (\$200). Said vehicle must be operated pursuant to a contract which provides that the Town will be reimbursed for any damages to the Town roads. All applicable roads are to be considered all roads within the Town of LaFayette that are owned and maintained by the Town.

SECTION 7.0 SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 8th day of April 2009.

Bruno Schiffleger, Chair

Passed this day: 04.08.2009

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: 04.08.2009

TOWN OF LAFAYETTE
SPECIAL EVENT PERMITTING

ORDINANCE 10 - 04

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

SECTION 1.0 PURPOSE

The streets in possession of the Town are primarily for the use of the public in the ordinary way. However, under proper circumstances, the Town may grant a permit for streets to be used for a special event, subject to reasonable municipal regulation and control. Therefore, this ordinance is enacted to regulate and control the use of streets pursuant to a Special Event Permit to the end that the health, safety and general welfare of the public and the good order of the Town can be protected and maintained.

SECTION 2.0 APPLICATION

A written application for a Special Event Permit by persons or groups desiring the same shall be made on a form provided by the Town clerk and shall be filed with the Town clerk, sixty (60) days prior to the proposed street closure. The application shall set for the following information regarding the proposed street use:

- A. The name, address and telephone number of the applicant(s)
- B. If the proposed street use is to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing responsible heads of such organization
- C. The name, address and telephone number of the person(s) who will be responsible for conducting the proposed use of the street
- D. The date and duration of time for which the requested use of the street is proposed to occur
- E. An accurate description of that portion of the street proposed to be used
- F. The approximate number of persons for whom use of the proposed street area is requested
- G. A recent sworn financial statement detailing the assets and liabilities of the applicant(s)
- H. A written confirmation from Walworth County that the County approves of the proposed Special Event

SECTION 3.0 REPRESENTATIVE AT MEETING

The person or representative of the group making application for a Special Event Permit shall be present when the Town Board gives consideration to the granting of said Special Event Permit to provide any additional information which is reasonably necessary to make a fair determination as to whether a permit should be granted.

SECTION 4.0 MANDATORY DENIAL OF SPECIAL EVENT PERMIT

An application for a Special Event Permit shall be denied if:

- A. The proposed Special Event would violate any federal or state law or any ordinance of the Town

- B. The proposed Special Event will substantially hinder the movement of police, fire or emergency vehicles, constituting a risk to persons or property
- C. The application for a Special Event Permit does not contain the information required above
- D. The proposed use could equally be held in a public park or other location. In addition to the requirement that the application for a Special Event Permit shall be denied, as hereinabove set forth, the Town Board may deny a permit for any other reason or reasons if it concludes that the health, safety and general welfare of the public cannot adequately be protected and maintained if the permit is granted.

SECTION 5.0 FEES

An application for a Special Event Permit shall be accompanied by a fee per the current fee schedule created and amended as necessary by the Town Board.

SECTION 6.0 CONSENT TO ISSUANCE OF SPECIAL EVENT PERMIT

In addition to the fee required by the previous section, each application for a Special Event Permit, except for parades or races sponsored by civic, youth or scout organizations which have been in existence for at least six (6) months, shall be accompanied by a petition designating the proposed area to be used and time for said proposed use. Said petition shall be verified and shall be submitted in substantially the following form:

PETITION FOR SPECIAL EVENT PERMIT

We, the undersigned residents of _____ street in the Town of LaFayette, hereby consent to the _____ recreational or business use of this street between the hours of _____ and _____, on ____/____/____ (date), for the purpose of _____.

We do hereby consent to the Town of LaFayette to grant a Special Event Permit for use of said portion of said street for said purpose and do hereby agree to abide by such conditions of such use as the Town of LaFayette shall attach to the granting of the requested Special Event Permit. We further understand that the permit will not be granted for longer than six (6) hours on the date hereinabove specified, and agree to remove from the street prior to the end of said period all equipment, vehicles and other personal property placed or driven thereon during the event for which a permit is requested.

We designate _____ as the responsible person or persons who shall apply for an application for a Special Event Permit.

SECTION 7.0 INSURANCE

The applicant for a Special Event Permit may be required to indemnify, defend and hold the Town and its employees and agents harmless against all claims, liability, loss, damage or expense incurred by the Town on account of any injury to our death of any person or any damage to property caused by or resulting from the activities for which the permit is granted. As evidence of the applicant's ability to perform the conditions of the permit, the applicant may be required to furnish a Certificate of Comprehensive General Liability Insurance with the Town of LaFayette. The applicant may be required to furnish a performance bond prior to being granted the permit.

SECTION 8.0 TERMINATION OF SPECIAL EVENT PERMIT

A Special Event Permit for an event in progress may be terminated by the Town Board or a law enforcement agency if the health, safety and welfare of the public appears to be endangered by activities generated as a result of the event or the event is in violation of any of the conditions of the permits or ordinances of the Town of LaFayette. Law enforcement officers have the authority to revoke a permit or

terminate an event in progress if the even organizers fail to comply with any of the regulations in the street use policy or condition stated in the permit.

SECTION 9.0 BARRICADES

Barricades will be furnished, installed and removed by the Town of LaFayette to ensure property signage of the street use.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 8th day of April 2009.

Bruno Schiffler, Chair

Passed this day: 04.08.2009

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: 04.08.2009

**TOWN OF LAFAYETTE
10-04.01 APPLICATION
FOR SPECIAL EVENT ON TOWN ROADS**

Nature / Name of Event: _____
Date(s) of Proposed Event: _____
Time(s) Event to be Held: _____
Location of Event {street(s)}: *Use additional pages if necessary.*

Applicant(s) Name: _____
Business/Organization Name: _____
Address of Applicant/Business: _____
City/State/Zip: _____
Phone: _____ 2nd Phone: _____
Driver's License or Business Tax ID # (required) _____
Date of Birth (if DL# given): _____

Address of Municipalities in which applicant has engaged in holding similar events in past 2 years:
Use additional or alternate pages if necessary.

Municipality Name: _____
Address: _____ Phone: _____

Municipality Name: _____
Address: _____ Phone: _____

Name and Contact Information of Person(s) in charge or present during event:

As Petitioner, I understand and will abide by all of the requirements and restrictions set forth by the Town Board of the Town of LaFayette, Walworth County, State of Wisconsin.

Signature of Applicant

Date of Application

Please contact Town Clerk with any questions.

262.723.4321 or townoflafayette@gmail.com

Approved or Denied by a majority vote of the Town Board of the Town of LaFayette.
10-04 APP Application for Ordinance 10-4 Special Event Permitting. 2009.04

TOWN OF LAFAYETTE
LAKELAND ANIMAL WELFARE SOCIETY, INC.
ORDINANCE 10 - 05

WHEREAS, Lakeland Animal Welfare Society Inc is involved in the adoption or redemption of numerous dogs which are required to be licensed under § 174 of the WI Statutes;

WHEREAS, it is the policy of Lakeland Animal Welfare Society Inc to inform dog owners of the licensing requirements, but many owners fail to comply; and

WHEREAS, Lakeland Animal Welfare Society Inc is willing to assist the Town treasurer in the issuance of dog licenses.

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

SECTION 1.0 PURPOSE

The purpose of this ordinance is to promote and protect the health, safety and welfare of the members of the community, and to assist Lakeland Animal Welfare Society in the issuance of licenses.

SECTION 2.0 AUTHORITY

This ordinance is enacted pursuant to the authority set forth in § 174.065 and 174.07, WI Statutes.

SECTION 3.0 DESIGNATION OF COLLECTION OFFICIALS

Lakeland Animal Welfare Society Inc and its authorized employees are hereby designated as Collecting Officials under § 174.065, WI Statutes, with full authority to issue dog licenses and collar tags pursuant to § 174.07, WI Statutes.

SECTION 4.0 REMITTANCE OF FEES

Lakeland Animal Welfare Society Inc shall remit all license fees and license applications to the Town treasurer as directed.

SECTION 5.0 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 8th day of April 2009.

Bruno Schiffleger, Chair

Passed this day: 04.08.2009

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: 04.08.2009

TOWN OF LAFAYETTE
DOG AND KENNEL LICENSING
ORDINANCE 10 - 06

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

SECTION 1.0 PURPOSE

The purpose of this ordinance is to promote and protect the health, safety and welfare of the members of the community, to protect the citizens from the ravages and damages caused by dogs, particularly those owned by people who fail to respect the rights of others and to regulate by tag and penalty the care, treatment and control of dogs in the Town of LaFayette.

SECTION 2.0 AUTHORITY

This ordinance is enacted pursuant to the authority set forth in § 174.05 through 174.10, WI Statutes.

SECTION 3.0 DEFINITIONS

- A. "Owner" shall mean any person owning, harboring or keeping a dog or any person occupying any premises on which a dog remains or to which it customarily returns daily for a period of ten (10) days.
- B. "Dog" shall mean any canine, regardless of age or sex.
- C. "Altered" as used herein as describing a dog shall mean a dog having nonfunctional reproductive organs.
- D. "Non-altered" as used herein as describing a dog shall mean a dog having functional reproductive organs.
- E. "Law Enforcement Officer" or "Officer" has that meaning as appears in § 967.02(5), WI Statutes, and includes a humane officer appointed under § 173.03, WI Statutes., but does not include a conservation warden appointed under § 23.10, WI Statutes.

SECTION 4.0 RABIES VACCINATION

The owner of a dog shall have the dog vaccinated against rabies by a veterinarian within thirty (30) days after the dog reaches five (5) months of age and revaccinated upon expiration of the immunization. If the owner obtains the dog or brings the dog into the Town after the dog has reached five (5) months of age, the owner shall have the dog vaccinated against rabies within thirty (30) days after the dog is brought into the Town unless the dog has been vaccinated as evidenced by a current Certificate of Rabies Vaccination by a licensed veterinarian before the date of that immunization expires as stated on the certificate. The certificate of vaccination shall meet the requirements of § 95.21(2), WI Statutes.

SECTION 5.0 LICENSE REQUIREMENTS

It shall be unlawful for any person in the Town to own, harbor or keep any dog more than five (5) months of age on January 1 of any year, or five (5) months of age without complying with the

provisions in § 174.05 through 174.10, WI Statutes, relating to the listing, licensing and tagging of the same.

- A. Certificate of Rabies Vaccination. Every owner or keeper of a dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually apply for a license for said dog. No license shall be issued unless a current Certificate of Rabies Vaccination accompanies the license application.

Current Certificate of Rabies Vaccination shall include:

1. Veterinarian's name and address
 2. Dog owner name and address
 3. Dog name
 4. Dog sex and status: altered or non-altered
 5. Dog breed and color
 6. Date of vaccination
 7. Type of rabies vaccination administered with the manufacturer's serial number
 8. Expiration date of immunization as specified for that type of vaccine by the Center for Disease Control of the US Department of Health and Human Services
- B. Cost. Fees for dog licenses and late fees will be adopted by resolution and a copy kept on file with this ordinance. The license year shall commence January 1 and end December 31. Fees will be different for altered and non-altered dogs. All fees will be paid by the owner.
- C. Late Fees. Assessment will be made for each license beginning April 1 of each year for each dog whose owner resided in the Town before April 1, but did not apply for a license before that date.
- D. Tag Issuance. Upon payment of the required license fee and upon presentation of evidence that the dog is currently immunized against rabies, the Town treasurer shall complete and issue to the owner a license for such dog containing all information required by state law. The Town treasurer shall also deliver to the owner at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.
- E. Failure to License Dog. The failure to license a dog determined to be owned by a resident of the Town of LaFayette is subject to a forfeiture of not less than ten dollars (\$10) and no more than one-hundred dollars (\$100).
- F. Tags to be Attached. The owner shall security attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times. This requirement does not apply to a dog during competition or training, to a dog securely confined indoors or to a dog securely confined in a fenced area, law enforcement officer dogs or other authorized personnel and in location of lost or missing persons. The owner of the dog(s) holds the Town harmless while the dog is under exemptions listed in this paragraph. A dog without a license tag attached to its collar shall be presumptive evidence that the dog is unlicensed. Any enforcement agency or humane officer may seize, impound or restrain any dog for which a dog license is required which is found without such tag attached.

- G. Duplicate Tag. If the dog license tag is lost within the year it was issued, the Town treasurer will replace the tag at no charge to the owner upon application. A new license will be issued bearing the number of the new tag and records will be updated.
- H. Dogs for the Blind and Deaf Exempt. Every dog specially trained to lead blind or deaf persons is exempt from the dog license fee and annually upon application; such dogs shall be issued a free dog license from the Town. Proof of exemption must be supplied with annual application.
- I. Number of Dogs Limited. No occupants of any property shall own, harbor or keep in its possession more than four (4) dogs, except:
 - 1. A litter of pups or a portion of a litter may be kept for not more than twelve (12) weeks from birth.
 - 2. An occupant and premises have been approved to operate as a kennel under the Walworth County Zoning regulations. Proof of such approved zoning and/or conditional use must be filed with the Town treasurer.
- J. Change in Ownership. If there is a change in ownership of a licensed dog or kennel during the license year, the new owner may have the current license transferred to his name upon payment of a transfer fee as adopted by resolution of the Town Board.
- K. License for Single Animal Only. No person shall use for any animal a license receipt or license tag issued for another animal.

SECTION 6.0 KENNEL LICENSES

Any person who keeps or operates an approved kennel as described in Section 5.0 I.2., shall apply for a kennel license. Each dog in the kennel must comply with the rules as set forth in this ordinance in Section 5.0.

SECTION 7.0 FEES

Fees for dog licenses, kennel licenses and late fees will be adopted by resolution and a copy kept on file with this ordinance. The license year shall commence January 1 and end December 31. Late fees will be assessed beginning April 1 of each year for each dog whose owner resided in the Town before April 1, but did not apply for a license before that date.

SECTION 8.0 DOGS NOT TO RUN AT LARGE

No owner of any dog shall permit such a dog to run at large.

SECTION 9.0 HARBORING CERTAIN DOGS PROHIBITED

No person shall own, harbor or keep any dog which:

- 1. Habitually pursues any vehicle upon any public street, alley or highway
- 2. Assaults or attacks any person
- 3. Is vicious. A showing that the dog has bitten, attacked or impaired any person shall constitute a prima facie showing that such dog is vicious
- 4. Habitually barks or howls to be annoying to any two (2) or more persons
- 5. Is required to be licensed but is not

SECTION 10.0 EFFECTIVE DATE

This ordinance shall be in full force and effect at the issuance of the 2010 dog tags.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 14th day of October 2009.

Daniel Cooper, Chair

Passed this day: October 14, 2009

Barbara A Fischer, Town Clerk-Treasurer

Filed this day: October 14, 2009

TOWN OF LAFAYETTE
REGULATION OF FIREWORKS
ORDINANCE 10 - 07

The Town Board of the Town of LaFayette, Walworth County, Wisconsin does hereby ordain as follows:

SECTION 1.0 PURPOSE

The Town has determined that the public health, safety and welfare will be promoted by adopting ordinances regulating the safe and orderly sale, possession and use of fireworks.

SECTION 2.0 AUTHORITY

This ordinance is enacted pursuant to the authority set forth in § 167.10, WI Statutes.

SECTION 3.0 DEFINITIONS

A. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Fireworks means anything manufactured, processed or packaged for exploding, emitting sparks or combustion which does not have another common use, but does not include any of the following:

1. Fuel or lubricant
2. A firearm cartridge or shotgun shell
3. A flare used or possessed, or sold for use as a signal in an emergency or in the operation of a railway, aircraft, watercraft or motor vehicle
4. A match, cigarette lighter, stove, furnace, candle, lantern or space heater
5. A cap containing not more than one-quarter grain of explosive mixture, if the cap is used or possessed or sold for use in a device which prevents direct bodily contact with a cap when it is in place for explosion
6. A toy snake which contains no mercury
7. A model rocket engine
8. Tobacco and a tobacco product
9. A sparkler on a wire or wood stick not exceeding thirty-six inches (36") in length or one-fourth inch (1/4") in outside diameter, which does not contain magnesium, chlorate or perchlorate
10. A device designed to spray out paper confetti or streamers and contains less than one-quarter (1/4) grain of explosive mixture

11. A device designed to produce an audible sound, but not explode, spark, move or emit an external flame after ignition and does not exceed three (3) grams in total weight
 12. A device that emits smoke with no external flame and does not leave the ground
 13. A cylindrical fountain not exceeding one hundred (100) grams in total weight, with an inside tube diameter not exceeding three-fourths inch (3/4") and designed to sit on the ground and emit only sparks and smoke
 14. A cone fountain not exceeding seventy-five (75) grams in total weight, designed to sit on the ground and emit only sparks and smoke
- B. Town. The Town of LaFayette, County of Walworth, State of Wisconsin.
- C. Seller. The individual, group of individuals, family, partnership, business, proprietorship or corporation issued the Seller's Permit, or their designated representative.
- D. Designated Use Site. An approved fireworks use site within the legal boundaries of the Town of LaFayette, approved by the Town Board annually by resolution prior to the issuance of a Seller's Permit; also to be printed on the User's Permit.
- E. Designated Day. Approved day(s) including Time (hours to be open) that fireworks can be used at the Designated Use Site as approved by the Town Board approved annually by resolution.

SECTION 4.0 SELLER

- A. Seller's Permit Required.
1. Required. No person may sell, or possess with the intent to sell, fireworks or items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, without a Seller's Permit from the Town obtained in accordance with this ordinance. The Seller's Permit is to promote public safety and the perception of public safety held by the public and governmental agencies of the Town and other neighboring communities.
 2. Application. Applicants for a Seller's Permit shall apply for each site in writing on forms provided by the Town Clerk. Applications for a Seller's Permit shall be filed not later than thirty (30) days prior to the granting of a Seller's Permit. A non-refundable application fee for each site shall accompany each application, in an amount which shall be determined from time-to-time by resolution of the Town Board. The Town shall conduct a background check on each applicant. The application for Seller's Permits shall include, without limitation, the following information:
 - a) Name, address, telephone number(s), date of birth, Social Security number, Driver's License number and e-mail address of the applicant
 - b) Name and address of the business under which the applicant will be operating
 - c) Itemization of the specific fireworks the applicant intends to sell
 - d) Address at which the applicant intends to sell the fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, and description of the structure(s) to be used for the storage and sale of the fireworks
 - e) Name(s), addresses, phone number and consent of the owner of the real estate upon which

the fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance will be sold

- f) A site plan, including the proposed days and hours of operation and any other relevant information related to the Plan of Operation
 - g) Applicant shall include a copy of current Wisconsin Seller's Permit with the application
 - h) Proposed Designated Use Site and Proposed Designated Day(s) including Time (hours to be open) associated with fireworks to be sold under the Seller's Permit
 - i) Name, address, phone number and consent of the owner of the real estate of the proposed Designated Use Site
3. Consideration. The Town Board shall consider the application for Seller's Permits hereunder and shall approve or deny each application.
4. Seller's Permit Contents and Conditions. If approved, the Town Clerk shall issue the Seller's Permit as provided below with conditions imposed noted on the Seller's Permit.
- a) At a minimum, the Seller's Permit shall specify the following:
 - i. The name and address of the permit holder
 - ii. Location of permitted operations and a description of the structure(s) to be used for the storage and sale of the fireworks
 - iii. The kind and quantity of fireworks which may be sold under the permit
 - iv. The dates and hours of operations of permitted sales
 - v. Special conditions prescribed by ordinance or deemed necessary by the Town Board to ensure public safety including, at a minimum, the following conditions:
 - I) Prior to issuing the Seller's Permit, the applicant shall provide the Town with a Certificate of Insurance proving a policy of liability insurance in the amount of \$1,000,000.00 per person and \$2,000,000.00 in the aggregate for the payment of all claims that may arise by reason of injury to persons or property from the handling, use or discharge of fireworks under the permit. The liability policy shall name the Town as an additional insured. Such insurance shall be maintained by the applicant so long as it holds a Seller's Permit under this ordinance.
 - II) Prior to issuing the Seller's Permit, the applicant shall pay the regulating fee as set forth in a resolution adopted by the Town Board.
 - b) The Seller's Permit holder shall be assumed the applicant named on the permit. If the business operation or location is leased, owned or controlled by a third party, disclosure of such information must be included on the permit application.

B. Sale. No person may sell, or possess with the intent to sell fireworks, except:

- 1. To a person holding a permit under Section 4.0, A., 1.

2. To a person exempted under Section 6.0, A.
 3. To a city, village or town
 4. For a purpose specified under Section 6.0, C., 1 through 6
- C. Hours of Sale. No person may sell fireworks before 9:00 am or after 9:00 pm.
- D. Restrictions. Employees or any other individual selling fireworks must be at least eighteen (18) years of age.
- E. Number of Permits Limited. Only one Seller's Permit shall be issued to any individual, group of individuals, family, partnership, business, proprietorship or corporation.
- F. Permit Transferability. All Seller's Permits are issued at the pleasure of the Town Board and may not be transferred, bartered, sold, given or assigned to another individual, group of individuals, family, partnership, business, proprietorship or corporation.
- G. Each location at which the Seller's Permit has been issued must have a copy of this ordinance on-site and available to the public upon request.
- H. Permits Issued With Electronic Signatures. The Seller is solely responsible for all costs associated with the implementation, equipment, programming, websites and maintenance of any User's Permit issued with an electronic signature. The Town has no authority over any agreement made between more than one (1) party issued a Seller's Permit regarding the sharing of costs associated with the requirements of this paragraph.

SECTION 5.0 DESIGNATED USE SITE

- A. No person may use fireworks or a device listed under Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, while attending a fireworks display open to the general public, other than the individual or person named on the User's Permit which has been issued under this ordinance for the specific public display.
- B. No person may use fireworks in the Town except at an approved firework Use Site established by the Town Board, located within the legal boundaries of the Town of LaFayette, known as the Designated Use Site, and on Designated Day(s) and Time (hours to be open) established by the Town Board. The Designated Use Site(s) and Designated Day(s), including Time shall be set by Town Board Resolution which may be amended from time-to-time by the Town Board. If the use is for a display event to which the public will be invited, such User Permit shall only be issued in person by the Town Chair, or designee, and such use then may occur at a site other than the Designated Use Site and such Use Permit shall specify the location, date and time for the intended use.
- C. The Town shall notify the Town Fire Chief responsible for providing services to the approved Use Site at least seventy two (72) hours before the Designated Day for inspection of the site. The Designated Day may be rescheduled on the recommendation of the Fire Chief, or his designee, due to safety concerns at the site. The Town Chair, or his designee, can approve the date change, based upon the recommendation of the Fire Chief, or his designee.
- D. The Seller must staff the Designated Use Site on the Designated Days. If any Designated Day and Time is rescheduled on recommendation of the Fire Chief, or his designee, the Seller must also staff the Designated Use Site on subsequently approved Designated Days. Staffing shall include providing proper instructions to the Users on safe and appropriate handling and use of all items permitted to be

sold under a Seller's Permit within the Town. If the applicant named on the Seller's Permit will not be at the Designated Use Site on the Designated Day, they must notify the Town of their designee in writing, within fourteen (14) days prior to the Designated Day. A background check may be conducted on the designee.

- E. The Seller is solely responsible for any costs that may be associated with the procurement of the Designated Use Site. The Seller is also solely responsible for any costs related to clean-up of the Designated Use Site after an event. The Town has no authority over any agreement made between more than one Seller regarding sharing of costs associated with anything relating to the Designated Use Site.

SECTION 6.0 USE

- A. **Permit Required.** No person may possess or use fireworks in the Town without a User's Permit from the Town, obtained in accordance with the provisions of this ordinance except for a person transporting fireworks under § 167.10(3)(b)(7), WI Statutes, through the Town to another town, city or village where the possession and use of the fireworks is authorized by permit or ordinance so long as the person remains in the Town less than twelve (12) hours.
- B. **Permit Exceptions.** Subsection A. of this Section does not apply to:
 - 1. The Town, except that Town fire and law enforcement officials shall be notified of the proposed use of fireworks at least seventy-two (72) hours in advance.
 - 2. The possession or use of explosives in accordance with rules or general orders of the State of Wisconsin Department of Commerce.
 - 3. The disposal of hazardous substances in accordance with rules adopted by the State of Wisconsin Department of Natural Resources.
 - 4. The possession or use of explosive or combustible materials in any manufacturing process.
 - 5. The possession or use of explosive or combustible material in connection with classes conducted by educational institutions.
 - 6. A possessor or manufacturer of explosives in possession of a license or permit under 18 USC 841-848 if the possession of the fireworks is authorized under the license or permit.
- C. Each Use's Permit issued shall be for a single transaction.
- D. **Permit Issuance.** The Town Chair, or an official or employee of the Town designated by the Town Chair, may issue permits in compliance with this ordinance, in person or electronically, and such Use Permits may be issued only to the following:
 - 1. A public authority
 - 2. A fair association
 - 3. An amusement park
 - 4. A park board
 - 5. A civic organization

6. Any individual or a group of individuals
 7. An agricultural producer for the protection of crops from predatory birds or animals
- E. User's Permit Application. An applicant for a User's Permit shall include, at a minimum, the following information:
1. The name, address and date of birth of the person applying for the User's Permit. Applicant shall present a driver's license or other legal proof of identity.
 2. Whether the permit is for an individual or on behalf of an organization.
 3. The kind and quantity of fireworks that may be purchased.
 4. The date, time and location of the intended use of the fireworks.
 5. If the use will be for the general public or private use.
- F. User's Permit.
1. A User's Permit that is issued by the Town, either in person or electronically, shall specify the following:
 - a) The name, address and date of birth of the person authorized to use fireworks under the permit
 - b) The date of the fireworks purchase
 - c) The kind and quantity of fireworks that may be purchased
 - d) Designation of the date, time and location for which the permit authorizes the use of fireworks
 - e) The event for which the fireworks will be used, private use or public display
 - f) Statements of limitation of liability for the Town and indemnification of the Town
 - g) Number of the User's Permit, which shall be issued in numerical order
 2. Access to User Permits.
 - a) Access to all User Permits issued under this ordinance shall be provided to the Town, whether in paper or electronic format. All costs related to the accessibility are the sole responsibility of the Seller.
 - b) Access to all User Permits issued under this ordinance shall be provided to any of the Town's Fire Chiefs and Law Enforcement Officials at least forty eight (48) hours before the day of the authorized use at the Designated Use Site or any other site approved by the Town Board. All costs related to the accessibility are the sole responsibility of the Seller.
- G. User's Permit Fee. At the time of filing the permit application for the use of fireworks, a nonrefundable permit fee shall be paid to the Town to cover the costs of processing the application. The fee shall be

established by resolution of the Town Board and may be revised by a Town Board resolution from time-to-time. The Town may conduct a background check on applicants for User's Permits.

- H. Indemnity. The Town may require an indemnity bond with good and sufficient sureties or policy of liability insurance for the payment of all claims that may arise by reason of injuries to person or property from the handling, use or discharge of fireworks under any User's Permit. The bond or policy, if required, shall be taken in the name of the Town and any person injured thereby may bring an action on the bond or policy in the person's own name to recover the damage the person has sustained, but the aggregate liability of the surety or insurer to all persons shall not exceed the amount of the bond or policy. The bond or policy, if required, together with a copy of the permit shall be filed in the office of the Town Clerk.
- I. Cancel and Rescheduling. A User's Permit may be cancelled and rescheduled by the Town Chair or any of the Towns' Fire Chiefs in which the permit is issued for, if the weather or other situations make it unsafe for the use to be conducted or if it is determined that the User Permit was issued based on fraud or misrepresentation. Upon cancellation, the Town Chair, or designee, shall set the rescheduled date and the Town Clerk shall post the notice of rescheduled date at the Town Hall, Designated Use Site and such other locations the Town Clerk deems necessary to provide notice to the public and permittees.

SECTION 6.1 USE - PROPERTY OWNERS OF REAL PROPERTY WITHIN THE TOWN

- A. A User's Permit may be issued for a location other than the Designated Use Site when the following conditions are met:
 - 1. Property owners of real estate within the legal boundaries of the Town of LaFayette apply for a User's Permit
 - 2. The location to be listed on the User's Permit is the real property owned by the individual applying for the Permit
 - 3. Town officials will verify applicant ownership of real property
 - 4. For non-commercial, personal use only. The holder of the User's Permit understands that this type of Permit is issued with the understanding that they will personally control the storage and use of fireworks.
 - 5. All other requirements and restrictions as set forth in this ordinance shall apply
- B. These User Permits will only be issued through the office of the Town and issued by the Chair, or designee. All other information necessary to issue the User's Permit, as required by this ordinance, will apply. All fees shall apply.
- C. The purchaser of the User's Permit shall accept full responsibility and liability hereby releasing, indemnifying and holding harmless the Town of LaFayette and all its appointed and elected officials and employees from any and all liability and damages relating to the possession, storage and use of all fireworks purchased.
- D. A Commercial Display would not be issued under this section. A commercial display would require the approval of the Town Board for a Designated Use Site, Designated Day and Time and set by Resolution as required in this ordinance; other requirements and restrictions may also apply.

SECTION 7.0 SALES TO MINORS

User Permits for fireworks under this ordinance shall *not* be issued to a minor, nor shall the holder of the permit, sell or provide fireworks to a minor. The sale of items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance, is not permissible to anyone under the age of thirteen (13).

SECTION 8.0 LIMITATION OF LIABILITY

A party requesting a User's Permit and/or a Seller's Permit has the ultimate responsibility for their own safety and for the safety of all persons who may be affected by their activity. The issuance of a User's Permit or a Seller's Permit shall not be interpreted as endorsing or condoning the activity or as ensuring that the activity will be safe. An applicant for a User's Permit and/or a Seller's Permit individually and on behalf of any entity for which the applicant submits the application, and also on behalf of the property owner where the activity will be conducted, accepts all risks and agrees to indemnify, defend and hold harmless the Town of LaFayette, its officers, employees and agents, from any and all claims arising out of the use, sale or possession of the fireworks.

SECTION 9.0 PAYMENT TO TOWN FOR USER'S PERMITS ISSUED

The Town shall invoice the Seller minimally once every three months for all User's Permit fees collected by the Seller. Payment on invoices issued by the Town shall be paid within thirty (30) days of the date of the invoice. Seller shall maintain a current mailing or email address on file with the Town Clerk.

SECTION 10.0 PERMIT SUSPENSION AND REVOCATION

Any Seller's or User's Permit issued under this ordinance may be suspended or revoked, in writing, by the Town Board for any of the following reasons:

- A. Fraud, misrepresentation or a false statement contained in the application for the permit
- B. Any violation of this ordinance
- C. Conviction of a crime or misdemeanor involving the illegal use of fireworks
- D. In the case of a Seller's Permit, conducting the business of fireworks sales in an unlawful manner or in such a manner as to constitute a breach of the peace or general health, safety and welfare of the public
- E. In the case of a Seller's Permit, verification by any of the Towns' Fire Chiefs or Town Building Inspector that the premises, means of storage, methods of sale or other operation related to the sale, storage or handling of fireworks or product covered under the Seller's Permit is unsafe or does not meet any applicable governmental regulations

SECTION 11.0 PERMIT EXPIRATION

No permit shall be issued under this ordinance for a longer period than one year. All Seller Permits issued under the provisions of this ordinance shall expire at 12:00 midnight on December 31st. All User Permits issued under this ordinance shall expire as specifically set forth in the application for the Designated Day of use allowed by the permit.

SECTION 12.0 APPEALS

Any applicant aggrieved by the action of the Town in the denial, suspension or revocation of a permit under this ordinance may appeal to the Town Board. Such appeal shall be taken by filing with the Town Clerk,

within fourteen (14) days after notice of the action complained of, a written statement fully setting forth the grounds of the appeal. The Town Board shall set a time and place for a hearing on such an appeal and notice shall be mailed by the Town Clerk to the appellant at the last known address at least five (5) days prior to the date set for the hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for the hearing.

SECTION 13.0 FIREWORKS DISPLAY SITE, PRODUCT STORAGE AND HANDLING

- A. Fire Extinguishers Required. No wholesaler, dealer or jobber may store or handle fireworks in a premise unless the premise is equipped with two (2) five pound (5#) ABC fire extinguishers mounted in plain view.
- B. Smoking prohibited. No person may smoke where fireworks are stored or handled. Signs with the words, "NO SMOKING" in letters not less than four inches (4") high shall be posted at all entrances/exits and shall be plainly visible.
- C. Notification of Fire Official. A person who stores or handles fireworks shall notify the fire official of the municipality in which the fireworks are stored or handled of the location of the fireworks.
- D. Storage Distance. No wholesaler, dealer or jobber may store fireworks within fifty feet (50') of a dwelling or storage facility lot line.
- E. Flammable Liquids. The storage of flammable liquids on-site is prohibited.
- F. Storage Restriction. No person may store fireworks within fifty feet (50') of a public assemblage or place where gasoline or volatile liquid is sold in quantities exceeding one (1) gallon unless otherwise approved under a Seller's Permit, or in the case of a public assemblage, the Town Board Resolution designating the fireworks Designated Use Site under Section 5.0, B.
- G. Storage in Vehicles Prohibited. No person may store fireworks within any motor vehicle for a period of time greater than twenty four (24) hours.
- H. The area where fireworks are sold or stored shall be clear of brush, dried vegetation, leaves and similar combustibles for a distance of at least twenty five feet (25').
- I. Inspections. An annual inspection of every premise where fireworks and items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance are sold and/or stored will be conducted by any of the Towns' Fire Chiefs, or their designee, and the Town Building Inspector prior to obtaining a valid Seller's Permit issued under this ordinance. Corrections may be ordered as deemed necessary and any failure to make corrections shall be in violation of this ordinance. Display operators shall adhere to National Fire Protection Association (NFPA) Standards 1123 and 1126 and a copy of such standards shall be maintained on-site. Seller shall be responsible for all costs related to copies of NFPA Standards 1123 and 1126 and obtaining such copies.
- J. Sites, Structures and Signage. All sites, structures and signs must conform to the regulations under the Walworth County Zoning Ordinance. It is the responsibility of the applicant to obtain any necessary permits required under the County ordinance and all related costs.

SECTION 14.0 PARENTAL LIABILITY

A parent or legal guardian of a minor who consents to the use of fireworks and other items as defined in Section 3.0, A., 5 through 7 and 9 through 14 of this ordinance by the minor is liable for damages caused by the minor's use of product.

SECTION 15.0 FAILURE TO COMPLY; PENALTIES

Any person who fails to comply with the provisions of this ordinance, or any permit issued in accordance with this ordinance, shall, upon conviction, forfeit not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) for each day of violation for each separate offense and costs of prosecution for each violation, and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding ninety (90) days. Each day a violation exists or continues shall constitute a separate offense.

SECTION 16.0 SEVERABILITY

If any provision of any ordinance included in this Code of Ordinances is invalid or unconstitutional, or if the application of any ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or application of any ordinance which can be given affect without the invalid or unconstitutional provision or application.

SECTION 17.0 EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 12th day of May 2010.

Daniel Cooper, Chair
Passed this day: May 12, 2010

Barbara A Fischer, Town Clerk-Treasurer
Filed this day: May 12, 2010

Published this day: May 20, 2010

TOWN OF LAFAYETTE

ALLOWING THE EAST TROY EMERGENCY SERVICES DISTRICT TO CHARGE FOR MITIGATION RATES FOR EMERGENCY AND NON-EMERGENCY SERVICES

ORDINANCE 10 - 08

WHEREAS, on January 31, 1977, the Town of LaFayette entered into an agreement with the East Troy Volunteer Fire Department to provide services for fire calls in the Town of LaFayette; and

WHEREAS, in 1987 an agreement establishing the East Troy Area Fire District was entered into by and between the Town of LaFayette, Village of East Troy, Town of East Troy and Town of Spring Prairie; and

WHEREAS, on or about January 13, 1992, the Town of LaFayette entered into a Repayment Agreement with the East Troy Area Emergency Services District Commission, Town of East Troy, Village of East Troy and Town of Spring Prairie; and

WHEREAS, on or about January 9, 2008, the Town of LaFayette passed a Resolution Adopting an Amendment to the Amended and Restated Emergency Services Agreement with the East Troy Area Emergency Services District; and

WHEREAS, on or about November of 2009, the Town of LaFayette entered into an Amended and Restated Emergency Services Agreement with the East Troy Area Emergency District; and

WHEREAS, on April 12, 2010, the Town of LaFayette entered into an Amended and Restated Emergency Services Agreement creating and governing the East Troy Area Emergency Services District; and

WHEREAS, the parties to that agreement desire to amend said Agreement to allow the District to set rates for emergency response services related to motor vehicle accidents; and

WHEREAS, the Town Board of the Town of LaFayette believes it is in the best interest for the health, safety and welfare of the community to enter into said Agreement;

WHEREAS, pursuant to §§ 60.55, 66.555, 60.557 and 60.0627, WI State Statutes, the Town of LaFayette has the authority to charge their property owners within the Town for fire protection and emergency response services; and

WHEREAS, the emergency and non-emergency services response activity continues to increase each year; and

WHEREAS, the East Troy Emergency Services District has investigated different methods to maintain a high level of quality for emergency and non-emergency service capability throughout times of constantly increasing service demands; and

WHEREAS, the Town Board of the Town of LaFayette desires to implement a fair and equitable procedure by which to collect said mitigation rates from the property owner, rather than by increasing property taxes;

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of LaFayette does hereby ordain as follows:

SECTION 1.0 CREATING CODE

The Town Board of the Town of LaFayette hereby creates this Ordinance to read as follows:

(1) **Mitigation Rates.** There shall be a charge for the delivery of emergency and non-emergency services by the East Troy Emergency Services District for personnel, supplies and equipment to the scene for the following incidents:

- (a) Fuel leaks of improperly maintained vehicles;
- (b) Hazardous materials spills and leaks;
- (c) Unattended fires and uncontrolled open burning;
- (d) Specialized rescue -- confined space, high or low angle, etc.
- (e) False alarms (3rd or more within one year period);
- (f) Motor vehicle accidents.

The mitigation rates shall be based on actual costs of the services and that which is usual, customary and reasonable, which may include any services, personnel, supplies, and equipment. The East Troy Emergency Services District shall be authorized to bill and collect such costs on behalf of the Town of LaFayette in accordance with the East Troy Emergency Service Mitigation Rate Schedule.

(2) **Payment.** A claim shall be filed to the responsible party through their insurance carrier. In some circumstances, the responsible party will be billed directly.

The Town has determined that the public health, safety and welfare will be promoted by adopting ordinances allowing for the charge of mitigation rates for emergency and non-emergency services by the East Troy Emergency Services District.

SECTION 2.0 EFFECTIVE DATE

This ordinance is enacted pursuant to the authority set forth in §§ 60.55, 66.555, 60.557 and 66.0627, WI State Statutes and has the authority to charge the property owners for fire protection and emergency response services.

This ordinance shall be in full force and effect from and after its passage and publication.

This Ordinance adopted by the Town Board of the Town of LaFayette on this 8th day of August 2012.

TOWN OF LAFAYETTE

Daniel D Cooper, Chair

CLERK'S CERTIFICATE OF ENACTMENT

I, Barbara A. Fischer, hereby certify that the foregoing Ordinance was duly enacted by the Town Board of the Town of LaFayette and approved by the Town Chair on the date indicated above.

Barbara A. Fischer, Clerk-Treasurer
August 8, 2012