

ORDINANCE NO. 2026-001

AN ORDINANCE REGULATING THE AUTHORIZATION OF ALCOHOL BEVERAGE LICENSES AND PERMITS IN THE TOWN OF MARION, GRANT COUNTY, WISCONSIN.

NOW, THEREFORE, the Town Board of the Town of Marion, Grant County, Wisconsin, does ordain as follows:

Section I: ALCOHOL BEVERAGE LICENSES AND PERMITS.

ALCOHOL BEVERAGE LICENSES AND PERMITS.

- (1) STATE STATUTES ADOPTED. The provisions of Chapter 125, Stats., as amended from time to time, defining and regulating the sale, procurement, dispensing and transfer of beverages, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, are adopted and made a part of this Ordinance by reference. A violation of any such provisions shall constitute a violation of this Ordinance, and shall result in a forfeiture equal to any forfeiture or fine as established by said statutes.
- (2) LICENSES AND PERMITS; AUTHORIZATION REQUIRED.
 - (a) When Required. No person except as provided by s. 125.06, Stats., shall within the Town of Marion, serve, sell, manufacture, rectify, brew or engage in any other activity for which this Ordinance or Chapter 125, Stats., requires a license, permit or other authorization without holding the appropriate license permit or authorization as provided in this Ordinance.
 - (b) Separate License Required for Each Place of Sale. Except for licenses to public warehouses, a license shall be required for each location or premises which is in direct connection or communication to another where alcohol beverages are stored, sold, or offered for sale.
 - (c) Provisional Retail Licenses. The Township hereby adopts Wis. Stat. § 125.185 and authorizes the Town Clerk to issue a provisional retail license to an otherwise qualified applicant in those cases where the Town Clerk determines it is necessary to provide a provisional retail license. A provisional retail license shall expire 60 days after its issuance or when a Class "A", Class "B", "Class A", "Class B" or "Class C" license is issued. The Town Clerk may revoke the license if he or she discovers that the holder of the provisional operator's license made a false statement in his or her license application. A provisional operator's license shall not be renewed. The cost of a provision retail license shall be \$15.00.

(3) **LICENSES FEES.** The licensee shall pay the fees as established annually by the Town Board for the following licenses and permits issued by the Town Board for the sale of alcohol beverages:

1. Fermented malt beverages: Class "A", Class "B", and temporary Class "B" licenses.
2. Class "B" fermented malt beverage permits.
3. Intoxicating liquor: Retail "A", Retail "B", and Retail "C" licenses.
4. Retail "B" permits.

(4) **OPERATOR'S LICENSES.**

- (a) Operator's licenses may be granted to individuals by the Town Board for the purpose of complying with Sections 125.32(2) and 125.68(2), Stats. Operator's licenses may be issued only on written application forms provided by the Town Clerk. Said licenses shall be valid for one year and shall expire on June 30 of each year. The application shall include the name of the business where the applicant proposed to work.
- (b) **Provisional Operator's License.** The Town Clerk may issue a provisional operator's license to an otherwise qualified applicant in those cases where the applicant is required to complete a responsible beverage server training course pursuant to Sec. 125.17(6), Wis. Stats. A provisional operator's license shall expire 60 days after its issuance. A person who has been issued a provisional operator's license and who successfully completes the responsible beverage training course within 60 days of the issuance of the license shall be granted a regular operator's license by the Clerk upon proof of successful completion of the training course. If the holder of a provisional operator's license fails to successfully complete the course or fails to provide the Clerk with proof of successful completion of the course within 60 days of issuance, the Town Clerk or Town Board shall revoke the provisional license. A person whose provisional operator's license has been revoked hereunder shall not be eligible for an operator's license thereafter without proof the person has successfully completed the responsible beverage training course. A provisional operator's license may not be issued to any person who has been denied an operator's license by the Town Board, who has had his or her operator's license revoked or suspended within the preceding twelve (12) months, or who previously held an operator's license and who failed to complete the responsible beverage server training course. The Town Clerk may revoke the license if he or she discovers that the holder of the provisional operator's license made a false

statement in his or her license application. A provisional operator's license shall not be renewed.

(5) LICENSE APPLICATION.

- (a) Form. Application for a license to sell, manufacture, rectify, brew or deal in alcohol beverages shall be made in writing on forms prescribed by the State of Wisconsin, Department of Revenue, or in the case of operator's licenses, by the Town Board. The completed application shall be filed with the Town Clerk not less than 15 days prior to the granting of the license. The premises, including every room or place where alcohol beverages will be sold or stored, shall be described. Applications for retail Class "A", "Class A", Class "B", and "Class B" licenses shall be made no later than April 15 to the Town Clerk and must be granted or denied by the Town Board no later than June 15 of each year. All applications shall be published as provided by Section 125.04(3)(g) and shall be accompanied by the publication fee.
- (b) Application to be notarized. The application shall be signed and sworn to by the applicant as provided by s. 887.01, Stats.
- (c) Duplicate. Upon approval, a duplicate copy of each application shall be forwarded by the Town Clerk to the State Department of Revenue.
- (d) Payment of Fees. The Clerk shall inform the applicant at the time the application is filed that no license for the sale of alcohol beverages may be delivered to the applicant until the applicant files with the Clerk a receipt showing the payment of the license fee to the Town Treasurer. The license fee required hereunder shall be tendered and paid at least 14 days prior to the date the license is to be issued. Failure to pay the license fee in the time and manner prescribed herein may result in no action being taken by the Town Board on the application.
- (e) Notwithstanding and subd. (5)(a)-(d), for picnic licenses issued under Section 125.26(6), Stats., the application shall be filed with the Clerk at least five days prior to the granting of the license. The Town Board may by motion grant the Clerk discretion to issue such licenses without formal action on the application by the Town Board prior to such issuance.

(6) LICENSE RESTRICTIONS.

- (a) An alcohol beverage license shall be issued only to persons eligible under ss. 125.04, 125.25(2), 125.26(2), 126.26(6), 125.51(2)(b), and 125.51(3)(c), Stats. In addition, the license shall be issued only to persons who fulfill the following requirements:

1. Do not have an arrest or conviction record subject to ss. 111.321, 111.322, and 111.335, Stats.; have been residents of Wisconsin continuously for at least ninety days prior to the date of application; maintain their Wisconsin residence at all times during the license period; have attained the legal drinking age; and have submitted proof under s. 77.61(11) pertaining to seller's permits for sales taxes, provided, however, that applicants for operator's licenses need not have established Wisconsin residency for at least ninety days and need not have attained the legal drinking age, but must be at least 18 years of age.
2. A corporation may be issued a license only when a natural person has been appointed as its agent pursuant to Section 125.04(6), Stats., and only after the corporation has provided the Clerk a properly authorized, executed and certified resolution of its Board of Directors delegating to the agent full authority and control of the premises described in the application and authorizing the agent to conduct all business on the premises or elsewhere relating to alcohol beverages that the corporation could exercise if it were a natural person. In addition, the agent shall meet the requirements of subd. (a)(1).
3. In the case of corporations, the officers and directors shall meet the following requirements of subd. (a)(1): shall not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335 and have attained the legal drinking age.
 - (b) No retail Class "A", "Class A", Class "B", or "Class B" license shall be issued for premises the main entrance of which is less than 300 feet from the main entrance of any established public school, parochial school, hospital or church. The distance shall be measured by the shortest route along the highway from the closest point of the main entrance of the premises covered by the license. This paragraph shall not apply to premises licensed as such prior to the occupation of real property within 300 feet thereof by any school building, hospital building or church building.
 - (c) Violators of liquor or beer laws or ordinances. When a license is revoked because of violations under this ordinance, or under the provisions of s. 125.12, Stats., the revocation shall be recorded by the Clerk and no other license under this ordinance may be granted within 12 months of the revocation to the person whose license was revoked. No part of the fee paid for the revoked license may be refunded.
 - (d) No applicant may obtain a Class "B" or "Class B" license or permit unless the premises complies with the rules promulgated by the Department of Health and Social Services governing sanitation in restaurants.

- (e) Delinquent taxes, assessments and claims. No license shall be granted for any premises for which taxes, assessments or other claims of the Town are delinquent and unpaid, or to any person delinquent in payment of such claim to the Town.
 - (f) No license shall be issued to any person for the purpose of possessing, selling or offering for sale any alcohol beverages in any dwelling house, flat or residential apartment.
- (7) **FORM AND EXPIRATION OF LICENSES.** All licenses shall state clearly the specific premises for which granted, the date of issuance, the fee paid, the name of the licensee and that the license shall expire on June 30 following the date of its issuance except as otherwise provided.
- (8) **CONDITIONS OF LICENSES AND LICENSE RENEWALS.** The original grant of a license or renewals of licenses issued by the Town under this Ordinance may be conditioned upon the licensee performing such acts or doing such things as are ordered to be done by such licensee by resolution or motion of the Town Board enacted at the time the original license is issued, or at the time of any subsequent renewal. These conditions may be of a nature which contemplate their fulfillment over a period of time greater than one year and the renewal of any such conditional license during such period shall not constitute a waiver by the Town Board of its right to later deny request for renewal of such license by reason of the failure of the licensee to fulfill such conditions within the time set by the Town Board. The extension by the Town Board of the period of time during which such conditions must be fulfilled shall not constitute a waiver by the Town Board of its right to later deny a request for renewal of such license by reason of the failure of the licensee to fulfill such condition within the extended time period. Conditions may include, without limitation by way of enumeration, construction, reconstruction, alteration or addition to the licensed premises; requiring facilities for serving food; requiring such other facilities as may be deemed by the Town Board to be prudent or necessary to provide for the health, safety and welfare of the public or patrons or for the preservation and enhancement of the esthetic values of the community.
- (9) **TRANSFER OF LICENSES.**
- (a) **As to Person.** No license shall be transferable as to a licensee except as provided by s. 125.04(2), Stats.
 - (b) **As to Place.** Licenses issued under this Ordinance may be transferred as provided in s. 125.04(12), Stats. Application for such a transfer shall be made on blanks furnished by the Department of Revenue. Proceedings for transfer shall be held in the same manner and form as the original application. The Town Board shall have the right to deny any such requested transfer.

- (10) POSTING AND CARE OF LICENSES. Every license or permit required under this Ordinance shall be framed and posted and at all times displayed as provided in s. 125.04(10), Stats. No person shall post a license, or permit any other person to post it, upon premises other than those mentioned in the application, nor shall any person knowingly deface or destroy a license, or permit any other person to do so.
- (11) LICENSE INVESTIGATION. The Clerk shall notify the City of Boscobel Fire Department of each application who shall then inspect, or cause to be inspected each application and the premises, together with such other investigations as shall be deemed necessary by the Fire Chief or the Town Board to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation and restaurants. The Fire Chief shall furnish to the Town Board in writing, or otherwise as the Board directs, the information derived from such investigation, accompanied by a statement as to whether the applicant or the premises meets the requirements of the Town of Marion. No license shall be renewed without reinspection of the premises and a supplement to the original report. In determining the suitability of the applicant, consideration shall be given to the moral character of the applicant, the appropriateness of the location and premises proposed, and generally the applicant's fitness for the trust to be reposed.
- (12) REGULATION OF LICENSED PREMISES AND LICENSEES.
- (a) Beer Gardens. Premises for which a Class "B" or "Class B" license is issued may serve alcohol beverages to be consumed by the glass only in outdoor areas, commonly known as "beer gardens", provided a proper description of the area is included in the application. Beer gardens shall be enclosed by a permanent fence sufficient to separate the area from adjacent public or private premises. Such fences shall be at least six feet but not more than ten (10) feet in height and shall conform to reasonable rules and orders concerning the location, materials and construction of such fences for the purpose of promoting the health, safety, morals and general welfare of the community. Any person aggrieved by such a rule or order may request a review thereof by the Town Board under the procedures set forth in Chapter 68, Stats.
- (b) Gambling and Disorderly Conduct Prohibited. Licensed premises shall be at all times operated in an orderly manner and no disorderly, riotous or indecent conduct or gambling shall be allowed at any time on the premises.
- (c) Minors.
1. No person shall procure for, sell, dispense or give away any alcohol beverage to a person who has not attained the legal drinking age unless the underage person is accompanied by his parent, guardian or adult spouse.

2. No person who has not attained the legal drinking age may enter or be on any premise for which a license or permit for the sale of alcohol beverages has been issued unless the underage person is accompanied by his parent, guardian or adult spouse, except such an underage person may transact business pertaining to the licensed premises with or for the licensee or the licensee’s employees; provided, however, the business may not be amusement or the purchase, receipt or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to such a person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consist or is a part. An underage person may enter or be on a Class “A” or “Class A” retail premises for the purpose of buying food or beverages other than alcohol beverages, except that such persons may not remain on the premises after the purchase.

- (d) Sales by Clubs. No club shall sell any alcohol beverage except to members and guests invited by members.
- (e) Inspection. Every licensee or permittee shall be deemed to consent to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of the Town Ordinances or state laws and consents to the introduction of such things or articles in evidence in any prosecution that may be brought for such offenses.

(13) CLOSING HOURS. Hours of operation for all premises licensed to sell alcohol beverages, as defined by Wis. Stats. §125.02(1), are regulated as provided by Chapter 125 of the statutes, specifically §125.32(3) and §125.68(4), as amended by 2011 Wisconsin Act 97. However, no alcohol can be sold after 11:00 p.m.

(14) IMPROPER EXHIBITIONS.

- (a) 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, 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, 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 or simulates sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.
- (b) It shall be unlawful for any licensee or manager or agent of the licensee knowingly to permit any exhibition prohibited by subparagraph (a) to be exposed for viewing by persons within the licensed premises.
- (c) Any person, partnership or corporation who violates any of the provisions of this subsection shall be subject to a forfeiture as prescribed by the Town Board, in addition to liquor license suspension, revocation, or nonrenewal as provided in this Ordinance. A separate offense shall be deemed committed on each day on which a violation occurs or continues.
- (15) **REVOCAION, SUSPENSION AND NONRENEWALS OF LICENSES.** Whenever the holder of any license under the Ordinance violates any portion of this ordinance, or Chapter 125, Stats., proceedings for the revocation, suspension or nonrenewal of the license may be instituted in the manner and under the procedures established by s. 125.12, Stats., and the provisions in said section relating to granting a new license shall likewise apply.
- (16) **VIOLATIONS BY AGENTS AND EMPLOYEES.** A violation of this Ordinance by an authorized agent or employee of a licensee shall constitute a violation by the licensee. Enforcement for violations shall be as established by Wis Stats. 125.14.

Section II: This Ordinance shall take effect upon its passage and publication or posting as required by law.

Adopted and approved this 21st day of April, 2026, by the Town Board of the Town of Marion, Grant County, Wisconsin.

TOWN OF MARION by:

/s/ Jerrod Waterman
Jerrod Waterman, Town Chairman

ATTEST: I, Judith A. Boughton, Town Clerk, do hereby certify that the creation of An Ordinance Regulating The Authorization Of Alcohol Beverage Licenses And Permits In The Town Of Marion, Grant County, Wisconsin has been approved by the Town Board of the Town of Marion, Grant County, Wisconsin, at a meeting held on April 21, 2026.

/s/ Judith A. Boughton
Judith A. Boughton, Town Clerk

Date Adopted: April 21, 2026

Effective Date: April 24, 2026