

## BEER GARDENS ORDINANCE

**Section I. Title/Purpose.** This ordinance is entitled “Beer Gardens”. The purpose of this Ordinance is as follows:

To promote the safety, health and general welfare by creating certain conditions and restrictions on, and to provide for the licensing and operation of Beer Gardens in the Town of Shelby.

### **Section II. Beer Gardens.**

A. License Required. No person shall hereafter keep, maintain, conduct or operate any Beer Garden as defined in Subsection (B) of this section without first obtaining a Beer Garden License.

B. Definition. A “Beer Garden” is defined as an open air, roofed or unroofed area adjacent to or accessory to a “Class B” intoxicating liquor and/or fermented malt beverage licensed premises, where beer and other alcoholic beverages are served or consumed.

C. License Fee. The annual fee for a Beer Garden License shall be one hundred dollars (\$100.00), (non pro-rated) and every license shall be renewed by or terminated on the 30<sup>th</sup> day of June in conjunction with the “Class B” fermented malt beverage and/or intoxicating liquor licenses.

D. Application. Applications for a Beer Garden License shall be made on a form developed by the Shelby Town Clerk and shall be submitted at least 15 days prior to action by the Town Board. Applications must include a detailed diagram of the Beer Garden area.

E. Restrictions. No Beer Garden shall be permitted within 200 feet of land zoned for human residence unless approved by all owners of residential property within 200 feet and the Town Board by two-thirds vote. Other than the initial application, persons renewing a Beer Garden License shall not be required to obtain approval by all the owners of residential property within 200 feet, except if the license holder has been convicted of a violation of the Town of Shelby Municipal Code or State law pertaining to alcohol beverage laws or Beer Garden regulations whichever occur prior to renewal.

F. Granting. The Town Clerk shall refer all applications for Beer Garden Licenses to the Town Administrator for investigation. The Town Administrator shall furnish to the Town Board in writing a recommendation as to whether the license should be granted. Upon approval of the Town Board, and payment of the license fee, the Town Clerk shall issue the license authorizing a Beer Garden to the applicant.

G. Conditions. No Beer Garden shall be permitted, maintained, or operated except on conformity with the following regulations:

1. A description of the Beer Garden area shall be included in the application and license for a "Class B" intoxicating liquor and/ or fermented malt beverage licensed premises.

2. Except for open air, roofed or unroofed areas which are part of the "Class B" licensed premises and not at ground level, such as a deck or porch, which comply with all applicable safety and building codes, the construction of the Beer Garden shall be as follows:

a. A fence may be required by the Town Board. Fence requirements shall be established on a case by case basis as specified by the Board. Fence requirements shall be based on the location of the establishment, adjoining land use, lot and building size, and proximity to residential properties and streets.

b. Beer Gardens shall have a maximum capacity of one person for each ten (10) net square feet of the floor area of the Beer Garden. The capacity of the Beer Garden shall be posted in the garden.

3. All electrical wiring shall comply with National, State, and Town of Shelby building and construction codes.

4. All combustible rubbish shall be stored in non-combustible covered containers.

5. Any noise emanating from the Beer Garden shall not violate the regulations of the Town Code of Ordinances or other regulations pertaining to noise. There shall be no amplified sound in the Beer Garden area. Noise from the Beer Garden shall not interfere with the neighbor's enjoyment of their property.

6. All Beer Garden areas shall comply with Chapters 60 thru 66 of the Wisconsin Administrative Codes, relative to the required number of toilets, exit lights, and other relevant regulations contained therein.

7. The "Class B" intoxicating liquor and/or fermented malt beverage licensee and/or agent shall be responsible for all violations of this Section and subject to compliance with any and all Town of Shelby, State and local regulations.

8. The hours of operation of the Beer Garden shall be 10:00 A.M. to 10:00 P.M.

H. Discretion. The Town Board shall have discretion to refuse the granting of any license or transfer thereof if, in its judgment. The granting or transfer of such license shall be against the public interests, either because of the unsuitability of the location, undesirability or unreliability of the applicant or applicant's manager or because of the failure of applicant or applicant's manager to observe the provisions of the Town of Shelby Ordinances in the prior conduct of a cabaret, dance hall, tavern, beer garden or other similar place.

I. Penalties. Any violations of this ordinance may result in the suspension or revocation of any "Class B" intoxicating liquor and/or fermented malt beverage license for such premises.

**Section III. Enforcement and Penalties.** Any person who violates, disobeys or refuses to comply with or who resists the enforcement of any provisions of this Ordinance shall, upon conviction, be subject to a forfeiture of One Hundred Dollars (\$100.00) for each such offense.

**Section IV. Severability.** The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed provisions of this Ordinance irrespective of whether one or more provisions may be declared invalid, and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances not be affected thereby.

**ORDINANCE 9.05**

**Section V. Effective Date.** This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous Ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: June 14, 2010

\_\_\_\_\_  
Lynnetta P. Kopp, Town Chair

\_\_\_\_\_  
Kathleen S. Kistner, Town Supervisor

\_\_\_\_\_  
John O. Zahn, Town Supervisor

ATTEST:

\_\_\_\_\_  
Catherine Brott, Town Clerk