

ORDINANCE

An Ordinance to amend various sections in Chapter 6, entitled “Fermented Malt Beverages and Intoxicating Liquors” and Chapter 1-2, entitled “Fees” in the Municipal Code to provide requirements and standards for alcohol licenses in the City.

The Council of the City of Two Rivers ordains as follows:

SECTION 1.

That Section 1-2 of the Municipal Code shall hereby be amended to include the following addition:

6-1-4.D Background Check Fee of \$20.00 for all Non-Temporary Retail Alcohol Licenses
Background Check Fee of \$0.00 for Temporary Retail Alcohol Licenses

SECTION 2.

That Section 6-1-4 entitled “Classes of licenses; fees” of the Municipal Code shall hereby be amended as follows.

- A. **Retail Class A “Class A” liquor license.** A retail Class A “Class A” liquor license, when issued by the city clerk under the authority of the city council, 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
 - a) In addition to the authorization under par. A., a “Class A” license authorizes the licensee to provide, free of charge, to customers and visitors who have attained the legal drinking age, taste samples of intoxicating liquor that are not in original packages or containers for consumption on the “Class A” premises. Taste samples may be provided under this paragraph only between the hours of 11 a.m. and 7 p.m. and may not exceed the quantities specified in Wis. Stat. [125.69 \(9\) \(b\)](#).
- B. **Retail Class B “Class B” liquor license.** A retail Class B “Class B” liquor license, when issued by the city clerk under authority of the city council, shall permit its holder to sell, deal and traffic (1) in intoxicating liquors to be consumed by the glass only on the premises so licensed; (2) in containers of intoxicating liquors only if sealed with tamper evident seals prior to being allowed off the premises; and (3) in intoxicating liquors in their original packaging or container, in multiples which, when combined, do not exceed four liters for any single visit by any given person, to be consumed off the premises, except that wine may be sold in the original package or otherwise, if sealed with a tamper evident seal, in any other quantity to be consumed off the premises.
- C. There shall be six classes of fermented malt beverages licenses:
 - (1) **Class A Class “A” retailer’s license.** A Class A Class “A”

retailer's fermented malt beverage license, when issued by the city clerk under the authority of the city council, 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.

(2) ~~Class B~~ **Class "B"** retailer's license. A ~~Class B~~ **Class "B"** fermented malt beverage retailer's license, when issued by the city clerk under the authority of the city council, 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 of the percent of alcohol by volume without obtaining a special license to sell such beverages.

(3) **"Temporary ~~Class B~~ Class "B" beer picnic license and "Temporary ~~Class B~~ "Class B" wine picnic license.**

(a) A "Temporary ~~Class B~~ Class "B" fermented malt beverage picnic license or a "Temporary ~~Class B~~ **Class "B"** wine picnic license, when issued by the city clerk under the authority of the city council, shall entitle the holder thereof to possess, sell or offer for sale fermented malt beverages or wine 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, or during a fair conducted by a fair association or agricultural society. Such license may be issued only to bona fide clubs and chambers of commerce, state, county or local fairs, associations or agricultural societies, to churches, lodges or societies that have been in existence for not less than six months prior to the date of application for such license or to posts of veterans' organizations now or hereafter established. Such license is valid for a maximum of five consecutive days. Events that do not occur over consecutive days are considered separate events and require a separate application and fee for each day or set of five or less consecutive days.

(b) Application for such license shall be signed by the president or corresponding officer of the society or association making such application accompanied by the appointment of agent form and individual questionnaires for all officers/members of the organization, and shall be filed with the city clerk together with the appropriate license fee for each event for which the license is sought. Any person signing the application for such license on behalf of a group or entity which is not authorized to receive such license under the applicable statute shall, upon conviction thereof, be subject to a forfeiture of

\$200.00 and will be ineligible to apply for a temporary ~~Class B~~ **Class "B" fermented malt beverage or Class B** wine license for one year. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the city council at which the application will be considered for events ~~of more than three consecutive days~~. If the application is for a license to be used in a city park, the applicant shall specify the main point of sale facility.

(c) There shall be a licensed beverage operator on duty at all times at an event covered by above license.

~~(d) A temporary operator's license may be issued along with the special Class B and Class B picnic license.~~

~~(e)~~ **(d)** The city council may, upon request and in the exercise of its reasonable discretion, waive the application of section 9-2-5.B.(2) of this Code to any event for which a temporary "Class B" wine picnic license or temporary ~~Class B~~ **Class "B"** fermented malt beverage picnic license is issued, to allow use of musical instruments, phonographs, radios or other machines or devices for the producing or reproducing of music at such event beyond 10:00 p.m. If the council grants such a request, it shall specify a time at which such waiver will expire and may impose such additional conditions as it deems necessary or appropriate for the public good or welfare.

(4) ~~Retail Class C~~ "Class C" licenses

(a) In this subsection, "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages.

~~(b) A Class C~~ **"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.

~~(c) A Class C~~ **"Class C"** license may be issued to a person qualified under Wis. Stats. § 125.04(5), for a business in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts, and which does not have a barroom, if the city's quota does not prohibit the city from issuing a ~~Class C~~ **"Class C"** license to that person. A ~~Class C~~ **"Class C"** license may not be issued to a foreign corporation or a person acting as agent for or in the employ of another.

~~(d) A Class C~~ **"Class C"** license shall particularly describe the premises for which it is issued.

(5) ~~Temporary Class B~~ "Class B" wine license

(a) License. Notwithstanding Wis. Stats. § 125.68(3), temporary "Class B" licenses may be issued to bona fide

clubs, and chambers of commerce, to county or local fair associations or agricultural societies, to churches, lodges or societies that have been in existence for at least six months before the date of application and to posts of veterans organizations authorizing the sale of wine 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. No fee may be charged to a person who, at the same time, applies for a temporary ~~Class B~~ **Class "B"** fermented beverage license under Wis. Stats. § 125.26(6), for the same event.

- (b) Application. Application for such license shall be signed by the President or corresponding officer of the society or association making such application **accompanied by the appointment of agent form and individual questionnaires for all officers/members of the organization.** and shall be filed with the city clerk together with the appropriate license fee for each event for which the license is sought. Any person signing the application for such license on behalf of a group or entity which is not authorized to receive such license according to the applicable statute shall, upon conviction thereof, be subject to a forfeiture of \$200.00 and will be ineligible to apply for such a license within one year of the conviction. The license shall specify the hours and dates of license validity. The application shall be filed a minimum of 15 days prior to the meeting of the city council at which the application will be considered for events ~~of more than three consecutive days~~. If the application is for a license to be used in a city park, the applicant shall specify the main point of sale facility.

D. **Fees.** License fees are established and listed in title 1 of this Code.

SECTION 3.

That Section 6-1-5, entitled "Application for license" of the Municipal Code shall hereby be amended as follows:

A. **Contents**

- (1) Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the form prescribed by the Wisconsin Department of Revenue and shall be sworn to by the applicant(s) as provided by Wis. Stats. §§ 887.01 to 887.03, **and shall be accompanied by the appointment of agent form (if a proprietorship or corporation is applying) and an individual questionnaire for all officers/members/individuals listed on the license, and a minimum of the publication fee and background check fee.** shall be filed with the city clerk. 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.

(2) Applications for intoxicating liquor and fermented malt licenses must be filed not less than 15 days prior to granting of such license **by the city council**.

B. Publication

(1) The application for all permanent retail licenses will be accompanied by the cost of publication as stipulated by Wis. Stats. § 125.04(3)(g) and shall be published successively a minimum of three times as therein prescribed.

C. 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 days after the occurrence thereof.

SECTION 4.

That section 6-1-6, entitled “Qualifications of applicant” of the Municipal code shall hereby be amended as follows:

A. Residence requirements. A license shall be granted only to persons who:

(1) Do not have an arrest or conviction record, subject to Wis. Stats. §§ 111.321, 111.322 and 111.335

(2) Have been residents of this state continuously for at least 90 days prior to the date of filing the application; and

(3) Have attained the legal drinking age.

B. Applicant to have malt beverage license. No retail ~~Class B~~ **“Class B”** intoxicating liquor license shall be issued to any person who does not have or to whom is not issued a ~~Class B~~ **Class “B”** retailer’s license to sell fermented malt beverages.

C. Premises. No license shall be granted for any premises where any other business shall be conducted in connection with said licensed premises and no other business may be conducted on such licensed premises after the granting of such license except that such restriction shall not apply to a hotel or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a bowling alley or recreation premises or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of filing application for such license.

D. Premises. No license shall be granted for any premises where any other business shall be conducted in connection with said licensed premises and no other business may be conducted on such licensed premises after the granting of such license except that such restriction shall not apply to a hotel or to a restaurant not a part of or located in any mercantile establishment, or to a combination grocery store and tavern, or to a bowling alley or recreation

premises or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of filing application for such license.

E. **Age of applicant.** No ~~Class A or B or Class C~~ **“Class A” intoxicating liquor, Class “A” fermented malt beverage, “Class B” intoxicating liquor, Class “B” fermented malt beverage, or “Class C”** license shall be granted to any person under the legal drinking age, except that a person may obtain a beverage operator’s license if 18 years of age.

F. **Application by agents, hotels, etc**

(1) No ~~Class A or B or Class C~~ **““Class A” intoxicating liquor, Class “A” fermented malt beverage, “Class B” intoxicating liquor, Class “B” fermented malt beverage, or “Class C”** license shall be issued to any person acting as agent for or in the employ of another except that, with respect to ~~Class B~~ **“Class B” intoxicating liquor** licenses, this restriction shall not apply to a hotel, or to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that shall have been in existence for not less than six months prior to the date of application, or to a corporation, as provided in Wis. Stats. § 125.04(6). Such license for a hotel, restaurant, club, society lodge or corporation may be taken in the name of an office or manager, who shall be personally responsible for compliance with all the terms and provisions of this chapter.

(2) Such officers or managers must meet the residence requirement of section 6-1-6.A. of this chapter.

G. **Corporate or nonprofit organization restrictions**

(1) No license shall be granted to any corporation which does not comply with the provisions of Wis. Stats. Ch. 125, which does not have an agent eligible for a license under this chapter or under state law.

(2) The city clerk must obtain a completed appointment of agent schedule for each corporation or nonprofit organization and obtain local enforcement approval prior to granting license. This completed form must also be obtained for all changes of agent, which must be approved by local enforcement.

(3) Appointment of agent. An agent must meet the qualifications listed in section 6-1-6.A. and E., above, except that the person need not be a Wisconsin resident. However, the agent must be located near enough so he or she can actively supervise the licensed premises.

(4) Any license issued to a corporation may be revoked in the manner and under the procedure established in Wis. Stats. § 125.12.

SECTION 5.

That Section 6-1-7, entitled “Investigation – Class B licenses” of the Municipal Code shall hereby

be renamed “Investigation – “Class B”” licenses

SECTION 6.

That Section 6-1-8, entitled “Approval of application” of the Municipal Code shall hereby be amended as follows:

- A. In determining the suitability of an applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed, and generally the applicant’s fitness for the trust to be reposed.
- B. No license shall be granted for operation of any premises or with any equipment for which taxes or assessments or other financial claims of the city are delinquent or unpaid.
- C. No retail ~~Class B~~ “Class B” fermented malt beverage, retail “Class C” wine and/or “Class B” intoxicating liquor license shall be issued unless the premises conforms to the sanitary, safety and health requirements of the State Building Code, and the regulations of the State Department of Agriculture, Trade and Consumer Protection and city board of health applicable to restaurants. The premises must be connected with city water and sewage facilities, 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 city.

SECTION 7.

That Section 6-1-9, entitled “Granting of License” of the Municipal Code shall hereby be amended as follows:

- A. Opportunity shall be given by the governing body to any person to be heard for or against the granting of any license. Upon the approval of the applicant by the city council, the city clerk shall issue the applicant a license, upon payment by the applicant of the license fee to the city. The license fee shall be prorated on a monthly basis if issued for a fraction of the year. The fee shall be paid to the city clerk who shall deposit the same in the general fund.
- B. Individuals or corporations desiring a new ~~Class B or Class C~~ “Class B” intoxicating liquor or Class “B” fermented malt beverage license shall file in the city clerk’s office an application form for the license, ~~deposit with the city one year’s license fee and provide sufficient documentation to determine the applicant’s eligibility, including detailed construction plans if a new or remodeled facility is proposed, so that the city can determine the eligibility of the applicant. Upon complying with these requirements, the clerk shall place the applicant on the eligibility list and the city council will then issue available licenses on a “first come first served” basis according to the filing date.~~ deposit a minimum of the publication fee and background check fee and complete the business plan form. Upon complying with these requirements and granting of the

license by the city council, the city clerk shall issue the license after all inspections and background checks are completed. Applicants may withdraw their application and obtain a refund at any time.

- C. The city manager may issue Temporary ~~Class B~~ “Class “B” fermented malt beverage or “Class B” wine picnic licenses without council approval in cases of an emergency in lieu of calling a special council meeting

SECTION 8.

That Section 6-1-10, entitled “Transfer and lapse of license” of the Municipal Code shall hereby be amended as follows:

- A. ~~The transfer of a license to a new owner and/or new location will be evaluated on a case-by-case basis. If a location change occurs, the licensee is responsible for the proper maintenance, operation or disposition of the prior licensed facility; and if not, the license may not be renewed subject to city council review.~~ The transfer of a license to a new-owner and/or new location shall follow the procedure as outlined in Wis. Stat. §125.04 (12)
- B. There shall be issued no more than one ~~Class B retail or Class C~~ license for any one premises within one year from July 1 to the succeeding June 30, except in cases of death, bankruptcy or assignment of creditors as provided in Wis. Stats. Ch. 125. If licensed premises are transferred to a new owner or tenant, the new occupant must apply for and receive, prior to commencing operations, a ~~Class B retail or Class C~~ retail license. This section shall apply to all licensees ~~licenses held by corporations which transfer the same to another corporate entity, with or without changing agents, to the agent or other persons.~~ The prospective licensee shall file a new application and pay the required fee as if it were making an original application. If the applicant is a tenant or subtenant, he shall first secure and present to the city council written approval of such tenancy from the owner of such premises.
- C. Whenever the agent of a corporate holder of a license, for any reason, is replaced, the licensee shall give the city clerk written notice of said replacement, the reasons therefor and the new appointment. Until the next regular meeting or special meeting of the city council, 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 clerk of notice of disapproval of the successor agent by the Wisconsin Department of Revenue or the Sheriff 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 city council until the successor agent or another qualified agent is appointed and approved by the city and the Wisconsin Department of Revenue.
- ~~D. Whenever any licensee under this chapter shall not conduct his licensed business at the authorized location for a period of six~~

~~consecutive months, the license issued to him shall lapse and become void, unless such six month period shall be extended by the city council.~~

SECTION 9.

That Section 6-1-12, entitled "Number of licenses limited" of the Municipal Code shall hereby be amended as follows:

- A. **As to location.** There shall be issued no more than one ~~Class B intoxicating liquor~~ alcohol license of any kind ~~and/or fermented malt license or Class C wine license~~ for any one location in any one license year, except in case of bona fide illness, death, sale of the premises by the last licensee or revocation of the license. New or subtenants are required to present written approval of the owner of the premises of their tenancy.
- B. **As to population.** The number of persons and places that may be granted retail ~~Class B~~ "Class B" intoxicating liquor licenses under this chapter shall be limited to the number as fixed by Wis. Stats. § 125.51(4), subject to increase by annexation or increases in population; also, as provided by said statutory section. The number is presently 36.
- C. There shall be no restriction on the number of ~~Class A~~ "Class A" intoxicating liquor, Class "A" fermented malt beverage, ~~Class B~~ "Class B" fermented malt beverage, or ~~Class C~~ "Class C" wine licenses.

SECTION 10.

That Section 6-1-15, entitled "Conditions of license" of the Municipal Code shall hereby be amended as follows:

All retail ~~Class A and B and Class C~~ "Class A" intoxicating liquor, Class "A" fermented malt beverage, "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" 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 city applicable thereto:

- A. Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from said premises of all things and articles therein which are in violation of city 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. No retail ~~Class B or Class C~~ "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" licensee shall employ any person under 18 years of age except as authorized in Wis. Stats. § 125.32(2), and as said statutory section is hereinafter amended.
- C. There shall be upon premises operated under a ~~Class A and B and Class C~~ "Class A" intoxicating liquor, Class "A" fermented malt beverage, "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" license, at all times, the licensee 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 manner, any fermented malt beverages or intoxicating liquor to customers. No member of the immediate family of the licensee under the age of 18 years shall serve as a waiter, or in any other manner provide, any fermented malt beverage or intoxicating liquor to customers unless an operator 18 years of age or over is present upon and in immediate charge of the premises. No person other than the licensee shall serve fermented malt beverages or intoxicating liquor in any place operated under a retail ~~Class A and B and Class C~~ "Class A" intoxicating liquor, Class "A" fermented malt beverage, "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" license unless he shall possess such operator's license, or unless he shall be under the immediate supervision of the licensee or a holder of an operator's license who shall be at the time of such service upon said premises.

SECTION 11.

That Section 6-1-16, entitled "Restrictions" of the Municipal Code shall hereby be amended as follows:

- A. **Restrictions near schools, churches and hospitals.** No retail ~~Class A or B~~ "Class A" intoxicating liquor, Class "A" fermented malt beverage, "Class B" intoxicating liquor, Class "B" fermented malt beverage, or "Class C" 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. Such distance shall be measured by the shortest route along the highway from the closest point of the main entrance of such school, church or hospital to the main entrance to such premises. This subsection 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.
- B. **Street level premises licensed.** A retail ~~Class B~~ Class "B" fermented malt beverage license or retail ~~Class C~~ "Class C" license shall be issued only for that portion of the premises located on the street level, unless specifically extended by the authority of the council. This subsection shall not apply to a bona fide club, hotel, bowling alley, lodge room, labor union or veterans organization.
- C. **Premises Maintenance.** Each premises shall be maintained in a sanitary manner and shall be a safe and proper place for the purpose for which used. The health office of the city may make reasonable and general rules for the sanitation of all places of business possessing licenses under this chapter. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations and infractions thereof may be punished as a violation of this section.
- D. **Required Non-Obfuscation.** No premises holding a ~~Class B~~ "Class B" intoxicating liquor or Class "B" fermented malt beverage

license shall, during the days they are required to close, or during the hours in which sale of fermented malt beverages or liquor is prohibited, obstruct, by the use of curtains, blinds, screens, or in any other manner, a full and complete view of the interior from the outside. During the hours in which such sale is permitted, the premises shall be properly and adequately ~~lighted~~ illuminated.

- E. **Minimum Operation.** A premises with a retail “Class B” intoxicating liquor or Class “B” fermented malt beverage license shall be open for business and operate in a lawful manner which makes use of such license for a minimum of 60 days in a licensing year and for a minimum of 4 consecutive hours on each day of operation.

SECTION 12.

This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 16st day of September, 2024

Scott Stechmesser
President, City Council

Gregory E. Buckley
City Manager

Attest:

Amanda Baryenbruch
City Clerk

Approved as to form and legality:

City Attorney