

ORDINANCE NO. _____

AN **AMENDED** ORDINANCE amending various sections of Chapter 4 of the Code of Ordinances of the City of La Crosse relating to alcohol beverage licensing.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Section 4-1 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-1. Authority, Penalty, enforcement officers and citations.

(a) Chapter 125 of the Wisconsin Statutes is hereby adopted and incorporated by reference in Chapter 4 of the La Crosse Municipal Code, so far as applicable, except as otherwise provided by this chapter. Any future amendments, revisions or modifications of Chapter 125, Wis. Stats., incorporated herein by reference, are intended to be made a part of this chapter in order to secure uniform statewide regulation of the sale of alcoholic beverages. Provisions of Chapter 4 that are not contained in Chapter 125, Wis. Stats., are intended as additional regulations for the sale of alcohol beverages, not in conflict with Chapter 125, Wis. Stats.

~~(ab)~~ Any person violating any provision of this chapter, including those provisions of the Wisconsin Statutes or any other materials which are incorporated by reference, shall suffer one or all of the following penalties:

- (1) A Class C forfeiture as provided in section 1-7.
- (2) The forfeiture for the licensee of licensed premises where a server of alcohol beverages is in violation of section 4-14 or 4-15 relating to the consumption of alcohol beverages while serving alcohol beverages or serving alcohol beverages while intoxicated shall be subject to a forfeiture of not less than \$75.00, as well as the person who serves the alcohol beverages contrary to said sections who shall be subject to a forfeiture of \$75.00.
- (3) Any licensee or person who violates any provision of Section 4-20 shall be subject to a forfeiture of not less than \$250.00, nor more than \$500.00 together with the cost of prosecution.

~~(bc)~~ Any person not filing or submitting the application for any permit or license provided for under this chapter in a timely manner may have the license processed if the applicant pays an amount totaling twice the amount of the regular fee that would be paid for such application. This provision shall not apply should there be insufficient time to process the application as determined by the appropriate processing City officials. This provision shall apply to all licenses and permits provided for in this chapter, except as otherwise expressly provided for by State, Federal or local ordinances.

~~(ed)~~ The following persons are hereby authorized to enforce the provisions of this chapter and may issue citations as provided for in Wis. Stat. § 800.02(2) for violations of this chapter:

- (1) The Chief of Polices.
- (2) Such other City officers or City employees who are assigned enforcement responsibilities for this chapter.

SECTION II: Section 4-47(c) of the Code of Ordinances of the City of La Crosse is hereby repealed as follows:

Secs. 4-47. Closing hours.

- ~~(c) No premises for which a "Class C" winery license has been issued may remain open for the sale of intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m.~~

SECTION III: Section 4-48 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-48. Sale of intoxicating liquor in original package or container.

Pursuant to Wis. Stat. § 125.51(3)(b), retail "Class B" licensees are hereby authorized to sell intoxicating liquor in the original package or container, in any quantity, and to be consumed off the premises where sold. Additionally, "Class B" licensees may sell intoxicating liquor that is not in the original package or container if the licensee seals the container with a tamper-evident seal before the intoxicating liquor is removed from the premises.

SECTION IV: Section 4-50 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-50. Provisional retail license.

- (c) A "Class A", "Class B" or "Class C" license application must be filed with the municipal clerk no less than 15 days prior to the granting of a provisional retail license.

SECTION V: Section 4-72 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-72. License requirements.

- (b) *Application for intoxicating liquor license.* Applications, on a form ~~provided by the City Clerk~~ pursuant to Wis. Stats., 125.04(3) and available from the City Clerk, shall be made in writing ~~not less than 15 days prior to granting thereof~~ and filed with the City Clerk. Application for an original alcohol beverage license shall include the following information:
- (1) Business plan including the following:
- a. Type of establishment, hours of operation, anticipated number of employees, other business conducted on premises;
 - b. Estimated or actual percentage of gross receipts of beer, wine, and liquor sold in relation to total goods sold;
 - c. Estimated capacity, parking, and how premises will be monitored;
 - d. Method for training employees on alcohol beverage laws and requirements for employees to hold a beverage operator license.

SECTION VI: Section 4-75 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-75. License eligibility generally.

(1) Additional qualifications.

b. Corporations and limited liability companies and their appointed alcohol license agents shall meet the requirements of Wis. Stat. ch. 125 and, in addition, the appointed agents of corporate licensees shall have resided within the State of Wisconsin continuously for 90 days prior to the date of application and shall reside within a 25-mile radius of the City limits at the time of application and at all times such agent shall be the appointed agent for the corporation licensed entity. The licensee vests in the agent, by properly authorized and executed written delegation, full authority and control of the premises described in the license, and of the conduct of all business on the premises relative to alcohol beverages, that the licensee could have and exercise if it were a natural person. In order to ensure that the agent has a current working knowledge of the operation of the premises, the agent shall be an individual who regularly is involved in the actual conduct of the business.

(5) No retail "Class B" license shall be issued to any person who does not have, or to whom is not issued, a Class "B" fermented malt beverage retailer's license as provided in this chapter, ~~unless the "Class B" license is issued to a winery.~~

SECTION VII: Section 4-76 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-76. Winery licenses Location Restriction.

(a) ~~No "Class B" license may be issued to a winery unless the winery has been issued a permit under Wis. Stat. § 125.53 and the winery is capable of producing at least 5,000 gallons of wine per year in no more than two locations.~~ No original application or transfer of a "Class B" or "Class C" license to a new location shall be granted for premises located within 100 feet of land zoned residential or multiple dwelling without first giving written notification to the owners of land within 100 feet of the premises requested to be licensed, who shall be given an opportunity to be heard prior to granting of the license by the Common Council.

(b) ~~In accordance with Wis. Stat. § 125.51(3m), a retail "Class C" license for the sale of wine by the glass or in an opened original container for consumption on the premises may be issued to a person qualified under Wis. Stat. § 125.04(5) for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which does not have a bar room or for a restaurant in which the sale of alcohol beverages accounts for less than 50 percent of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. 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.~~

SECTION VIII: Section 4-81 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-81. Transfer of licenses.

Licenses to sell alcohol beverages may be transferred with approval by the Common Council from one premises to another within the City ~~For a fee in the amount established by resolution any license may be transferred by the Council from one premises to another,~~ providing such new premises shall comply with all provisions of this article, ~~but a~~ No license shall be transferred more than once in any one license year. This paragraph does not apply to a reserve "Class B" license.

SECTION IX: Section 4-114 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-114. Provisional retail license.

- (c) A Class "A" or Class "B" license application must be filed with the Municipal Clerk no less than 15 days prior to the granting of a provisional retail license.

SECTION X: Section 4-142 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-142. License requirements.

- (b) *Application for fermented malt beverage license.* Applications, on a form ~~provided by the City Clerk pursuant to Wis. Stats., 125.04(3)~~ Ch. 125 of the Wisconsin Statutes and available from the City Clerk, shall be made in writing ~~not less than 15 days prior to granting thereof and filed with the City Clerk.~~ Application for an original alcohol beverage license shall include the following information:

- (1) Business plan including the following:
- a. Type of establishment, hours of operation, anticipated number of employees, other business conducted on premises;
 - b. Estimated or actual percent of gross receipts of beer, wine and liquor sold in relation to total goods sold;
 - c. Estimated capacity, parking, and how premises will be monitored;
 - d. Method for training employees on alcohol beverage laws and requirements for employees to hold a beverage operator license.

SECTION XI: Section 4-144 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-144. License eligibility generally.

(1) Additional qualifications.

(b) Corporations and limited liability companies and their appointed alcohol license agents shall meet the requirements of Wis. Stat. ch. 125 and, in addition, the appointed agents of such licensees shall have resided within the State of Wisconsin continuously for 90 days prior to the date of application and shall reside within a 25-mile radius of the City limits at the time of application and at all times such agent shall be the appointed agent for the licensed entity. The licensee vests in the agent, by properly authorized and executed written delegation, full authority and control of the premises described in the license, and of the conduct of all business on the premises relative to alcohol beverages, that the licensee could have and exercise if it were a natural person. In order to ensure that the agent has a current working knowledge of the operation of the premises, the agent shall be an individual who regularly is involved in the actual conduct of the business.

SECTION XII: Section 4-145 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-145. Class "B" licenses Location Restriction.

~~(a) No Class "B" license shall be granted for any premises that does not have a "Class B" intoxicating liquor license, provided, however, Class "B" licenses may be granted for City-owned land operated under a valid contract, or any premises licensed as a restaurant pursuant to State and local law when such restaurant's gross sales from food and food products exceeds 50 percent of its gross dollar volume.~~

~~(b)~~ (a) No original application or transfer of a Class "B" fermented malt beverage license to a new location shall be granted for premises located within 100 feet of land zoned residential or multiple dwelling without first giving written notification to the owners of land within 100 feet of the premises requested to be licensed, who shall be given an opportunity to be heard prior to granting of the license by the Common Council.

SECTION XIII: Section 4-148 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-148. Granting license.

(b) Each license shall be issued for a period not exceeding one year and shall expire on June 30, except a "Class A" Liquor or "Class B" Liquor and Class "B" license may be issued at any time for a period of six months in the calendar year, for which 50 percent of the license fee shall be paid. Such six-month licenses are not renewable during the calendar year in which issued.

SECTION XIV: Section 4-151 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-151. Transfer of licenses.

Licenses to sell alcohol beverages may be transferred with approval by the Common Council from one premises to another within the City For a fee in the amount established by resolution ~~any license may be transferred by the Council from one premises to another,~~ providing such new premises shall comply with all provisions of this article, ~~but a~~ No license shall be transferred more than once in any one license year.

SECTION XV: Section 4-153 of the Code of Ordinances of the City of La Crosse is hereby repealed and recreated as follows:

Sec. 4-153. Full-Service Retail Outlets for Producers.

Pursuant to Wis. Stat. 125.52(4)(b), a producer of intoxicating liquors and fermented malt beverage permitted by the Wisconsin Division of Alcohol Beverages may be allowed up to three off-site, full-service retail outlets in addition to their production premises, one of which may be relocated without limitation on frequency in each calendar year (unlimited transfer). Full-service retail outlets allow retail sales of any fermented malt beverages or intoxicating liquors, for on-premises or off-premises consumption, or the provision of taste samples of fermented malt beverages or intoxicating liquors, or any combination of these activities. Brewers of fermented malt beverages who do not meet the threshold to operate a full-service retail outlet may operate one secondary off-site location where they may sell only their own products.

A producer may not commence sales of alcohol beverages at any full-service retail outlet or secondary location located in the City of La Crosse unless, prior to such sales commencing, the producer receives approval from the municipality and from the Division of Alcohol Beverages.

- (a) *Application for Fixed Full-Service Retail Outlet.* Applications, on a form pursuant to Ch. 125 of the Wisconsin Statutes, shall be made in writing and filed with the City Clerk. Application shall be accompanied by a review fee in the amount established by resolution and the information as required in Secs. 4-72 and 4-142 (b)1-6 of this Code.
- (1) Fixed Full-Service Retail Outlets shall be reviewed and granted in the same manner as municipal retail licenses pursuant to Ch. 4 of this Code.
- (2) Fixed Full-Service Retail Outlets shall be subject to the same regulations as municipal retail licenses pursuant to Ch. 4 of this Code, except those that would be contrary to Ch. 125 of the Wisconsin Statutes.

- (b) *Application for Unlimited Transfer Full-Service Retail Outlet.* Applications, on a form pursuant to Ch. 125 of the Wisconsin Statutes, shall be made in writing and filed with the City Clerk. Application shall be accompanied by filed with a Special Event Application pursuant to Sec. 39-12 and review fee in the amount established by resolution.

(1) *Regulations for Unlimited Transfer Full-Service Retail Outlets.*

- a. The sale of all alcohol beverages under this section shall be subject to zoning regulations in Ch. 115 of this Code.
- b. The area included in an unlimited transfer location shall be owned by or under the control of the licensee.
- c. No sales of alcohol beverages under this section shall be permitted 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. on Saturday and Sunday, except that sales in the City parks defined in paragraph (3)b. of this section must end no later than 11:00 p.m. on any given day which is the closing hour for all City parks.
- d. Once the City Clerk is notified of a proposed Unlimited Transfer Full-Service Retail Outlet or Brewer Secondary Retail Location, the Clerk shall refer for appropriate review by La Crosse County Health Department, Police Department, Fire Department, Building & Inspections Department, and Parks and Recreation, Forestry, Facilities and Grounds Department.
- e. The Clerk is authorized to approve the Unlimited Transfer Full-Service Outlet following the appropriate review and shall provide comments to the Wisconsin Division of Alcohol Beverages.
- f. Applicants must obtain approval from the Wisconsin Division of Alcohol Beverages in advance of any retail sales under this section.

(2) *Indoor locations.*

- a. As specified by the current building code, the structure must have suitable exits and open spaces and should contain adequate sanitary facilities to accommodate the structure's capacity.
- b. There shall be at least one person licensed as a beverage operator under the provisions of section 4-110 on the premises at all times to supervise the sales, service and consumption of alcohol beverages and oversee any unlicensed persons who may be selling/serving alcohol beverages. If the premises is large, with multiple serving areas, bar areas, etc., a licensed operator must be present at all times to oversee each distinct area.
- c. In case of attendance of over 100 persons, applicant shall provide adequate supervision for the maintenance of order and the checking of identification to ensure that underage persons are not admitted into the described premise.

(3) *Outdoor locations.*

- a. All of the provisions set forth in subsection (b) of this section shall apply to outdoor locations.
- b. Full-Service Retail Outlet or Secondary Retail Sales for Brewers in City parks shall be limited to Carroll Park, Copeland Park, Riverside Park, Houska Park, Cameron Park, Myrick Park, Veteran's Freedom Park, Pettibone Park except for the beach area, Green Island Park, Erickson Fields, Upper Hixon Park and Burns Park. Permission to sell alcohol beverages at any park named in this subsection shall be subject to written permission by the Board of Park Commissioners. A permit to use a public park, shelter, or facility under this section must be secured from the Parks and Recreation, Forestry, Facilities and

Grounds Department and a copy of said permit shall accompany the application when filed with the City Clerk.

- c. In addition to the restrooms which may exist at the specified location, the applicant shall provide temporary supplemental toilet facilities at the rate specified by the current building code to accommodate the anticipated attendance. Such temporary facilities and their operation shall be a type approved by the Building & Inspections Department.
- d. Beverages must be served in disposable containers such as paper, plastic, or aluminum. This includes service inside any park shelter or facility.
- e. The premises must be particularly described in the application so the exact location/area where sales, service, and/or consumption can be clearly identified.
 - 1. On-premises sales allow the sale of open containers for consumption on the premises described. The area in which alcohol beverages are sold, served, and consumed on-premises shall be clearly defined with rope, fencing, or signage and must be fully enclosed with temporary fencing and clearly defined entrance/exit(s) when it is anticipated that attendance will exceed 200 or more people.
 - 2. Off-premises sales allow the sale of closed containers for consumption away from the premise described. The area in which alcohol beverages are sold shall be clearly defined with rope, fencing, or signage.
- g. Signage must be posted defining where alcohol may or may not be consumed.

SECTION XVI: Section 4-181 of the Code of Ordinances of the City of La Crosse is hereby amended to read as follows:

Sec. 4-181. Application and license.

Application for a Temporary Class "B" (fermented malt beverage) and/or "Class B" (wine only) License, on forms pursuant to Ch. 125 of the Wisconsin Statutes and available from the City Clerk, shall be made in writing ~~on the form prescribed by law~~ and filed with the City Clerk who may grant the same after appropriate review by the La Crosse County Health Department, Building & Inspections Department, Police Department and Fire Department. Said application shall be filed with ~~the City Clerk~~ a Special Event Application pursuant to Sec. 39-12 not less than 60 days prior to the event. A fee in the amount established by resolution shall accompany each application.

SECTION XVII: Sections 4-182(a)(3) and (b)(2) and (3) of the Code of Ordinances of the City of La Crosse are hereby amended to read as follows:

Sec. 4-182. Picnics and gatherings.

- (a) *Indoor picnics or gatherings.*
 - (3) In case of attendance over 100 persons, the licensee shall provide adequate supervision for the maintenance of order and the checking of identification to ensure that ~~minors~~ underage persons are not admitted onto the premises.
- (b) *Outdoor picnics or gatherings.*
 - (2) The location of outdoor picnics or gatherings with a temporary Class "B"/"Class B" license in City parks shall be limited to Carroll Park, Copeland Park, Riverside Park, Houska Park, Cameron Park, Myrick Park, Veteran's Freedom Park, Pettibone Park except the beach area, Black River Beach except the beach area,

Green Island Park, Erickson Fields, Upper Hixon Park and Burns Park. Permission to obtain a temporary Class "B"/"Class B" license for any park named in this subsection shall be subject to written permission by the Board of Park Commissioners. A permit to use a public park, shelter, or facility under this section must be secured from the Parks and Recreation, Forestry, Facilities and Grounds Department and a copy of said permit shall accompany the application when filed with the City Clerk.

- (3) In addition to the restrooms which exist in each park, the licensee shall provide temporary supplemental toilet facilities at the rate specified by the current building code in anticipated attendance. Such temporary facilities and their operation shall be a type approved by the ~~County Health Officer and the Fire Department – Division of Fire Prevention and Building Safety~~ Building & Inspections Department.

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

SECTION XIX: This ordinance shall take effect and be in force from and after its passage and publication.

Shaundel Washington-Spivey, Mayor

Nikki M. Elsen, City Clerk

Passed:
Approved:
Published: