

**TOWN OF CEDARBURG
ORDINANCE NO. 2021-9**

**An Ordinance to Amend Chapter 175 Intoxicating Liquor and Fermented Malt Beverages,
of the Town of Cedarburg Code of Ordinances, Wisconsin**

- WHEREAS,** The Town of Cedarburg is a body corporate and politic; and
- WHEREAS,** The Town Board exercises village powers by Ch. 61, Wis. Stats.; and
- WHEREAS,** The Town Board is aware a "Class B" winery license is allowable under §125.53 of the State of Wisconsin statutes; and
- WHEREAS,** This license type is not explicitly defined in the Town of Cedarburg Code of Ordinances Chapter 175 Intoxicating Liquor and Fermented Malt Beverages, and should be added before granting such a license; and
- WHEREAS,** the fermented malt beverage wholesaler's license is now granted by the State of Wisconsin, not at the municipal level, so it should be removed from Chapter 175 Intoxicating Liquor and Fermented Malt Beverages of the Town of Cedarburg Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, that Chapter 175 Intoxicating Liquor and Fermented Malt Beverages of the Town of Cedarburg Code of Ordinances is hereby amended to read as follows:

**(The text modified with a strikethrough shall be deleted).
(The text modified with an underline shall be added).**

Chapter 175, Intoxicating Liquor and Fermented Malt Beverages

§ 175-4. Classes of licenses.

A. Retail "Class A" intoxicating liquor 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.

B. Retail "Class B" intoxicating liquor 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 liters at any one 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. Retail "Class B" winery license. A retail "Class B" winery license, when issued by the Town Clerk under authority of the Town Board, shall permit its holder to sell, deal and traffic wine only by the glass or in open containers on the premises, and also authorizes the sale of wine in the original package or container to be consumed off the premises.

This license does not also authorize the sale of fermented malt beverages or any intoxicating liquor other than wine. The Town cannot issue a winery license unless the applicant has first obtained a winery permit from the State of Wisconsin.

~~C.~~ D. Class "A" fermented malt beverage retailer's license. A Class "A" 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 only for consumption away from the premises where sold and in the original packages, containers or bottles. Such license may be issued after July 1. The license shall expire on the following June 30.

~~D.~~ E. 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 0.5% of alcohol by volume without obtaining a special license to sell such beverages. Such license may be issued after July 1. The license shall expire on the following June 30.
- (2) Application. Class "B" licenses may be issued to any person qualified under § 125.04(5), Wis. Stats. 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 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 article. Except as provided in § 125.31, Wis. Stats., Class "B" licenses may not be issued to brewers or fermented malt beverages wholesalers.

~~E.~~ F. Temporary Class "B" fermented malt beverage license.

- (1) License. As provided in § 125.26(1) and (6), Wis. Stats., 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 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, or during a fair conducted by the fair association or agricultural society. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of fermented malt beverages from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of fermented malt beverages from the stands while the fair is being held. 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 applied for shall, upon conviction thereof, be subject to a forfeiture of \$200 and will be ineligible to apply for a temporary Class "B" 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 Town Board 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 Town park, the applicant shall specify the main point of sale facility.

F. G. Temporary "Class B" wine license.

(1) License. Notwithstanding § 125.68(3), Wis. Stats., 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 months before the date of application and to posts of veterans' organizations authorizing the sale of wine containing not more than 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, or during a fair conducted by the fair association or agricultural society. 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), Wis. Stats., or the same event. A license issued to a county or district fair licenses the entire fairgrounds where the fair is being conducted and all persons engaging in retail sales of wine containing not more than 6% alcohol by volume from leased stands on the fairgrounds. The county or district fair to which the license is issued may lease stands on the fairgrounds to persons who may engage in retail sales of wine containing not more than 6% alcohol by volume from the stands while the fair is being held.

(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 \$200 and will be ineligible to apply for a temporary "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 Town Board 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 Town park, the applicant shall specify the main point of sale facility.

~~G. Wholesaler's license. A wholesaler's fermented malt beverage 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. Retail reserve "Class B" intoxicating liquor license. A retail reserve "Class B" intoxicating liquor license is a license available under the quota system existing before December 1, 1997, that was not granted or issued by the Town Clerk as of December 1, 1997. The number of retail reserve "Class B" intoxicating liquor licenses available to a municipality is determined by a series of calculations described in § 125.51(4), Wis. Stats. A retail reserve "Class B" intoxicating liquor license, when issued by Town Clerk under the authority of the Town Board, shall permit its holder to sell, deal and traffic 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 liters at any one 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.
[Amended 1-5-2000 by Ord. No. 2000-4]

§ 175-5. 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 hereinafter specified, shall permit the holder to sell, deal or traffic in intoxicating liquors or fermented malt beverages as provided in § 175-4 of this article and Ch. 125, Wis. Stats.:

A. Class "A" fermented malt beverages retailer's license. The annual fee for this license shall be as set by the Town Board. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

[Amended 12-1-2004 by Ord. No. 2004-17]

B. Class "B" fermented malt beverage license. The annual fee for this license shall be as set by the Town Board. This license may be issued at any time for six months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued. The fee for a license for less than 12 months shall be prorated according to the number of months or fraction thereof for which the license is issued.

C. Temporary Class "B" fermented malt beverage license. The fee for this license shall be as set by the Town Board.

D. Temporary "Class B" wine license. The fee for this license shall be as set by the Town Board per event. However, there shall be no fee if the temporary wine license is obtained along with a temporary fermented malt beverage license.

~~E. Fermented malt beverage wholesaler's license. The annual fee for this license shall be as set by the Town Board.~~

E. "Class B" winery license. The annual fee for this license shall be as set by the Town Board.

F. "Class A" intoxicating liquor retailer's license. The annual fee for this license shall be as set by the Town Board.

[Amended 12-1-2004 by Ord. No. 2004-17]

G. "Class B" intoxicating liquor retailer's license. The annual fee for this license shall be as set by the Town Board. This license may be issued at any time for six months in any calendar year, for which 50% of the applicable license fee shall be paid, but such license shall not be renewable during the calendar year in which issued.

[Amended 12-1-2004 by Ord. No. 2004-17]

H. Retail reserve "Class B" intoxicating liquor license. [Amended 1-5-2000 by Ord. No. 2000-4]

- (1) Fee. The initial fee for the issuance of this license shall be as set by the Town Board, to be paid in addition to the regular Class "B" and "Class B" fee, upon approval of a reserve "Class B" intoxicating liquor license, except that the fee for an initial issuance of a retail reserve "Class B" intoxicating liquor license to a bona fide club or lodge situated and incorporated in the state for at least six years shall be the annual license fee as set forth in Subsections B and G of this section, as applicable thereto.
- (2) Grants for certain retail reserve "Class B" intoxicating liquor licenses.

(a) Whereas § 125.51(3)(e)(2), Wis. Stats., establishes a new alcohol license called a reserve "Class B" license (herein referred to as "retail reserve 'Class B' intoxicating liquor license") and requires that all who are granted such a license pay an initial license fee of \$10,000 in addition to the regular Class "B" and "Class B" license fees, the Town Board finds that businesses such as restaurants, hotels and taverns make important contributions to the Town's economy and serve an important public purpose, including but not limited to increasing the Town's property tax base, providing employment and promoting tourism. The Town Board also finds that the new initial fee for a retail reserve "Class B" intoxicating liquor license far exceeds the actual cost of licensing the activity and that excessive license fees deter new business and are contrary to economic growth. It is the purpose of this Subsection H(2) to utilize the excess revenue generated by state statutes identified hereinabove to assist new retail reserve "Class B" intoxicating liquor licensees in the establishment of new businesses and serve the important public purposes identified herein.

(b) The Town Board may provide a grant to a retail reserve "Class B" intoxicating liquor licensee if the following conditions are met:

[1] A retail reserve "Class B" intoxicating liquor license is granted to the licensee;

[2] The retail reserve "Class B" licensee applicant properly completes, executes and submits an application for a grant to the Town Board on a form provided by the Town Clerk at the same time the applicant submits the application for a retail reserve "Class B" intoxicating liquor license; and

[3] The retail reserve "Class B" intoxicating liquor licensee pays the initial fee to the Town, in addition to the regular fees for the "Class B" and "Class B" licenses.


(c) In making its determination whether to award any grant to a retail reserve "Class B" liquor licensee under this Subsection H(2), the Town Board shall make such findings and establish such conditions as it deems necessary to ensure that any funds awarded hereunder serve the important public purposes identified in Subsection H(2)(a).

~~(The above text modified with a strikethrough shall be deleted).~~

(The above text modified with an underline shall be added).

This ordinance shall be in full force and effect upon its passage and posting as provided by law.

PASSED AND ADOPTED by the Town Board of the Town of Cedarburg, Ozaukee County, Wisconsin, this 1st day of September, 2021.



David M. Salvaggio

Town Chairman



Jack Johnston

Assistant Administrator/Clerk