

ORDINANCE NO. 2022-02

ORDINANCE TO AMEND SEC. 6-61, 6-62, 6-65, 6-72, 6-73 OF CHAPTER 6 OF THE MUNICIPAL CODE ALCOHOL AND OPERATOR LICENSE

THE VILLAGE BOARD OF THE VILLAGE OF KEWASKUM, WASHINGTON COUNTY, WISCONSIN, DO
ORDAIN AS FOLLOWS:

Section 1. That Sections 6-61, 6-62, 6-65, 6-72 and 6-73 of the Municipal Code of the Village of Kewaskum, relating to Alcohol and Operator License, shall be amended as follows:

Sec. 6-61. - Required.

No person, except as provided by Ch. 125, Wis. Stats., shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in or, for the purpose of evading any law or ordinance, give away any alcohol beverages, or cause the same to be done, without having procured a license as provided in this chapter, nor without complying with all the provisions of this chapter and all statutes, ordinances and regulations of the state and village applicable thereto.

State Law reference— Similar provisions, § 125.04(1), Wis. Stats.

Sec. 6-62. - Classes.

A license is an authorization to sell alcohol beverages issued by the village board under this article. Licenses issued under this article are described as follows:

- (1) *Class "A" fermented malt beverage license.* Authorizes retail sales of fermented malt beverages in original packages, containers and bottles for consumption off the premises where sold.
- (2) *Class "B" fermented malt beverage license.* Authorizes retail sales of fermented malt beverages to be consumed, whether on the premises where sold or off the premises.
- (3) *Part-time fermented malt beverage license.* A license may be issued at any time for six months in any calendar year for which three-fourths of the annual license fee shall be paid, but such temporary license shall not be renewable during the calendar year in which issued.
- (4) *Temporary licenses.*
 - a. 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 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. The amount of the fee for the license shall be determined by the village board but may not exceed \$10.00. An official or body authorized by the village board to issue temporary class "B" licenses may, upon issuance of any temporary class "B" license, authorize the licensee to permit underage persons to be on the premises for which the license is issued. 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.

- b. Temporary "Class B" retailer's licenses allow for the temporary sale of wine not more than six percent alcohol by volume at picnics, meetings or gatherings. This temporary wine license is to be applied for under a separate application
- (5) *Wholesaler's fermented malt beverage license.* Authorizes sales of fermented malt beverages only in original packages or containers to retailers or wholesalers, not to be consumed in or about the premises where sold.
 - (6) *Retail "Class A" intoxicating liquor license.* Authorizes the retail sale of intoxicating liquor in original packages, containers and bottles for consumption off the premises where sold.
 - (7) *Retail regular "Class B" intoxicating liquor license.* Authorizes retail sales of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container. This definition does not apply in municipalities electing to authorize the sale of intoxicating liquor to be consumed by the glass only on the premises where sold and also authorizing the sale of intoxicating liquor in the original package or container in multiples not to exceed four liters at any one time and to be consumed off the premises where sold. In either case, however, wine may be sold for consumption off the premises in the original package or otherwise in any quantity.
 - (8) *Retail reserve "Class B" intoxicating liquor license.* A retail reserve "Class B" intoxicating liquor license, when issued by the village clerk under the authority of the village 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 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-premises.
 - a. A retail reserve "Class B" license means a license that is not granted or issued on December 1, 1997 (Wisconsin Act 27) and is counted under § 125.51(4)(br), Wis. Stats., which authorizes the retail sale of intoxicating liquor for consumption on the premises as noted above.
 - (9) *Manager's license.* A license valid only in the village, issued at the direction of the village board to a person who has the responsibility or authority for:
 - a. Personnel management of all employees, whether or not the person is authorized to sign employment contracts;
 - b. The terms of contracts for the purchase or sale of goods or services, whether or not the person is authorized to sign the contracts; or
 - c. The daily operations of the "class B" premises.
 - (10) *Operator's license.* A license that authorizes a person 18 years of age or older, who is neither the licensee nor the agent of the licensee, to serve or sell alcohol beverages in any place operated under a "Class A" or "Class B" license or permit without the immediate supervision of the licensee or agent or a person holding an operator's license on the premises at the time.
 - (11) *Class C wine license.* A Class C license authorizes the retail sale of wine by the glass or in the opened original container for consumption on the premises where sold.

Sec. 6-65. - Premises disqualifications.

- (a) *Restrictions on location.* No "Class A" or "Class B" license or permit may be issued for premises where the main entrance is less than 300 feet from the main entrance of any public or parochial school, hospital or church, except that this prohibition may be waived by a majority vote of the village board. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:
- (1) Premises covered by a license or permit on June 30, 1947.
 - (2) Premises covered by a license or permit prior to the occupation of real property within 300 feet thereof by any school, hospital or church building.
 - (3) A restaurant located within 300 feet of a church or school. This subsection applies only to restaurants in which the sale of alcohol beverages accounts for less than 50 percent of their gross receipts.
- (b) *Delinquent taxes, assessments and claims.* No license shall be granted for any premises for which taxes, assessments or other claims of the village are delinquent and unpaid or to any person delinquent in payment of such claims to the village.
- (c) *Issuance for sales in dwellings prohibited.* 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.

Sec. 6-66. - Application.

- (a) *Form.* Application for a license to sell or deal in intoxicating liquor or fermented malt beverages shall be made in writing on the forms prescribed by the Wisconsin Department of Revenue and § 125.04(3), Wis. Stats., and filed with the village clerk/treasurer not less than 15 days prior to the granting of such license, except for temporary Class "B" beer license for an event lasting less than four days which shall be submitted to the clerk at least three days prior to the granting of the license as provided by § 125.04(3)(f)3, Wis. Stats. The premises shall be physically described, including every room and storage space to be covered by the license and including all rooms joined by connecting entrances or not separated by a solid wall. Such application shall be accompanied by the appropriate fee and costs of publication as provided by § 125.04(3)(g)6., Wis. Stats. Further, as a condition of granting an initial operator's license, the applicant shall sign a waiver permitting the village to secure from the Federal Bureau of Investigation and the state crime information bureau a record check of the applicant. .
- (c) *List of licensees.* By July 15 of each year, the clerk shall forward to the Wisconsin Department of Revenue a list containing the name, address and trade name of each person holding a license issued under this section, except a picnic, manager's or operator's license.
- (d) *Subsequent changes.* If any fact given in an application subsequently changes, the licensee shall file a notice in writing of such change with the clerk/treasurer within ten days.
- (e) *Authorize clerk to issue licenses.* The village clerk is authorized to issue temporary Class "B" beer and temporary "Class B" wine licenses, also known as "picnic licenses", without prior village board approval as provided by ch. 125, Wis. Stats.

Sec. 6-72. - Fees.

Fees for any applications, petitions, licenses, or permits shall be as set by the Village Board of the Village of Kewaskum within the guidelines and provisions of Ch. 125, Wis. Stats.

(1) Retailer reserve "Class B" intoxicating liquor license, \$300.00 per licensing year, plus initial \$10,000.00.

a. 1997 Wisconsin Act 27, effective December 1, 1997, established a new alcohol beverage license called a retail reserve "Class B" intoxicating liquor license, and required all who granted such a license pay an initial fee of \$10,000.00 in addition to the retail regular "Class B" license fees. 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. The village board finds that businesses such as restaurants, hotels and taverns make important contributions to the village's economy and serve important public purpose, including, but not limited to, increasing the village's property tax base, providing employment and promoting tourism. The village board also finds that the new initial fees for a retail reserve "Class B" intoxicating liquor license far exceeds the actual cost of licensing the activity, and the excessive license fee deters new business and is contrary to the above-stated public purposes. It is the purpose of this section to utilize the excess revenue generated by 1997 Wisconsin Act 27 to assist new retail reserve "Class B" licenses in order to achieve the important public purposes identified herein:

1. The village board may provide a grant to a retail reserve "Class B" licensee if the conditions of subsection 2., as follows, are met.
2. Following the issuance of an original retail reserve "Class B" license and upon application, the village board may provide a grant to the licensee in an amount not to exceed \$500.00 less than the amount actually paid by licensee to the village for the new (initial) retail reserve "Class B" license. Prior to awarding the grant, the village board and/or the village clerk shall make such determination that the licensee is in compliance with the approved license. If it is found not in compliance with the approved license, no economic development grant may be authorized by the village board and/or village clerk, such finding in writing and cause thereof shall be delivered to the licensee as to the village findings.
3. The economic development grant shall be used to improve the interior or exterior of the licensed premises and to increase the taxability of the licensed premises.
4. The renewal of the retail reserve "Class B" license will be subject to the normal annual fee as so noted within this section.

(2) Operator's License. See § 125.17, Wis. Stats.

- a. Pursuant to §127.17(1), Wis. Stats. the Village Clerk shall be authorized to issue Operators' Licenses. Any license application for which the Chief of Police or Village Clerk recommend denial shall be referred to the Village Board for issuance.
- b. Operator's licenses may be issued only on written application on forms provided by the village clerk.
- c. Regular operator's licenses shall be valid for up to two years and shall expire on June 30.
- d. Provisional operator's licenses may be granted to a person enrolled in a responsible beverage server course under § 125.17(6)(a), Wis. Stats., and shall be revoked if the applicant fails successfully to complete the course in which he enrolls. The provisional operator's license will be valid for a period of 15 days following the date of the course. Proof of course completion must be provided.

Sec. 6-73. - Quotas on "Class A" licenses.

- (a) *Retail "Combination Class A" fermented malt beverage and intoxicating liquor license.* For the betterment of the village it is hereby determined that a quota regarding "Combination Class A" fermented malt beverage and intoxicating liquor licenses be limited to eight such premises or as calculated to equal one for every 500 in population.
- (b) *Retail "Class A" fermented malt beverage license.* For the betterment of the village it is hereby determined that a quota regarding "Class A" fermented malt beverage licenses be limited to eight such premises or as calculated to equal one for every 500 in population.

Section 2. Severability. The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the Ordinance. The remainder of the Ordinance shall remain in full force and effect. Any other Ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

Section 3. All other sections of Section 6 not amended as set forth above shall remain in full force and effect.

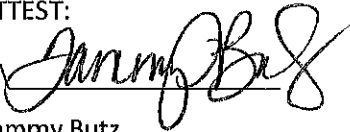
Section 4. This Ordinance shall take effect immediately upon passage and publication as provided by law.

Passed and adopted by the Village Board of the Village of Kewaskum, Washington County, Wisconsin, this 7th day of March 2022.

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David Spenner
Village President

ATTEST:

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Tammy Butz
Village Clerk