

ORDINANCE NO. 2008-16

An Ordinance Relating to the Cancellation of a Liquor License for Nonuse

The Common Council of the City of Cedarburg, Wisconsin, hereby ordains as follows:

SECTION 1. Section 7-2-18(b) of the Municipal Code of the City of Cedarburg is hereby amended as follows:

SEC. 7-2-18 REVOCATION AND SUSPENSION OF LICENSES; NON-RENEWAL.

- (a) **Procedure.** Whenever the holder of any license under this Chapter violates any portion of this Chapter or Title 11, Chapter 5, of this Code of Ordinances, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this Section.
- (b) **Cancellation of Premised Licenses.**
- (1) Grounds for Cancellation for Nonuse of License. Any Class A or Class B Fermented Malt and/or Intoxicating Liquor Licenses or Class "C" Wine License granted under this Chapter for which the subject premises:
- a. Is not open for business within ~~one hundred eighty (180)~~ thirty (30) days of the granting of such license; or
 - b. Is not open for business for a period of ~~one hundred eighty (180)~~ thirty (30) consecutive days or more; or
 - c. ~~Is not open for business at least fifty percent (50%) of the days within any twelve (12) month period, either within a licensing year or overlapping two (2) licensing years~~
- shall be canceled unless, after notice and hearing as provided in Subsection (2) hereof, the Common Council shall determine that good cause exists for the failure of the licensee to be open for business for periods in excess of the minimums set forth in this Subsection. If such cause is found to exist, the Common Council may extend the period for no more than two (2) additional thirty (30) day periods, and the Common Council may set such terms as it deems appropriate to the continuation of the license with respect to minimum days of operation or a time frame within which the subject premises must open for business to avoid cancellation of the subject license(s).
- (2) Notice and Hearing. Prior to cancellation of any license, the City Clerk shall notify the licensee in writing of the City's intention to cancel the license for nonuse and provide the licensee with an opportunity for a hearing. Such notice shall also specify the time, place and date of the hearing, which shall be not less than fifteen (15) days after the date of the notice. Such hearing shall be conducted as provided in accordance with Sec. 125.12(2)(b) of the Wisconsin Statutes, or any amendments thereto.
- (3) No refund. No refund shall be made of any part of the license fee if any license is cancelled.

SECTION 2. This ordinance shall take effect upon its passage and publication as provided by law.

Passed and adopted this 29th day of September 2008.

Gregory P. Myers, Mayor

Countersigned:

Constance K. McHugh, City Clerk

Approved as to form:

Kaye K. Vance, City Attorney