

## ORDINANCE NO. 2021-21

### An Ordinance Repealing and Replacing Section 7-2-17, Outdoor Alcohol Beverage Licenses Required for Outdoor Consumption at Class "B" Premises

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

**SECTION 1.** Section 7-2-17 the Municipal Code of the City of Cedarburg is hereby repealed and recreated in its entirety as follows:

**SEC. 7-2-17 OUTDOOR ALCOHOL BEVERAGE LICENSES REQUIRED FOR OUTDOOR CONSUMPTION AT CLASS "B" PREMISES.** (Ord. 92-54)  
(Ord. 94-45) (Ord. 96-01) (Ord. 2006-28)(Or. 2008-07)(Ord. 2015-14)

- (a) **Required for Outdoor Consumption.** No licensee shall permit the consumption of alcohol beverages on any part of the licensed premises not enclosed within the building, except under license granted by the Common Council. The licenses are a privilege in which no rights vest and, therefore, may be revoked by the Common Council at its pleasure at any time. No person shall consume or have in his or her possession alcohol beverages on any unenclosed part of the licensed premises which is not described in a valid Outdoor Alcohol Beverage License.
- (b) **Limitations on Issuance of Outdoor Alcohol Beverage License.** In making their determination on whether or not to approve an Outdoor Alcohol Beverage license, the Common Council shall, on a case-by-case basis, take into consideration the size of the outdoor seating area and its location with respect to adjacent residential uses. Each applicant for an Outdoor Alcohol Beverage License shall accurately describe the outdoor seating area and shall indicate the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. The Plan Commission shall review all proposed Outdoor Alcohol Beverage Licenses to determine if they are harmful, offensive or otherwise adverse to the surrounding neighborhood and shall recommend that the license be granted as requested, modified or denied. If the premises is within the Historic District, the Plan Commission shall take into consideration the recommendation of the Landmarks Commission. The Building Inspector shall verify that criteria established the Plan Commission and the Landmarks Commission are met prior to issuance of an Outdoor Alcohol Beverage License. No amplified sound or music is permitted outside the enclosed (building) premises. Amplified sound or music is not permitted in the outdoor seating area, subject to Section (e) herein. There shall be a licensed operator with the outdoor seating area at all times while in operation. There shall be a Fifty (\$50.00) Dollar fee for an Outdoor Alcohol Beverage License. (Ord. 96-01) (Ord. 2006-28)(Ord. 2008-07)(Ord. 2015-14)
- (c) **Adjoining Property Owners to be Notified of Pendency of Applications.** All property owners within one hundred fifty (150) feet of the outdoor seating area shall be notified by first class mail of the pendency of application for an Outdoor Alcohol Beverage Permit with or without Amplified Music by the City Clerk's Office.
- (d) **State Statutes Enforced Within Outdoor Seating Area.** Every licensee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to

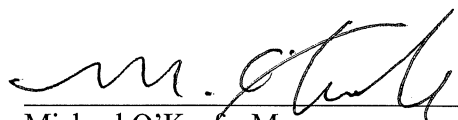
Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the Outdoor Alcoholic Beverage License by the Common Council. (96-01)

- (e) **Outdoor Amplified Sound or Music Permit.** As an exception to the amplified sound and music prohibition of subsection (b) herein, Outdoor Alcohol Beverage License holders may apply for a permit allowing outdoor amplified sound and music subject to the following limitations:
1. Amplified sound or music may only be generated in the outdoor seating area for which the Outdoor Alcohol Beverage License was issued.
  2. Any amplified music or sound exceeding 80 decibels requires a permit under this subsection.
  3. An annual permit fee of \$250.00 shall be required prior to issuance of any Outdoor Amplified Sound or Music Permit.
  4. Amplified music or sound shall not exceed 90 decibels, regardless of whether a permit has been issued. Exceptions to this are events held at Cedar Creek Park Bandshell which shall not exceed 110 decibels.
  5. Pedal tavern music shall be played at 65 decibels or less.
  6. Methods of measuring decibels.
    - (a) Equipment. Decibel measurement shall be made with a decibel meter.
    - (b) Location of measurement. Decibel measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
    - (c) The equipment necessary to measure sound shall reside within the City of Cedarburg Police Department and must be calibrated every nine (9) months.
    - (d) A police officer, or other designated enforcement official of the City, may, if he or she has reasonable suspicion to believe a violation of this ordinance, is or has been committed, request the volume to be lowered or issue a citation. Permit will be revoked upon receiving three (3) citations.
    - (e) A noise that exceeds the decibel rating allowed must exceed the decibels permitted for more than five (5) seconds within a one (1) minute period to be in violation of this ordinance.
  7. Amplified music exceeding 80 decibels shall not be allowed during Summer Sounds dates.
  8. Each organization or business is allowed a maximum of three (3) days per week for amplified music or sound, limited to four hours per day. This excludes acoustic, mic only, tv sound bar, or one speaker amplification that is under 80 decibels.
  9. Amplified sound and music shall be allowed between the hours of 11:00 a.m. and 9:00 p.m.
  10. On Friday & Saturday nights amplified music shall be allowed until 10:00 p.m. from Memorial Day until Labor Day.
  11. All other restrictions and limitations of Section 7-2-17 remain in full force and effect (Ord. 2015-14)

**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.** This ordinance shall take effect and be in full force after its passage and publication as provided by law.

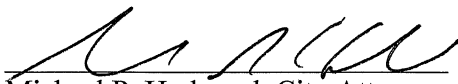
Passed and adopted by the Common Council of the City of Cedarburg on November 8, 2021.

  
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Michael O'Keefe, Mayor

Attest:

  
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Tracie Sette, City Clerk

Approved as to form:

  
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Michael P. Herbrand, City Attorney