

ORDINANCE NUMBER 755

**AN ORDINANCE RESCINDING AND RECREATING SECTION 110.15(P) OF CHAPTER 110 OF THE MUNICIPAL CODE REGARDING ALCOHOLIC BEVERAGES IN OUTSIDE AREAS**

The Common Council of the City of Mineral Point do hereby ordain that existing Section 110.15(P) of Chapter 110 of the Municipal Code is revoked and a new Section 110.15(P) is created, reading as follows:

(P) *Alcoholic beverages in outside areas.*

(1) *Permission required.* No holder of a Class B and/or Class C license may operate under those license(s) in any outdoor area, whether or not the outdoor area was included in a description of the licensed premises prior to the effective date of this division (P), without first having obtained the permission of the Common Council therefor in accordance with the terms and conditions of this division. Any Class B and/or Class C license holder whose license contained an outdoor area within the description of the licensed premises on the effective date of this division shall have 90 days after the effective date of this division (P) in which to obtain permission hereunder as a prerequisite to the continued utilization of the outdoor area. However, should this permission be applied for and denied during the 90-day period of time, the utilization of the outdoor area as part of the licensed premises shall, upon denial, cease forthwith.

(a) The granting of permission hereunder shall result in the outdoor area becoming a part of the description of the licensed premises for purposes of Wis. Stats. § 125.04(3)(a)(3.), with the outdoor area also being subject to state and city laws, rules, regulations, and lawful orders governing Class B and/or Class C licensed premises, except as otherwise provided herein.

(b) Permission to operate under a Class B and/or Class C license in an outdoor area pursuant to this division is a privilege and does not vest a property right; therefore, permission may be revoked by the Common Council pursuant to division (P)(7)(d) below.

(2) *Definitions.*

**OUTDOOR AREA.** An area, whether or not enclosed by a roof, which is open to the elements, and which is not constructed for year-round use.

**OUTDOOR THEATER.** An outdoor area, consisting of a stage, seating, and associated structures, for the presentation of plays or other dramatic performances.

**RESTAURANT.** Any building, room, or place, including, if applicable, an outdoor area, properly licensed by the Wisconsin Department of Health and Family Services, pursuant to Wis. Adm. Code § HFS 196.03(5), where food is prepared, served, or sold to transients or the general public.

(3) *Application.*

(a) *Content.* Application for an outdoor area permit shall be made to the City Clerk-Treasurer on forms furnished by the City Clerk-Treasurer. The application shall include:

1. The name, address and phone number of the applicant(s);

2. A map describing the proposed outdoor area, including proposed capacity and the proposed location of seating, and proposed physical enclosure; and showing the location of family residences, or tourist/guest lodging, within 40 feet of the proposed outdoor area;

3. A lighting and signage plan; and

4. Written verification from the Wisconsin Department of Health and Family Services that the premises, including the outdoor area, is properly licensed as a restaurant by that Department. This provision shall not apply to holders of a Class B and/or a Class C license, with regard to operation under said license in an outdoor theater.

(b) *Review and approval.* The City Clerk-Treasurer shall send the application to appropriate city departments for review and written comment. Written comments shall be submitted to the Police and License Committee. This committee shall make recommendations regarding the application to the Common Council. The Common Council shall approve or deny applications. Applicants whose applications are approved shall agree to abide by the terms and conditions of this section, including restrictions and penalties.

(c) *Term.* The permit term shall be from July 1 through June 30.

(d) *Renewal application.* The applicant shall, on an annual basis, file a renewal application with the City Clerk-Treasurer prior to the term expiration.

(4) *Restrictions governing the use of the outdoor area.*

(a) No outdoor area may lie within any residentially zoned area of the city.

(b) There shall be no amplified music or sound.

(c) Any lighting of the outdoor area must be shielded and be directed in such a manner as to prevent any encroachment upon other properties.

(d) There shall be strict compliance with all Wis. Adm. Code provisions related to noise control and abatement.

(e) Outdoor dining areas must be physically adjacent to the indoor licensed premises.

(f) Exits may not be blocked or impeded by dining furniture or diners.

(g) No entrance to the outside area shall be permitted except through the indoor licensed premises.

(h) Signs shall be placed in the outdoor area indicating that alcoholic beverages are not permitted beyond the outdoor area.

(i) Any outdoor area for which a permit is obtained under this section shall be closed for business during the hours of 9:30 p.m. to 10:00 a.m.

(j) Capacity of the outdoor area, including outdoor seating, shall be determined by the City Fire Chief.



(k) The restrictions under subsections (b) and (g) shall not apply to holders of a Class B and/or a Class C license, with regard to operation under said license in an outdoor theater.

(5) *Fee.* At the time of initial application for permission hereunder, the applicant shall pay to the City Clerk-Treasurer a 1-time processing fee of \$50. In addition, there shall be an annual permit fee of \$50 for the permit term including the initial term.

(6) *Scope of use.* The Common Council, following review and recommendation by the Police and License Committee, may limit the scope of the use of the outdoor area, either in the process of the original approval or after the initial approval of the application. The limitation imposed may provide for a limitation on the activities permissible within the outdoor area during part or all of the time during which the outdoor area is permitted to be or remain open.

(7) *Violations.* Violations of this division (P) shall subject the permit holder to any combination of the following:

(a) Penalties for violating any provision in conformity with Wisconsin Statutes shall be the same as provided for by the statutes.

(b) Persons violating any provision of this division shall be subject to the provisions of § 110.99.

(c) Limitation in the scope of use pursuant to division (P)(6) above.

(d) Upon notice and after hearing before the Police and License Committee, after referral to that Committee by the City Police Department, the Common Council may revoke the outdoor area permit granted herein of any licensee who violates any provision of Chapter 125, Wis. Stats., or Chapter 110, Municipal Code, three or more times.

(8) *Enforcement.* The enforcement of this section shall be under the jurisdiction of the City Police Department, who shall have the power to inspect outdoor areas to determine compliance with this section.

(9) *Sunset Provision.* Unless reaffirmed by the Common Council, this amendatory Ordinance shall terminate On June 30, 2013, and the language of the Ordinance shall revert to that language in effect immediately prior to publication of this amendatory Ordinance.

This Ordinance shall take effect after passage and publication thereof, as required by law.

Adopted at the regular August meeting of the Common Council of the City of Mineral Point, held at the Mineral Point Fire Station, in the City of Mineral Point, Iowa County, Wisconsin, on August 7, 2012.

APPROVED:

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Greggory Bennett, Mayor

ATTEST:

  
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Debi Heisner, Administrator/Clerk-Treasurer