

## **TOWN OF BRIDGE CREEK, Eau Claire County, WISCONSIN**

### **PROPOSED ORDINANCE NO. 18.03: AN ORDINANCE AMENDING AND RESTATING THE PROVISIONS of Ordinance 19.03 OF THE TOWN OF BRIDGE CREEK MUNICIPAL CODE PERTAINING TO INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES, AND ESTABLISHING AN APPEALS PROCESS**

The Town Board of the Town of Bridge Creek, Eau Claire County, Wisconsin, does hereby ordain as follows:

**SECTION I. REPEAL OF EXISTING ORDINANCE.** Ordinance 19.03 of the Town of Bridge Creek Municipal Code, entitled "Liquor/Fermented Malt Beverage Control and Licensing," and all amendments thereto, is hereby repealed in its entirety.

**SECTION II. RECREATION OF ORDINANCE 19.03 as ORDINANCE 18.03.** Ordinance 18.03 of the Town of Bridge Creek Municipal Code is hereby recreated to read as follows:

#### **ORDINANCE 18.03 - INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES CONTROL AND LICENSING**

**18.03.01 PURPOSE AND INTENT.** The purpose of this ordinance is to control and license the sale of alcoholic beverages, as defined herein, within the Town of Bridge Creek, Wisconsin, in accordance with Chapter 125 of the Wisconsin Statutes, as amended, and to promote the health, safety, and welfare of the residents and visitors of the Town.

**18.03.02 ADOPTION OF STATE STATUTES.** The provisions of Chapter 125 of the Wisconsin Statutes, relating to alcohol beverages, and all acts amendatory thereof and supplementary thereto, including specifically 2023 Wisconsin Act 73, are hereby adopted by reference as if fully set forth herein. Any act required to be performed or prohibited by Chapter 125 of the Wisconsin Statutes is hereby required or prohibited by this ordinance.

**18.03.03 DEFINITIONS.** All terms used in this ordinance shall have the meanings ascribed to them in Chapter 125 of the Wisconsin Statutes, as amended, including, but not limited to, "alcohol beverages," "fermented malt beverages," "intoxicating liquor," "licensee," "permittee," "premises," "producer," "underage person," "full-service retail sales," and "no-sale event venue permit."

#### **18.03.04 LICENSES AND PERMITS REQUIRED; MUNICIPAL APPROVALS.**

(1) No person, firm, or corporation shall vend, sell, deal, or traffic in or have in his/her/its possession with intent to vend, sell, deal, or traffic in or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage in any quantity whatever, or permit any person to do so on any premises, unless a license or permit has been issued therefor by the Town of Bridge Creek, or a permit has been issued by the Wisconsin Department of Revenue, Division of Alcohol Beverages (DAB), where required, and any necessary municipal approvals granted by the Town of Bridge Creek.

(2) All Town-issued licenses and municipal approvals shall be granted by the Town Board or its designated representative upon written application made on forms provided by the Wisconsin Department of Revenue, Division of Alcohol Beverages (DAB), and the Town Clerk.

(3) The Town Board or designated representative may issue the following types of licenses and permits, and grant the following municipal approvals, consistent with Chapter 125 of the Wisconsin Statutes:

- (a) Class "A" Fermented Malt Beverage License (retail for off-premises consumption)
- (b) Class "B" Fermented Malt Beverage License (retail for on- and off-premises consumption)
- (c) "Class A" Intoxicating Liquor License (retail for off-premises consumption)
- (d) "Class B" Intoxicating Liquor License (retail for on-premises consumption)
- (e) "Class C" Wine License (retail for on-premises consumption)
- (f) Operator's License (local bartender's license)
- (g) Temporary Class "B" Fermented Malt Beverage License (picnic beer license)
- (h) Temporary "Class B" Wine License (picnic wine license)
- (i) Producer Off-Site Full-Service Retail Outlets (brewery, winery, or distillery)
- (j) Any other license or permit as may be authorized by Chapter 125 of the Wisconsin Statutes and for which the Town retains licensing authority.

#### **18.03.05 LICENSE AND MUNICIPAL APPROVAL APPLICATION AND RENEWAL.**

(1) Applications for new licenses, municipal approvals, and renewals shall be filed with the Town Clerk no later than April 1st of each year for licenses effective July 1st.

(2) Each application shall be accompanied by the required fee as established by resolution of the Town Board.

(3) The Town Clerk shall notify the Town Board, the Town's law enforcement agency, and other relevant departments of all applications.

(4) The Town Board or designated representative, including but not limited to the Chief of Police and Town Clerk, shall investigate the applicant's fitness and suitability, including but not limited to, criminal history, financial responsibility, and compliance with all applicable laws and ordinances, including local zoning ordinances.

(5) A Class "A" Fermented Malt Beverage License, Class "B" Fermented Malt Beverage License, "Class A" Intoxicating Liquor License, "Class B" Intoxicating Liquor License, "Class C" Wine License, and Municipal Approval for Producer Off-Site Full-Service Retail Outlets shall NOT be issued until the Town Board has approved the application by majority vote. The Town Board may designate a Town representative, including but not limited to the Chief of Police or Town Clerk, to approve an Operator's License (local bartender's license), Temporary Class "B" Fermented Malt Beverage License (picnic beer license), and Temporary "Class B" Wine License, or the Town Board may approve the application by a majority vote.

(6) The Town Board or designated representative, including but not limited to the Chief of Police or Town Clerk, may refuse to issue or renew any license or municipal approval for any reason consistent with state law, including but not limited to, failure to meet statutory qualifications, public health or safety concerns, or an undue proliferation of licenses in the area.

#### **18.03.06 RESTRICTIONS AND CONDITIONS.**

(1) All licensees and permittees operating within the Town of Bridge Creek shall comply with all provisions of Chapter 125 of the Wisconsin Statutes, as amended (including 2023 Wisconsin Act 73), this ordinance, and any other applicable local, state, or federal laws regarding alcohol beverages.

(2) The Town Board or designated representative, including but not limited to the Chief of Police or Town Clerk, may impose reasonable conditions on any license or municipal approval issued to ensure compliance with the purpose of this ordinance and Chapter 125 of the Wisconsin Statutes. Such conditions may include, but are not limited to, restrictions on hours of operation, noise levels, security measures, and specific areas of the premises where alcohol beverages may be sold or consumed.

(3) The hours of sale for all licensed premises and any premises operating under a state-issued producer full-service retail permit shall be as provided in Chapter 125 of the Wisconsin Statutes, unless further restricted by resolution of the Town Board.

(4) No licensee or permittee shall employ any underage person, as defined in the Wisconsin Statutes, to sell or dispense alcohol beverages, except as otherwise authorized by Chapter 125, Wis. Stats., for hotels and restaurants. Family members may work on the licensed premises but are not permitted to sell or dispense alcohol beverages unless they hold the appropriate license or permit.

(5) Each licensed premises and any premises operating under a state-issued producer full-service retail permit shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed on any such premises where alcohol beverages are sold or consumed.

(6) There shall be one or more persons holding a valid operator's license issued by the Town of Bridge Creek or a valid statewide operator's permit issued by the Wisconsin Department of Revenue, Division of Alcohol Beverages (DAB), on premises at all times when alcoholic beverages are being sold or dispensed, unless otherwise permitted by state law (e.g., immediate family of the licensee).

(7) Every applicant procuring a license or municipal approval hereunder thereby consents to the entry of police or other duly authorized representatives of the Town at all reasonable hours for the purpose of inspection and consents to the removal from said premises of all things and articles found in violation of Town ordinances or state law. Any refusal to permit such inspection shall automatically operate as a revocation of any license or municipal approval issued hereunder and shall be deemed a violation of this section.

(8) Premixed Drinks: Any Class "B" Intoxicating Liquor licensee preparing, storing, or dispensing premixed drinks shall comply with all provisions of Wis. Stat. § 125.51(3)(c) and any associated administrative rules promulgated by the Division of Alcohol Beverages (DAB).

(9) No-Sale Event Venues: Property owners operating under a "No-Sale Event Venue Permit" issued by the Wisconsin Department of Revenue, Division of Alcohol Beverages (DAB), pursuant to Wis. Stat. § 125.24, shall comply with all applicable provisions of Chapter 125 of the Wisconsin Statutes, including but not limited to limitations on the number of events, types of alcoholic beverages permitted, and requirements for operator supervision. Such venues shall also comply with all other Town of Bridge Creek ordinances, including those pertaining to noise, parking, public safety, and land use. The Town may require local notification or registration for such venues.

#### **18.03.07 SUSPENSION, REVOCATION, AND NON-RENEWAL OF LICENSES AND MUNICIPAL APPROVALS.**

(1) Grounds for Action: The Town Board, or designated representative, including but not limited to the Chief of Police or Town Clerk, may suspend, revoke, or refuse to renew any license or municipal approval issued under this ordinance for any of the following reasons:

(a) Violation of any provision of Chapter 125 of the Wisconsin Statutes, including 2023 Wisconsin Act 73.

(b) Violation of any provision of this ordinance or any other ordinance of the Town of Bridge Creek.

(c) Violation of any condition imposed on the license or municipal approval.

(d) Misstatement or concealment of any material fact in the application for the license or municipal approval.

(e) Conviction of the licensee, permittee, or any agent or employee of the licensee or permittee, for a crime substantially related to the licensed activity, or for any offense which would render the licensee or permittee ineligible for a license or permit under Chapter 125 of the Wisconsin Statutes.

(f) Failure to operate the licensed premises or approved premises in an orderly and lawful manner.

(g) Any other good cause that, in the judgment of the Town Board or designated representative, warrants such action to protect the public health, safety, and welfare.

(2) Procedure for Suspension, Revocation, or Non-Renewal:

(a) Complaint: A sworn written complaint alleging grounds for suspension, revocation, or non-renewal may be filed with the Town Clerk by any resident of the Town, or by the Town Board on its own motion.

(b) Summons and Notice of Hearing: Upon the filing of a complaint, the Town Board or a duly authorized committee of the Town Board shall issue a summons, signed by the Town Clerk, and directed to the licensee or applicant for municipal approval. The summons shall command the licensee or applicant to appear before the Town Board or committee on a day and place named in the summons, not less than 3 days and not more than 10 days from the date of issuance, to show cause why his or her license or municipal approval should not be suspended, revoked, or non-renewed. The summons and a copy of the complaint shall be served on the licensee or applicant at least 3 days before the time at which the licensee or applicant is commanded to appear, in the manner provided under Chapter 801 of the Wisconsin Statutes for service in civil actions in circuit court.

(c) Hearing: 1. If the licensee or applicant appears as required by the summons and denies the complaint, both the complainant and the licensee or applicant may produce witnesses, cross-examine witnesses, and be represented by counsel. All testimony shall be under oath. 2. If the hearing is held before a committee of the Town Board, the committee shall submit a report to the full Town Board, including findings of fact, conclusions of law, and a recommendation as to what action, if any, the Town Board should take with respect to the license or municipal approval. The committee shall provide the complainant and the licensee or applicant with a copy of the report. 3. The Town Board, after receiving the committee's report (if applicable) and allowing for objections and arguments from the parties, shall make a finding as to the truth of the complaint.

(d) Decision: 1. If the Town Board finds the complaint to be true, the license or municipal approval shall either be suspended for not less than 10 days nor more than 90 days, or revoked. If a license or municipal approval is revoked, it shall not be reinstated within the following 12 months. 2. If the Town Board finds the complaint untrue, the proceeding shall be dismissed without cost to the accused. If the Town Board finds the complaint to be malicious and without probable cause, the costs shall be paid by the complainant. 3. The decision of the Town Board shall be sent by first-class mail to the licensee's or applicant's last known address, or personally served, at the Town Chairperson's option.

(e) Non-renewal Notification: Prior to the time for the renewal of a license or municipal approval, the Town Board shall notify the licensee or applicant in writing of the Town's intention not to renew the license or municipal approval and provide the licensee or applicant with an opportunity for a hearing. The notice shall state the reasons for the intended action. The hearing shall be conducted as provided in this subsection, and judicial review shall be as provided in Section 18.03.08.

### **18.03.08 APPEALS PROCESS.**

(1) Appeal to Circuit Court (Judicial Review): Any action of the Town Board in granting or failing to grant, suspending, or revoking any license or municipal approval relating to alcohol beverages, or the failure of the Town Board to revoke or suspend any such license or municipal approval for good cause, may be reviewed by the circuit court for Eau Claire County.

(a) Procedure for Review: The procedure on review shall be the same as in civil actions instituted in the circuit court, as provided in Wis. Stat. § 125.12(2)(d).

(b) Filing Pleadings: The person desiring review shall file pleadings, which shall be served on the Town Board in the manner provided in Chapter 801 of the Wisconsin Statutes for service in civil actions, and a copy of the pleadings shall be served on the applicant or licensee.

(c) Answer and Hearing: The Town Board, applicant, or licensee shall have 20 days to file an answer to the complaint. Following the filing of the answer, the matter shall be deemed at issue and a hearing may be had within 5 days, upon due notice served upon the opposing party. The hearing shall be before the court without a jury. Subpoenas for witnesses may be issued and their attendance compelled.

(d) Court Decision: The decision of the court shall be filed within 10 days after the hearing and a copy of the decision shall be transmitted to each of the parties. The decision shall be binding unless it is appealed to the court of appeals.

### **18.03.09 ENFORCEMENT AND PENALTIES.**

(1) This ordinance shall be enforced by the Town Board, Town Clerk, Eau Claire County Sheriff's Department, Town of Augusta Police Department, or other authorized law enforcement agencies.

(2) Any person, firm, or corporation who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of not less than \$500 nor more than \$5,000 plus the costs of prosecution, surcharges, and assessments, for each offense. Each day of violation shall constitute a separate offense.

(3) In addition to forfeitures, the Town Board may seek any other remedies available at law or in equity, including injunctive relief, to enforce the provisions of this ordinance.

(4) License/Municipal Approval Suspension/Revocation: In addition to the forfeitures and other penalties set forth herein, any licensee, permittee, or applicant for municipal approval who violates any provision of this Ordinance, or who procures, aids, or abets any violation, may be subject to suspension or revocation of their liquor or fermented malt beverage license, municipal approval, or recognition of their permit by the Town Board, in accordance with Wisconsin Statutes Chapter 125 and applicable Town ordinances and procedures.

**18.03.10 SEVERABILITY.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Board hereby declares that it would have passed this ordinance and each section, subsection, paragraph, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses, or phrases be declared unconstitutional or invalid.

**18.03.11 EFFECTIVE DATE.** This ordinance shall take effect upon passage and publication as provided by law.

**SECTION III. PUBLICATION.** This Ordinance shall be published as a Class 1 notice in the newspaper name which serves the Town of Bridge Creek within ten (10) days of its passage.

**SECTION IV. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage and publication.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2025.

**TOWN OF BRIDGE CREEK TOWN BOARD**

By: \_\_\_\_\_, Ricky Strauch, Town Chairperson,

Attest: \_\_\_\_\_, Elizabeth Pettis, Town Clerk

Supervisor #1: \_\_\_\_\_ Supervisor #2: \_\_\_\_\_

Supervisor #3: \_\_\_\_\_ Supervisor #4: \_\_\_\_\_

Treasurer: \_\_\_\_\_