

CITY OF SHULLSBURG  
ORDINANCE NO. 265

**AN ORDINANCE CREATING SECTION 12.01(1)(k) AND SECTION 12.03(15), OF THE CITY OF SHULLSBURG MUNICIPAL CODE ENTITLED, OUTDOOR EXTENSION FOR BEER GARDEN AT “CLASS B”, CLASS “B” AND/OR “CLASS C” LICENSED PREMISES**

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THE COMMON COUNCIL of the City of Shullsborg ordains as follows:

SECTION 1: Section 12.01(1)(k) of the City of Shullsborg Municipal Code is created to read as follows:

“(k) Outdoor ~~Extension~~ Beer Garden License.”

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SECTION 2: Section 12.03(15) of the City of Shullsborg Municipal Code is created to read as follows:

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“12.03(15) ~~OUTDOOR EXTENSION FOR BEER GARDEN~~ “CLASS B”, CLASS “B” AND/OR “CLASS C” LICENSED PREMISES.

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(a) DEFINITIONS. As used in this Section, the following terms shall have the meanings indicated:

ALCOHOL BEVERAGES. Any beer, fermented malt beverages and any intoxicating liquor.

BEER GARDEN. An open air, roofed or unroofed area adjacent or accessory to a "Class B", Class “B” and/or “Class C” licensed premises, where beer and other Alcohol Beverages are served or consumed.

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(b) REQUIRED FOR OUTDOOR CONSUMPTION. No person or licensee shall permit the consumption of Alcohol Beverages on any premise or part of a licensed premises not enclosed within the building, without first having obtained the permission of the Common Council in accordance with the terms and conditions of this Section. The granting of permission hereunder shall result in the outdoor area becoming a part of the description of the licensed premises, with said outdoor area also being subject to all State and City laws, rules, regulations, and lawful orders governing “Class B”, Class “B” and/or “Class C” licensed premises. No person shall consume or have in his or her possession Alcohol Beverages

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on any unenclosed part of a licensed premise which is not described in a valid Beer Garden approval.

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(c) APPLICATION. Application for a Beer Garden shall be made in writing on the form prepared by the Clerk/Treasurer and filed with the Clerk/Treasurer not less than thirty (30) days prior to the granting of this permission. All applications shall include a map or diagram that particularly describes the Beer Garden area and shall indicate the nature of fencing and other measures intended to provide control over the operation of the Beer Garden. An Applicant shall file, at the time of application, a list of names and addresses of all property owners residing within one hundred fifty (150') feet of the boundaries of the outdoor area sought to be included in the Licensed Premises. The Clerk/Treasurer shall mail by first class mail to those property owners a notice of the proposed Beer Garden at least seven (7) days prior to the Common Council meeting where the matter of the application will be discussed. The Clerk/Treasurer may also give notice of any Committee Meetings the matter of the application will be discussed.

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Deleted: All property owners within one hundred fifty (150) feet of the premises in which the proposed Beer Garden is attached shall be notified of the ANY pending applications for a beer garden license by first class mail.

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(d) APPLICATION FEE. All applications for a Beer Garden shall be accompanied by a fee. Fees shall be established by the Common Council per resolution from time-to-time.

(e) REQUIREMENTS. All applications, and subsequent use of a Beer Garden, shall meet the following requirements:

(1) No permission shall be given for a Beer Garden if any part of the Beer Garden is within one hundred (100) feet of a structure used for residential purposes, except residential uses located in the same structure as the licensed premises. This requirement may be waived at the discretion of the Common Council, upon review and consideration of the following criteria:

- a. Whether the residential uses are single-family or multi-family, or are part of a mixed-use building (such as commercial and residential);
- b. Whether any residential property owners or occupants that reside within the designated area object to the proposed Beer Garden and whether the nature of their objections can be addressed by placing conditions on the use of the Beer Garden; and

c. Whether the applicant is in full compliance with all applicable ordinances or has a history of noncompliance with any of the City's ordinances that would be reasonably related to the licensed activity.

- (2) No permission shall be given for a Beer Garden if the Beer Garden area is greater than fifty (50%) percent of the gross floor area of the adjoining licensed premises.
- (3) Every Beer Garden shall be completely enclosed with an attractive fence, wall or screen not less than eight (8) feet in height. For open decks, lattice will be required from the deck floor to the railing. The floor/ground area of the Beer Garden shall be constructed with a hard surface, such as concrete, decking material or paver brick.
- (4) Noise from any source that is emitted from the Beer Garden and measured at any border of the real property on which the licensed premises is located shall not exceed the decibels as set for in Section 17.86 of the City of Shullsburg Municipal Code.
- (5) No amplified music shall be allowed in the Beer Garden after 10 p.m.
- (6) All service in the Beer Garden (beverage and food) shall stop at least one half hour prior to the closing time of the establishment, with the Beer Garden being promptly vacated by closing time except for the owner and regular employees of the licensed premises and then only for the purpose of cleaning up.
- (7) Bartenders shall be responsible for supervising and policing the Beer Garden at all times it is open for operation.
- (8) Access to the Beer Garden shall be through the main (indoor) entrance to the premises. The Beer Garden shall be equipped with a locking system on a fire exit that meets fire codes.
- (9) Lighting of the area must be shielded with down cast lighting and not be of intensity or brilliance to create glare that is distracting to adjacent and abutting property owners or can become a hazard or danger to vehicular traffic.
- (10) Occupancy of the Beer Garden shall not occur until all required improvements are installed.
- (11) The licensee shall be responsible for cleaning litter, including cigarette butts, from adjacent and abutting properties that was deposited by patrons of the licensed premises or resulted from the business activities on the premises. Decorative garbage receptacles and ash trays shall be installed and such receptacles shall be emptied into the main dumpster as needed and at the end of every business day. All dumpsters shall be screened from public view by landscaping or enclosed with fencing.

**Comment:** These are possible criteria to consider allowing a waiver. You may want to list more.

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(12) Any outdoor structures, beverage or food service area shall be reviewed and approved by the Building Inspector and/or other appropriate department including the health department.

(13) No trash, garbage or debris shall be allowed to accumulate on the premises and all trash generated by the activities on the premises shall be placed in the dumpsters by the end of each business day.

(14) All applicable building and zoning permits shall be obtained and all applicable ordinances and laws shall be complied with.

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(f) REVIEW AND APPROVAL. The Common Council may approve the application for permission to have a Beer Garden on a licensed premises if the application meets the requirements of this Section, and such requirements shall be conditions of approval. The City may impose other reasonable conditions upon its approval or it may deny the application in accordance with applicable ordinance or law. Any conditions imposed for the Beer Garden shall be deemed to be conditions imposed upon the "Class B", Class "B" and/or "Class C" licensed premises and shall be deemed an amendment to any alcohol license previously issued for the premises if such license is already in effect. If such application is approved contemporaneously with the "Class B", Class "B" and/or "Class C" license, it shall be deemed part of the same approval. All approvals hereunder shall expire on June 30th of each year consistent with the "Class B", Class "B" and/or "Class C" license unless sooner revoked or forfeited.

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(g) ENFORCEMENT.

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(1) LOCAL ORDINANCES AND STATE STATUTES ENFORCED WITHIN BEER GARDEN. Every licensee under this Section shall comply with and enforce all provisions of this Chapter and Ch. 125, Wis. Stats., applicable to "Class B", Class "B" and/or "Class C" licensed premises, except insofar as such provisions are clearly inapplicable. Violations of the provisions of Ch. 125, Wis. Stats. shall be grounds for revocation of the Beer Garden license by the Common Council.

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(2) NOISE COMPLAINTS. Three or more written noise complaints filed against the licensee for use of the Beer Garden during a license period (July 1 to June 30), and verified by the Police Department, shall constitute sufficient grounds to institute proceedings identified under subsection (3) below.

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(3) ~~REVOCAION, SUSPENSION AND NONRENEWAL. Because the permission granted under this Section shall become part of the license for the entire premises, the revocation and nonrenewal provisions of Section 12.03 and Chapter 125 of the Wisconsin Statutes shall apply.~~

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**SECTION 3.** This ordinance shall be in full force on the day following its passage and official publication as provided by law.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2009  
Passed the \_\_\_\_\_ day of \_\_\_\_\_, 2009  
Published the \_\_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Tom Curran, Mayor

\_\_\_\_\_  
Marsha Einsweiler, City Clerk/Treasurer