

No. 25

**AN ORDINANCE RELATING TO THE SALE OF  
INTOXICATING LIQUOR AND FERMENTED MALT  
BEVERAGES IN THE TOWN OF BURNETT,  
DODGE COUNTY, WISCONSIN**

The Town Board of the Town of Burnett, Dodge County, Wisconsin, does ordain as follows:

(1) State Statutes Adopted. The provisions of Chapter 125 of the Wisconsin Statutes, relating to the sale of intoxicating liquor and fermented malt beverages are hereby adopted by reference and made a part of this Ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Ordinance. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Ordinance in order to secure uniform statewide regulation of alcohol beverage control.

(2) Operators License may be issued for a one (1) year period from July 1 of one year to June 30 of the next year.

No license or permit for the sale of alcohol beverages may be delivered to the applicant by the Town of Burnett, its officers, employees or agents until the applicant files with the Town Clerk of the Town of Burnett a receipt showing payment of the license or permit fee to the Town Treasurer of the Town of Burnett. The Town of Burnett may not require an applicant pay a license or permit fee more than thirty (30) days prior to the date of issuance or re-issuance of the license or permit. The license or permit shall be issued by the Town Clerk of the Town of Burnett prior to any person selling the alcohol beverage in the Town of Burnett.

(3) License Fees. The following is a list of fees to be paid for the licenses as set forth:

(a) Retail Class "A" Intoxicating Liquor License (retail sale of intoxicating liquor for consumption off premises)  
-- \$90.00 annually.

(b) Retail Class "B" Intoxicating Liquor License (retail sale of intoxicating liquor for consumption on premises sold by the glass, not in original package or container)  
-- \$90.00 annually.

(c) Class "A" Fermented Malt Beverage Retailer's License (retail sale of fermented malt beverages for consumption off premises)  
-- \$20.00 annually.

(d) Class "B" Fermented Malt Beverage Retailer's License (retail sale of fermented malt beverage for consumption on or off premises)  
-- \$20.00 annually.

Club license

-- \$20.00 annually.

(e) Special Class "B" Fermented Malt Beverage Picnic  
License

-- \$20.00 per events of 10 days or less.

(f) Wholesaler's License

-- \$25.00 annually.

(g) Class "C" Wine (for consumption on premises by glass  
or original container - restaurant, without bar  
room)

-- \$90.00 annually.

All such licenses are to be pro-rated in the event of application for less than one full license year said fee shall be pro-rated on a monthly basis.

The applicant shall pay to the town the cost of all required publishing with respect to the license application.

(4) License Restrictions. In addition to the requirements imposed by the provisions of the Wisconsin Statutes adopted by reference herein, the following restrictions shall apply to the issuance of licenses or permits pursuant to this section:

(a) No person or corporation shall be issued or reissued a Class "A"/permit or a Class "B"/permit in the Town of Burnett until the premises comply with all applicable building and plumbing codes and all delinquent taxes and assessments of the Town of Burnett for those premises are paid.

(b) Improper Exhibitions. It shall be unlawful for any person to perform, or for any licensee or manager or agent of the licensee to permit any employee, entertainer or patron to engage in any live act, demonstration, dance or exhibition on the licensed premises which:

(1) Exposes his or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(2) Exposes any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or

(3) Exposes any portion of the female breast at or below the areola thereof; or

(4) Engages in or simulates sexual intercourse and/or any sexual contact, including touching of any portion of the female breast or the male and/or female genitals.

(5) Inspection of Application and Premises. The Town Clerk shall notify the Health Officer, Town Chairman and Building Inspector of all license and permit applications, and these officials shall be authorized to inspect or cause to be inspected each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. These officials shall furnish to the Town Board in writing the information derived from any such investigation. No license or permit provided for in this section shall be issued without the approval of a majority of the Town Board, and no license shall be renewed without a reinspection of the premises and report as herein required.

(6) Health and Sanitation. No license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the State of Wisconsin, County of Dodge or Town of Burnett, to include all appropriate statutes, ordinances and regulations.

(7) Search of Licensed Premises. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer, Town Supervisor, or Town Chairman of the Town of Burnett, without any warrant, and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit such inspection shall serve as a basis for revocation of said license.

(8) Point Values for Alcohol Beverages Violation, Revocations and Suspensions.

(a) The Town Board of the Town of Burnett retains jurisdiction at its discretion to revoke or suspend licenses issued pursuant to this ordinance for any infraction it deems sufficient.

In addition the following point schedule is provided to identify habitually troublesome license holders who have repeatedly violated state and local ordinances and is to be used for purposes of recommending suspension or revocation of their alcohol license.

	<u>TYPE OF VIOLATION</u>	<u>POINT VALUE</u>
1.	Sale of Alcohol Beverages Without License or Permit; Sale of Controlled Substances on Licensed Premises	100
2.	Sale of Alcohol Beverages to Underaged Person	50
3.	Sale of Alcohol Beverages to Intoxicated Person	50
4.	Underaged Person on Premises	50
5.	Intoxicated Bartender	50
6.	After Hours Consumption	50
7.	Refusal to Allow Police to Search Premises or Refusal to Cooperate with Lawful Police Investigation	50
8.	Disorderly Conduct on Premises	30
9.	Licensee, Agent or Operator Not on Premises all Times	25
10.	Persons on Premises After Closing Hours	25
11.	Violation of Carry-out Hours	25
12.	Licensee Permitting Person to Leave Licensed Premises with Open Alcohol Beverage	25
13.	All Other Violations of this Chapter	25

(b) Violations, How Calculated--Point Method. In determining the accumulated demerit points against a licensee within twelve (12) months, the Town Board shall use the date each violation was committed as the basis for the determination.

(c) Suspension or Revocation of License--Point Method.

(1) The Town Board shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated one hundred fifty (150) points in a twelve (12) month period as a result of court-imposed convictions or who have had referred to it reports which, if believed, would result in one hundred fifty (150) demerit points in twelve (12) months.

(2) If the demerit point accumulation, calculated from the date of violation, exceeds one hundred fifty (150) points in a twelve (12) month period, two hundred (200) points in a twenty-four (24) month period or two hundred fifty (250) points in thirty-six (36) month period, the suspension shall be for not less than ten (10) days nor more than ninety (90). If the license(s) is revoked, no other license shall be granted to such licensee or for such premises for a period of twelve (12) months from the date of revocation.

(3) For purposes of this provision, convictions shall mean the date of the violation not the actual date of conviction.

(9) Suspension, Revocation of License; Non-Renewal. All provisions of the Wisconsin Statute relating to suspension and revocation are specifically adopted herein together with the further provisions relating to denial for issuance or reissuance of licenses, whether or not the point method is used by the Town:

(a) It shall be a condition of maintaining and keeping a license in this Town that the licensee continue in business. Issuance of, or retention of a license by a party not doing business, is hereby declared to be against public policy, and lacking in usefulness.

(b) Abandonment of Premises. Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference he may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The loss or non-use of the licensed premises for at least six (6) months shall be prima facie evidence of the abandonment, unless extended by the Town Board. All persons issued a license to sell alcohol beverages in the Town of Burnett for which a quota exists limiting the number of such licenses that may be issued by the Town Board shall cause such business described in such license to be operated on the premises described in such license for at least one hundred fifty (150) days during the terms of such license, unless such license is issued for a term of less than one hundred eighty (180) days, in which event this Subsection shall not apply.

(10) In lieu of a hearing, the Town Board may accept surrender of the license, and the Town Board shall then determine the time period before another application of the same type of license will be accepted from the former licensee.

(11) Penalty Provisions.

(a) General Penalty. Whenever so provided in this ordinance, any person who shall violate any of the provisions of this ordinance shall upon conviction of violation be subject to a penalty, equal to the penalty provide by the Wisconsin Statutes for the particular violation together with all applicable court costs and costs of prosecution. Upon default of payment of such forfeiture and costs the defendant shall be subject to imprisonment in the county jail until said forfeiture and

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costs of prosecution are paid, but not to exceed thirty  
(30) days.

(12) This ordinance is intended to repeal and replace all  
prior ordinance relative to the subject matter upon completion of  
the adoption and publication process as provided by law.

(13) Severability. In the event any portion of this ordinance  
is or becomes invalid or illegal, the remaining portions shall  
remain in full force and effect

(14) Effect. This ordinance shall take effect following  
passage and publication as provided by law.

Passed on November 4, 1996.

Vote for 3 against 0

Posted on 10-14-96.

Posted at Burnett.

Kenneth E. Nitschke  
Chairperson

Kenneth E. Wood  
Supervisor

Lester Tribnow  
Supervisor

Attest:

Debra Waldvogel  
Clerk

Publication in Daily Citizen newspaper on  
10-14-96, \_\_\_\_\_, and \_\_\_\_\_.