

ORDINANCE NO: 213**AN ORDINANCE PROHIBITING CERTAIN ACTIVITIES MADE CRIMES RELATING TO ALCOHOLIC BEVERAGES**

The Village Board of the Village of Endeavor, Wisconsin, pursuant to Chapter 125 of the Wisconsin Statutes does ordain as follows with regard to its Town Ordinances:

213.1 Statutory Authority

The provisions of Chapter 125 of the Wisconsin Statutes together with the applicable statutory definitions, as may be amended from time to time, are hereby incorporated.

213.2 Purpose

It is the responsibility of the village board of the Village of Endeavor to screen applicants for alcohol beverage licenses within the Village of Endeavor under the licensing authority granted by Chapter 125 of the Wisconsin Statutes. The village board adopts the following guidelines in order to specify the reason(s) for denying an alcohol beverage license. The Village board retains broad discretionary authority in the area. However, if a decision is made to deny a license, the village board is required to provide that applicant with a written reason for the denial. This ordinance is adopted to help meet that requirement.

The village board has the duty to the citizens of Endeavor and the potential employers of the individuals holding operators licenses to ensure that only responsible individuals are licensed, as alcohol beverage operators are in a unique position to embezzle funds from their employers, sell drugs, or deal in stolen property with the public. Furthermore, responsibility is required since alcohol beverage license holders must act in cooperation with law enforcement to enforce the alcohol beverage laws. Finally, the village board owes a duty to applicants for alcohol beverage licenses in that the applicants should not be subject to discrimination based on a prior arrest or conviction record, pursuant to section 111.335 of the Wisconsin Statutes, unless the arrest or conviction record substantially relates to the circumstances of the particular licensed activity.

213.3 License Requirements

No person may sell fermented malt beverages or intoxicating liquors without first obtaining the proper license and paying license fee as per Ordinance 39 "Schedule of Fees and Forfeitures". All applicants must meet the requirements of Chapter 125 of the Wisconsin Statutes.

- A. Pursuant to sections 125.04 (5) (a) and (b) and 111.35 Wis. Stats., the village board has determined that the nature of the following criminal matters substantially relate to the sale of intoxicating beverages and liquor:
1. Category 1. Any applicant who has been convicted of, released from incarceration in the Wisconsin State Prison System, or a county jail or released from parole or probation status for any offense within the last five (5) years in the following subcategories will not be eligible for an alcohol beverage license:

- a. Violent crimes against the person of another, including but not limited to homicide, aggravated battery, sexual assault, injury by negligent use of a weapon, injury by negligent use of a vehicle, or injury by intoxicated use of a vehicle.
 - b. Crimes involving cooperation with law enforcement officials including but not limited to any offense of intentional false alarms, obstructing a police officer, resisting arrest, bribery of public officers or employees, misconduct in public office, perjury, false swearing, assault by prisoner, escape from custody, bail jumping, or bomb scares.
 - c. Crimes involving dishonesty, including but not limited to theft, or misappropriation of funds, burglary, entry into locked vehicle, fraud on hotel or restaurant keeper, issuance of more than one worthless check, receiving or transferring stolen property, loan-sharking, robbery, forgery, and retail theft.
2. Category 2. Applicants will not receive a license if they meet any of the following criteria:
- a. Within the 3 year period prior to the filing of the application, have been convicted, released from incarceration or released from parole or probation status for any crime involving children, including but not limited to, any abuse of children, contributing to the delinquency of a minor, stolen property from children, selling drugs to children, or any crime involving child pornography.
 - b. Within the two year period prior to the filing of the application, have had a temporary restraining order or injunction issued against him or her for domestic abuse, child abuse or harassment.
3. Category 3. Any applicant who has been convicted of, released from incarceration in the Wisconsin State Prison System or county jail or released from parole or probation status for any offense within the last three (3) years in the following subcategories will not be eligible for an alcohol beverage license:
- a. Alcohol Beverage Offenses, including but not limited to sale of alcohol beverages without a license or permit, furnishing alcoholic beverages to underage persons (furnishing alcohol beverages to underage persons shall not be used as grounds for suspension, revocation, or non-renewal of an existing license unless the licensee has committed two violations within a one-year period), furnishing alcohol beverages to intoxicated persons, or any other violation of Chapter 125 of the Wisconsin Statutes or a local ordinance enacted in conformity therewith. This does not include offenses for possession or consumption of alcohol by a minor, which is covered in Category 4.
 - b. Drug-related offenses, including but not limited to, any offense involving the sale or possession of narcotics or other controlled substances
4. Category 4. Any applicant who has had two or more convictions within the last two (2) years for any offense in any combination of the following subcategories will not be eligible for an alcohol beverage license:

- a. Operating a motor vehicle while under the influence of intoxicants or drugs.
- b. Operating a motor vehicle with a BAC in excess of .08% by weight
- c. Unlawful possession or consumption of alcoholic beverages by a minor.
- d. Open intoxicants in public places or in a motor vehicle.

213.4 Application Process

- A. Applications for licenses shall be filed with the village clerk together with payment of the applicable fee as established in the Village fee schedule.
- B. All applications for licenses shall be processed as provided for in sec. 125.04 Wis. Stats.
- C. Any applicant who materially falsifies an application for an alcohol beverage license will not be eligible to reapply for an alcohol beverage license for a period of six (6) months from the date of denial of such application. The Endeavor Village Board may waive the provisions of this paragraph, allowing the applicant to submit a corrected application, and grant an alcohol beverage license to the applicant, if it appears to the village board that any falsifications on the applications were the result of inadvertence, excusable neglect or mistake.
- D. Ordinance Compliance. The premises for which the application is made must be in compliance with all other village ordinances, including but not limited to the zoning code.
- E. Fee Compliance. No license shall be granted for operation on any premises or with any equipment for which taxes, assessments, forfeitures or other financial claims of the village are delinquent and unpaid. Likewise, no license shall be issued to a person who has delinquent taxes, fines or other obligations owed to the Village.
- F. Safety Code Compliance. The premises for which the application is made must be in compliance with all public safety codes, including but not limited to the fire code.

213.5 Renewals

- A. Application for renewal shall be considered and processed according to the procedures set forth in Chapter 125 Wis. Stats.

213.6 Revocation and Suspension of Licenses

- A. Procedure: Whenever the holder of any license under this Ordinance violates any portion of this Ordinance, Chapter 125 of the Wisconsin Statutes or any other applicable law or regulation, proceedings for the revocation or suspension of such license may be instituted in the manner and under the procedure established by Chapter 125 of the Wisconsin Statutes. In case of revocation of any license, no refund shall be made of any part of the license fee.

B. Point Values for Alcohol Beverage License Violations

1. Purpose and Definitions: The purpose of this subsection is to administratively interpret those portions of this section relating to establishing an alcohol beverage demerit point system to assist in determining which licensees should be subject to suspension or revocation procedures.
2. Point Schedule: The schedule of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome licensees who have repeatedly violated state statutes and town ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

<u>Type of Violation</u>	<u>Point Value</u>
a. Sale of Alcohol Beverages without License or Permit;	100
b. Sale of Controlled Substances on Licensed Premises	100
c. Sale of Alcohol Beverages to Under Aged Person	50
d. Sale of Alcohol Beverages to Intoxicated Person	50
e. Under Aged Person on Premises	50
f. Intoxicated Bartender; Disorderly Conduct on Premises	50
g. After Hours Consumption	50
h. Refusal to Allow Police to Search Premises or Refusal to Cooperate with Lawful Police Investigation	50
i. Licensee, Agent or Operator Not on Premises at all Times	25
j. Persons on Premises after Closing Hours	25
k. Violation of Carry-out Hours	25
l. Licensee Permitting Person to Leave Licensed Premises With Open Alcohol Beverage	25
m. False Statement on Application	25
n. All Other Violations of this Ordinance	25

C. Violation, How Calculated: In determining the accumulated demerit points against a licensee within twelve (12) months, the village board shall use the date each violation was committed as the basis for the determination

D. Suspension or Revocation of License:

1. The village board shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated two hundred (200) points in a twelve (12) month period as a result of court-imposed convictions or who have had referred to the village board reports from the village attorney which, if believed, would result in two hundred (200) demerit points in twelve (12) months.
2. If the demerit point accumulation, as determined by the village board, calculated from the date of violation, exceeds two hundred (200) points in a twelve (12) month period, two hundred fifty (250) points in a twenty-four (24) month period or three hundred (300) points in a thirty-six month period, the suspension shall be for not less than ten (10) days nor more than ninety (90) days. If the demerit point accumulation, calculated as noted above, exceeds

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

350 points in a thirty-six month period, or if the license is eligible hereunder for a suspension and was previously subject to a suspension, the village board may revoke the license. 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. In all cases, the procedures for revocation and suspension set forth in sec. 125.12 Wis. Stats shall be followed.

213.7 Off-premise Sales with “Class B” License

Pursuant to sec. 125.51 (3) (b) Wis. Stats., a retail “Class B” liquor license, when issued by the village clerk under authority of the village board, shall permit its holder to sell, deal, and traffic in intoxicating liquors to be consumed on the premises so licensed, by the glass; or to be sold in multiples not to exceed four liters at any one time, and consumed off the premises so licensed in the original package or container.

213.8 Penalties

Any person, firm, or corporation violating any of provisions of Chapter 125 of the Wisconsin Statutes and/or any portion of this Ordinance shall, upon conviction, be subjected to forfeiture per Ordinance 39 Schedule of Fees and Forfeitures together with the costs of prosecution.

The foregoing ordinance was duly adopted by the Village Board of the Village of Endeavor, Marquette County, Wisconsin at a meeting held on September 8, 2015 by a vote of ____ in favor, ____ opposed, and ____ not voting.

Larry LaSure, Village President

Attest to:

Laura Myers, Village Clerk/Treasurer

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