

ORDINANCE NO. 19.03

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

DRAFT

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Municipal Code, entitled "Liquor/Fermented Malt Beverage Control and Licensing," and all amendments thereto, is hereby repealed in its entirety.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 [Insert New Number ##].

Ordinance [Insert New Number ##] of the Town of Bridge Creek Municipal Code is hereby recreated to read as follows:

ORDINANCE [Insert New Number ##] - INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES CONTROL AND LICENSING

##.01 PURPOSE AND INTENT.

The purpose of this ordinance is to control and license the sale of intoxicating liquor and fermented malt beverages within the Town of Bridge Creek, Wisconsin, in accordance with Chapter 125 of the Wisconsin Statutes, and to promote the health, safety, and welfare of the residents and visitors of the Town.

[Insert New ordinance Number].02 ADOPTION OF STATE STATUTES.

The provisions of Chapter 125 of the Wisconsin Statutes, relating to intoxicating liquor and fermented malt beverages, and all acts amendatory thereof and supplementary thereto, 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.

[Insert New ordinance Number].03 DEFINITIONS.

All terms used in this ordinance shall have the meanings ascribed to them in Chapter 125 of the Wisconsin Statutes, including, but not limited to, "alcohol beverages," "fermented malt beverages," "intoxicating liquor," "licensee," "premises," and "underage person."

[Insert New ordinance Number].04 LICENSES REQUIRED.

(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.

(2) All licenses shall be issued by the Town Board or designated representative upon written application made on forms provided by the Wisconsin Department of Revenue and the Town Clerk.

(3) The Town Board or designated representative may issue the following types of licenses and permits, 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 (bartender's license)
- (g) Temporary Class "B" Fermented Malt Beverage License (picnic beer license)
- (h) Temporary "Class B" Wine License (picnic wine license)
- (i) Any other license or permit as may be authorized by Chapter 125 of the Wisconsin Statutes.

[Insert New Ordinance Number].05 LICENSE APPLICATION AND RENEWAL.

(1) Applications for new licenses 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 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.

(5) No license shall be issued until the Town Board has approved the application by majority vote. (What licenses does the chief of police currently do? Add that change here?) Operator's/Bartenders license will now be approved by the Chief of police upon the chief giving the clerk the all clear to print and distribute the license to the appropriate person or establishment.

(6) The Town Board or designated representative may refuse to issue or renew any license 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.

[Insert New Ordinance Number].06 RESTRICTIONS AND CONDITIONS.

- (1) All licensees shall comply with all provisions of Chapter 125 of the Wisconsin Statutes, this ordinance, and any other applicable local, state, or federal laws regarding intoxicating liquor and fermented malt beverages.
- (2) The Town Board may impose reasonable conditions on any license 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 shall be as provided in Chapter 125 of the Wisconsin Statutes, unless further restricted by resolution of the Town Board.
- (4) No licensee shall employ any underage person, as defined in the Wisconsin Statutes, to sell or dispense intoxicating liquor or fermented malt 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.
- (5) Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous, or indecent conduct shall be allowed on any licensed premises where intoxicating liquor or fermented malt beverages are sold or consumed.
- (6) There shall be an operator's licensee on premises at all times when intoxicating liquor or fermented malt 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 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 issued hereunder and shall be deemed a violation of this section.

[Insert New ordinance Number].07 SUSPENSION, REVOCATION, AND NON-RENEWAL OF LICENSES.

- (1) Grounds for Action: The Town Board may suspend, revoke, or refuse to renew any license issued under this ordinance for any of the following reasons:
 - (a) Violation of any provision of Chapter 125 of the Wisconsin Statutes.
 - (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.
 - (d) Misstatement or concealment of any material fact in the application for the license.

- (e) Conviction of the licensee, or any agent or employee of the licensee, for a crime substantially related to the licensed activity, or for any offense which would render the licensee ineligible for a license under Chapter 125 of the Wisconsin Statutes.
- (f) Failure to operate the licensed premises in an orderly and lawful manner.
- (g) Any other good cause that, in the judgment of the Town Board, 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. The summons shall command the licensee 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 should not be suspended, revoked, or non-renewed. The summons and a copy of the complaint shall be served on the licensee at least 3 days before the time at which the licensee 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 appears as required by the summons and denies the complaint, both the complainant and the licensee 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. The committee shall provide the complainant and the licensee 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 shall either be suspended for not less than 10 days nor more than 90 days, or revoked. If a license 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 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, the Town Board shall notify the licensee in writing of the Town's intention not to renew the license and provide the licensee 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 [Insert New Chapter Number].08.

[Insert New Ordinance Number].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 relating to intoxicating liquor or fermented malt beverages, or the failure of the Town Board to revoke or suspend any such license 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.

[Insert New ordinance Number].09 ENFORCEMENT AND PENALTIES.

(1) This ordinance shall be enforced by the Town Board, Town Constable, Eau Claire County Sheriff's Department, Town of Augusta Police 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 Suspension/Revocation: In addition to the forfeitures and other penalties set forth herein, any licensee or permittee 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 or permit by the Town Board, in accordance with Wisconsin Statutes Chapter 125 and applicable Town ordinances and procedures.

[Insert New ordinance Number].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.

[Insert New ordinance Number].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] day of [Month], 2025.

TOWN OF BRIDGE CREEK TOWN BOARD

By:

Ricky Strauch, Town Chairperson,

Attest:

Elizabeth Pettis, Town Clerk