

**ORDINANCE NO. 3785****AN ORDINANCE AMENDING CHAPTER 400, INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES REGARDING THE DEMERIT POINT SYSTEM**

The City Council of the City of Fond du Lac do ordain as follows; deleted items are shown with strikethrough and additions are underlined:

**Section 1.** That Chapter 400, Intoxicating Liquor and Fermented Malt Beverages; Section 7, Demerit point system., is hereby amended to read as follows:

**§ 400-7 Demerit point system.**

**A. System created.** There is hereby established a point system for the purpose of guiding the Alcohol Licensing Committee in making recommendations on possible suspensions or revocations of alcohol beverage licenses. The number of demerit points will be assigned according to the type of violation. The system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or City of Fond du Lac ordinances and to take consistent action against such licensees.

**B. Assignment of points.** There are hereby assigned the following demerit points for each type of violation:

<b>Types of Violations</b>	<b>Ordinance/Law</b>	<b>Demerit Points (per incident)</b>
Refusal to allow police to search premises or refusal to cooperate with lawful investigation by police or Department of Revenue	§ 946.41, Wis. Stats.	150
Refusal to cooperate with Fire Chief or designee	City Code Chapters 69 and 343	150
Conducting unlawful business	City Code Chapter 400	150

Types of Violations	Ordinance/Law	Demerit Points (per incident)
Nude or seminude entertainer/employee on premises unless permitted by law	City Code Chapter 400	150
Owner/employee selling controlled substances	City Code § 500-5; Ch. 961, Wis. Stats	150
Illegal drug paraphernalia on premises	Ch. 961, Wis. Stats.	100
Unauthorized transfer/use of license	City Code Chapter 400	90
Exceeding posted occupancy capacity	City Code §§ 255-2 and 343-3	80
Sale of alcohol to person under age 21 without parent, guardian or spouse of legal drinking age	City Code Chapter 400	80
Person under age 21 on premises without parent, guardian or spouse of legal drinking age	City Code Chapter 400	80
Sale to intoxicated person	City Code Chapter 400	80
False statement on application	City Code Chapter 400	70
Delinquent taxes, assessments	§ 433-2E	150
Failure to maintain order; fights/disorderly conduct, Police Department not notified by bar	§ 947.01, Wis. Stats.	80
Failure to maintain order; fights/disorderly conduct, Police Department notified by bar	§ 947.01, Wis. Stats.	5
Littering by patrons or employees	City Code § 568-9	10

Types of Violations	Ordinance/Law	Demerit Points (per incident)
Unnecessary loud noise	City Code § 500-3	45
Public consumption outside tavern property	City Code § 400-15	45
Open after hours	City Code Chapter 400	45
No licensed bartender on premises	City Code Chapter 400	40
Unlicensed amusement devices on premises	City Code § 208-8C	30
After hours carryouts	City Code Chapter 400	30
Failure to display license	City Code Chapter 400	25
Penalty enhancer for severe offenses; enhanced penalty for conduct which (1) results in bodily harm to any individual; (2) creates a substantial risk of death or bodily harm; (3) involves the use of a firearm or other dangerous weapon; or demonstrates an ongoing disregard for the requirements of state law or municipal ordinances		Up to 150 additional points
<b>Health Code</b>		
Noncritical violation	City Code Chapters 356, 476 and 556	25
Critical violation	City Code Chapters 356, 476 and 556	80
Gambling machine in a "Class A" establishment	§ 945.03(1m), Wis. Stats.	35
More than allotted gambling machine in a "Class B" establishment	§ 945.04(2m), Wis. Stats.	35
Unauthorized gambling	§ <u>Ch.</u> 945, Wis. Stats.	35

**C. Method of determination.** In determining the accumulated points, the date of the violation is used as the basis for assigning the demerit points per incident. A conviction for a violation is not necessary to assign points. That decision is made by the Chief of Police or his designee based on his analysis of the violation, including the presence of any mitigating circumstances such as notification of an incident by the licensee or cooperation with any lawful investigation.

**D. Point notification.** The Police Department will notify the Alcohol Licensing Committee and the license holder of any incidents which result in the assessment of demerit points.

**E. Correction meeting.**

(1) Notice. Whenever the Chief of Police or designee determines that, on two or more occasions within a 12-month period, a licensee has violated any provision of this chapter or Wis. Stats. Chp. 125 in a manner resulting in enforcement action, the Chief may notify the licensee in writing. The notice shall contain the street address of or other description sufficient to identify the licensed premises, a description of the violations and enforcement actions that have occurred at the premises, and notice of the time and place at which the licensee is scheduled to meet with the Chief and the City Attorney as described in this section.

(2) Any licensee receiving notice pursuant to subsection (E)(1) shall meet with the Chief of Police or designee and the City Attorney or designee at the date and time prescribed in the notice. The parties shall review the problems occurring at the licensed premises. Within ten days of this meeting, the licensee shall submit to the Chief and City Attorney an abatement plan to end the alcohol beverage-related violations and enforcement actions on the premises. The plan shall also specify the name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact. Additionally, the plan shall include a signed statement from the licensee indicating their understanding that if they fail to comply with the abatement plan or to take the actions discussed at the meeting, the City may move forward with efforts to revoke, suspend, or not renew their license. An abatement plan shall remain active for one year.

**§ 400-8 Disciplinary procedures.**

**A. Hearings and recommendations.** The Alcohol Licensing Committee is hereby designated as the duly authorized committee that shall hold hearings as prescribed in § 125.12, Wis. Stats. As provided by law, after the hearing the Alcohol Licensing Committee shall submit a report to the City Council, including findings of fact, conclusions of law and a recommendation as to what action, if any, the City Council should take with respect to the license. In making its recommendation, the Committee shall consider, in addition to all other factors it deems relevant, the following guidelines. It is not intended that these guidelines limit the discretion of the Alcohol Licensing Committee, rather that they provide guidance in formulating a recommendation.

(1) For demerit points totaling 25 to 149 within a rolling twelve-month period, a recommendation that the licensee be warned of the consequences of additional violations.

(2) For demerit points totaling 150 to 199 within a rolling twelve-month period, a recommendation of a warning or a suspension of the license for a period of not less than 10 days and up to 90 days.

(3) For demerit points totaling 200 or more within a rolling twelve-month period, a recommendation of a warning or a suspension of the license for a period of not less than 10 days and up to 90 days or of revocation of the license.

**Section 3.** Any person violating the provisions of this Ordinance shall be subject to the penalty provided in Section 1-4 of the Code.

**Section 4.** The appropriate City officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this Ordinance.

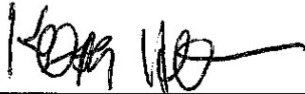
**Section 5.** All other ordinances and resolutions inconsistent with the provisions of this Ordinance are hereby repealed.

**Section 6.** This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

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**ADOPTED:**




**FEB 28 2024**

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Keith Heisler, President  
Fond du Lac City Council

Attest:

City Attorney:



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Margaret Hefter, City Clerk

Reviewed 