

ARTICLE III. ALCOHOLIC BEVERAGES*

DIVISION 1. GENERALLY

Sec. 9-51. Adoption of state law.

(a) The provisions of W.S.A. Chapter 125 relating to the sale of fermented malt beverages and intoxicating liquors, except W.S.A. §125.03, §125.04(11), §125.05, §125.10, §125.11, §125.14, §125.15, §125.56, §125.60, §125.61, §125.62, §125.66(3) and §125.69, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of the statutes, are hereby adopted and made a part of this article by reference. A violation of any such provision shall be a violation of this article. The City elects to operate under W.S.A. §125.51(3)(b).

(b) The forfeiture provisions of §125.07(4)(bs), exclusive of any operating privilege suspension, is hereby adopted and made a part of this section by reference. (Code 1965, §11.03(1); Ord 100-94, §1, 8-3-94)

Sec. 9-52. Operation of premises licensed for retail sales.

All ~~class A and B~~ retail alcohol licenses granted under this article shall be granted subject to the following conditions and all other conditions of this article, and subject to all other ordinances and regulations of the City applicable thereto:

- (1) Every applicant procuring a license thereby consents to the entry of police or other authorized representatives of the City at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there in violation of City ordinances or state laws and consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offense.
- (2) No retail licensee shall ~~employ~~ hire any persons under twenty-one (21) years of age to handle alcohol, except as modified by W.S.A. §125.07(4)(bm).
- (3) No gambling or games of chance shall be permitted upon the licensed premises. Dice, slot machines, or any other devices of chance are prohibited and shall not be kept upon the premises, except those permitted by law.
- (4) No premises for which a Class "B" Fermented Malt Beverage license, "Class B" Intoxicating Liquor license, or "Class C" Wine retail license has been issued shall be

permitted to remain open during the closing hours required by W.S.A. §125.32(3) or W.S.A. §125.68(4), and the premises shall be vacated during such hours.

- (5) Each premises shall be conducted in a sanitary manner and shall be a safe and proper place for the purpose for which used. Effective July 1, 2017, taverns serving no food shall obtain a municipal health permit from the Health Department on an annual basis, pursuant to Sec. 9-190. ~~For the purposes of this section, taverns issued a license under this section are included in the definition of Food Establishment as defined in ATCP 75 Appendix and shall be subject to and comply with the applicable provisions of ATCP 75 Appendix, unless otherwise stated herein.~~ Additionally, the Board of Health may make additional reasonable rules for the sanitation of all places of business possessing licenses under this article. Such rules or regulations may be classified and made applicable according to the class of business conducted. All such rules and regulations shall have the same force as this article and infraction thereof may be punished as a violation of this article. (Ord 78-16, §1, 11-8-16; Ord 10-21, §1, 4-7-21)
- (6) A violation of this article by a duly authorized agent or employee of a licensee or permit holder shall constitute a violation by the licensee or permit holder.
- (7) Class "A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, fermented malt beverages for consumption off the premises between 12 midnight and 8:00 a.m., Central Standard Time. "Class A" retail licensees shall not sell, dispense, give away or furnish, directly or indirectly, intoxicating liquors including wine for consumption off the premises between 9:01 p.m. and 8:00 a.m., Central Standard Time.
- (8) Class "B", "Class B" or "Class C" retail licensees shall not sell, dispense, give away or furnish directly or indirectly fermented malt beverages or intoxicating liquors for consumption off the premises between 12:01 a.m. and 8:00 a.m., Central Standard Time.
- (9) **Abandonment or non-use.** Any licensee granted or issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for

revocation or non-renewal of any alcohol beverage license. In this section “abandon” and “abandonment” shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the city council for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

(10) A retail fermented malt beverage, intoxicating liquor, or wine class A, B or C license shall not be granted to any applicant whereby the applicant had been convicted of selling alcoholic beverages without the proper retail license within the last eighteen (18) months.

(Ord 10-07, §1, 2-13-07; Ord 71-09, §1, 6-9-09; Ord 161-10, §1, 11-23-10; Ord 187-10, §1, 12-7-10)

Sec. 9-53. Adoption of state law regarding sale of alcoholic beverages to intoxicated persons.

W.S.A. §125.07(2) regarding the sale of alcohol beverages to intoxicated persons in violation of this article is hereby adopted by reference and made an offense punishable as a violation of this Code.

(Code 1965, §11.03(9)(a)--(c), (g), (i), (j), (l)--(n); Ord 122-91, §1, 11-6-91; Ord 98-96, §1, 11-20-96)

Sec. 9-54. Demerit point system.

(a) There is hereby established a point system for the purpose of guiding the Safety and Licensing Committee in the suspension or revocation of alcoholic beverage licenses. The number of demerit points is assigned according to the type of violation. This system is intended to identify habitually troublesome liquor licensees who repeatedly violate state statutes and/or City of Appleton ordinances and to take consistent action against such licensees.

(b) There is hereby assigned the following demerit points for each type of violation:

<u>TYPES OF VIOLATIONS</u>	<u>DEMERIT POINTS (per violation)</u>
Refusal to cooperate with Fire Chief, Police Chief or designees	100
Exceeding posted occupancy capacity	80
Exceeding posted occupancy capacity by more than 30%	150
Sale to person under age 21	80
Person under age 21 on premises	80

Sale to intoxicated person	80
False statement on application	70
Operating while license is suspended	200
Unauthorized transfer/use of license	90
Conducting unlawful business	150
No licensed bartender on premises	40
Open after hours / failure to vacate	50
After hours carry-outs	50
Gambling / Gambling paraphernalia on premises	150
Nude or semi-nude entertainer / employee on premises	150

TYPES OF VIOLATIONS

DEMERIT POINTS (per violation)

Failure to display license	25
Owner / Employee selling controlled substances	150
Illegal drug paraphernalia on premises	100
Other acts – failure to maintain order / disorderly conduct, noise complaints, etc.	45
<i>Penalty enhancer for severe offenses</i>	100

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
 (4) demonstrates an ongoing disregard for the requirements of state law or municipal ordinances

HEALTH CODE VIOLATIONS

DEMERIT POINTS (per violation)

Non-critical violation	25
Critical violation	80

(c) **Calculating violations.** In determining the accumulated demerit points, the date of conviction shall be used as the basis for assigning demerit points per violation. Points shall be assigned only after conviction for violations.

(d) **Suspension and revocation of license.** The Police Department shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any licensee.

Following this notification, or the filing of a complaint pursuant to W.S.A. §125.12, the Committee shall hold a hearing if required by W.S.A. §125.12 or this section, and shall take the following action, after first determining the number of demerit points to be assessed against the licensee:

- (1) For demerit points totaling 25-149 within a 24-month period, a warning to the licensee of the consequences of additional violations. The licensee shall appear before the Safety and Licensing Committee and inform the Committee of the licensee's efforts to rectify the issues that caused the imposition of the demerit points.
- (2) For demerit points totaling 150-199 within a 24-month period, suspension of the license for a period of not less than ten (10) days nor more than ninety (90) days.
- (3) For demerit points totaling two hundred (200) or more within an 36-month period, revocation of the license. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.

(e) **Scope.** Nothing in this section shall be construed to conflict with, abridge or modify, the rights or procedures established for revocation or suspension of licenses in W.S.A. §125.12. Notwithstanding the requirements of this section, the Safety and Licensing Committee may require the appearance before it of any licensee at any time.

(f) **Transfer/sale of licensed business.** Upon the transfer or sale of the licensed business, all accumulated demerit points shall be canceled unless any of the following apply:

- (1) The new licensee is related to the former licensee by blood, adoption or marriage;
- (2) The new licensee held a business interest in the previous licensed business, real estate or equipment
- (3) The former licensee or an individual related to the former licensee by blood, adoption or marriage retains an interest in the business, real estate or equipment used by the business;
- (4) The new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the

owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.

If any of the above apply, the new licensee shall inherit the demerit points previously assessed and be subject to the penalties set forth in the code.

(Ord 29-97, §1, 4-2-97; Ord 56-98, §1, 5-20-98, Ord 126-03, §1, 7-22-03, Ord 108-04, §1, 8-10-04; Ord 72-09, §1, 6-9-09; Ord 9-22, §1, 1-19-22; Ord 10-22, §1, 1-19-22)
Editor's Note: Sec. 9-55 Quadricycles repealed via Ord 16-18, effective 2-13-18

Secs. 9-55 – 9-70. Reserved.

DIVISION 2. LICENSES

Sec. 9-71. Persons requiring license.

No person, except as provided by §9-51, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or for the purpose of evading any law or ordinance give away any intoxicating liquor or fermented malt beverage, or cause such acts to be done, without having procured a license or permit as provided in this article, nor without complying with all the provisions of this article and all statutes, ordinances and regulations of the state and City applicable thereto.

(Code 1965, §11.03(2)(a))

Cross reference(s)--Citation for violation of certain ordinances, §1-17; schedule of deposits for citation, §1-18.

Sec. 9-72. Separate license required for each place of sale.

A separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication with the place where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale.

(Code 1965, §11.03(2)(b))

Sec. 9-73. Issuance for residential premises.

No license shall be issued to any person for the purpose of possessing, selling or offering for sale any intoxicating liquor or fermented malt beverage in any dwelling house, flat or residential apartment.

(Code 1965, §11.03(2)(b))

Sec. 9-74. Application.

Application for license to sell or deal in fermented malt beverages or intoxicating liquors shall be made in writing on the forms prescribed by law, shall be sworn to by the applicant as provided in W.S.A. §887.01 through §887.04, and shall be filed with the City Clerk ~~pursuant to not later than April 15, per~~ W.S.A. §125.51(1)(c). Application for

an operator's license shall be made pursuant to W.S.A. §125.04.
(Code 1965, §11.03(5))

Sec. 9-75. Classes of licenses; fees.

(a) There shall be the following classes of licenses, which, when issued by the City Clerk under the authority of the Common Council, after payment of the fee, the amount of which is on file in the City Clerk's Office, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in W.S.A. §125.25, §125.26, §125.27, §125.28 and §125.51.

- (1) Class "A" fermented malt beverage retail license.
- (2) Class "B" fermented malt beverage retail license.
- (3) "Class A" intoxicating liquor retail license.
- (4) "Class B" intoxicating liquor retail license.
 - a. If the City has granted or issued a number of licenses equal to or exceeding the quota established under W.S.A. §125.51, the City may still issue a license for any of the following:
 1. A full service restaurant that has seating for three hundred (300) or more persons.
 - a. The principal business during all hours of operation must be that of a restaurant which serve meals that are primarily prepared individually and served to customers at their table by waitstaff.
 - b. At any given time, three hundred (300) or more persons must be able to be seated for meal service.
 - c. The seating area shall not include outdoor seating, any bar area or any area regularly used for entertainment.
 - d. The business shall only be held out and advertised to the public as a restaurant.
 - e. Any establishment representing itself as a full service restaurant

under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a full service restaurant that has seating for three hundred (300) or more persons.

2. A hotel that has fifty (50) or more rooms of sleeping accommodations and that has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.
 - a. At any given time, one hundred fifty (150) or more persons must be able to be seated for meal service in any attached restaurant.
 - b. The seating area for a restaurant shall not include outdoor seating, any bar area or any area regularly used for entertainment.
 - c. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is a hotel that has fifty (50) or more rooms of sleeping accommodations and that the hotel has either an attached restaurant with seating for one hundred fifty (150) or more persons or a banquet room in which banquets attended by four hundred (400) or more persons may be held.
3. An opera house or theater for the performance arts operated by a nonprofit organization as defined in W.S.A. §134.695(1)(am).

- a. The sale of intoxicating beverages shall only be for consumption on the premises and only in connection with ticketed performances.
 - b. Any establishment representing itself under this subsection shall maintain that status throughout the license period. If the establishment does not maintain its status, the license shall be revoked or not renewed. The burden is on the license holder to provide evidence that the principal business is an opera house or theater for the performance of arts operated by a nonprofit organization.
- (5) Reserve “Class B” intoxicating liquor retail license.
- a. The number of R~~e~~serve “C~~e~~lass B” intoxicating liquor licenses shall be determined pursuant to W.S.A. §125.51(4)(br).
 - b. A R~~e~~serve “C~~e~~lass B” license cannot be transferred to another place or premises.
- (6) “Class C” wine retail license.
- (7) Provisional retail license.
- a. A provisional retail license may be issued by the City Clerk to a person who has applied for a Class “A”, Class “B” or “Class C” license and authorizes only the activities that the type of retail license applied for authorizes.
 - b. A provisional license may not be issued to any person who has been denied a retail license.
 - c. The provisional license expires sixty (60) days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.
 - d. Persons are limited to one (1) provisional license for each type of license applied for by the holder per year.

- (8) Wholesaler’s fermented malt beverage license.
- (9) ~~Temporary Class “B” fermented malt beverage or Temporary “Class B” wine~~ ~~Permit~~ license. A single meeting license may be issued to eligible organizations pursuant to W.S.A. §125.26(6) for a fee of ten dollars (\$10.00). Said license may be issued by the City Clerk upon approval of the appropriate departments and the Safety and Licensing Committee, and after the application has been on file in the City Clerk’s office for ten (10) ~~business~~ days. ~~Any application requesting an open concept license must be approved by the Common Council.~~

(10) Wine/Beer Walks

- a. A “wine walk” or “beer walk” is a single-day event at which participants are served a glass of wine or beer at multiple locations (e.g., jewelry stores, art galleries, clothing boutiques, salons, furniture stores) during their shopping visits.
- b. A qualified organization as specified in ch. 181, Wis. Stats. may be issued a Temporary “Class B” (wine only) or Temporary Class “B” (beer) license to sponsor a wine/beer walk for a specific date and time.
- c. The license includes up to 20 Temporary “Class B” wine or Class “B” beer licenses issued to participating locations for the same date and time.
- d. No more than two (2) “wine walk” Temporary “Class B” licenses may be issued during a 12-month period.
- e. No person may serve wine after 9 p.m. on premises for which Temporary “Class B” licenses for a wine walk are issued.
- f. No person may serve beer after 12 midnight on premises for which Temporary Class “B” beer licenses are issued for a beer walk.

(10) Operator's license.

- a. An operator’s license shall be valid for a two- (2-) year period and shall expire on June 30.
- b. The Clerk shall issue an identification card for operator’s licenses. Lost or stolen licenses may be replaced for a fee, the amount of which is on file in the City Clerk’s Office.
- c. Each new applicant or each applicant who

failed to renew the license shall successfully complete an approved ~~responsible beverage server~~~~bartender's awareness~~ program prior to the issuance of an operator's license, unless the applicant meets one of the requirements listed on W.S.A. §125.185(6).

(Ord 56-16, §1, 9-13-16; Ord 90-20, §1, 7-15-20)

(11) Provisional operator's license.

- a. A provisional operator's license may be issued by the City Clerk to a person who has applied for a beverage operator's license under subsection (10) above.
- b. A provisional license may not be issued to any person who has been denied an operator's license.
- c. The provisional license expires sixty (60) days after its issuance, when a license under subsection a. is issued to the applicant or upon written notice that the Common Council denied the applicant a license, whichever is sooner.
- d. Persons are limited to one (1) provisional license per year.

(12) Temporary operator licenses.

- a. A temporary operator's license may be issued only to operators employed by, or donating their services to, ~~a qualified organization for an event~~~~nonprofit corporations~~. This license may be issued by the City Clerk to a person who has applied for a temporary beverage operator's license, ~~and conforms to the requirements under subsection (10)(e) above~~.
- b. A temporary operator's license shall be valid for any period of one (1) day to fourteen (14) days and the period for which it is valid shall be stated on the license.
- c. No person may hold more than two (2) kinds of this license per year.

(13) Clubs as defined in W.S.A. §125.27.

(b) **Deposit of fee; refunds.** License fees required under this section shall be deposited with the Director of Finance at the time of application and shall be nonrefundable; except that, in the case of a Class "A"

~~fermented malt beverage, "Class A" liquor, and Class "B" fermented malt beverage, "Class B" liquor and "Class C" wine~~ license applications, nonrefundable fees, the amount of which is on file in the office of the City Clerk, for processing and the applicable rate for publication of the application as provided in W.S.A. §125.04(3)(g) shall be ~~required deposited~~ at the time of application, the remainder of the applicable license fee to be ~~required deposited~~ no sooner than fifteen (15) days before issuance.

(c) All license fees for the sale of intoxicating liquor shall be deposited with the Director or Finance at least fifteen (15) days prior to the date the license is to be issued, except for those applicants seeking licenses effective July 1 of any year may make payment of such license fees in cash or by money order if such payment is made and received by the City Clerk's Office on or before June 30 or last business day, whichever is sooner, and such applicant pays a late renewal filing fee per day in an amount on file with the City Clerk for each day such license fee is not paid within said fifteen (15) days prior to issuance.

(d) **Proration of fee.** Licenses may be granted which shall expire on June 30 of each year upon payment of such proportion of the annual license fee as the number of months or fraction of a month remaining until June 30 of each year bears to twelve (12). This section only applies to licenses with an annual cost in excess of one hundred dollars (\$100.00).

(Code 1965, §11.02(1)(b)(11), 11.03(3); Ord 76-90, §1, 9-5-90; Ord 91-90, §1, 10-4-90; Ord 109-90, §1, 12-5-90; Ord 74-91, §1, 8-7-91; Ord 96-91, §1, 9-18-91; Ord 82-92, §§1, 2, 8-5-92; Ord 4-93, §1, 1-6-93; Ord 8-94, §1, 1-5-94; Ord 44-01, §1, 2-12-01; Ord 163-07, §1, 12-25-07; Ord 73-09, §1, 6-9-09; Ord 35-11, §1, 2-8-11; Ord 124-12, §1, 11-27-12)

Cross reference(s)--Citation for violation of certain ordinances, §1-17; ~~schedule of deposits for citation~~, §1-18.

Sec. 9-76. Restrictions on issuance.

(a) No license shall be granted to any person who does not meet the requirements of W.S.A. §125.04(5).

(b) No Class "B" retail license shall be granted for any premises where any other business is to be conducted in connection with the premises, except that such restriction shall not apply to a hotel, to a restaurant not a part of or located in any mercantile establishment, to a combination grocery store and tavern, to a novelty store and tavern, to a bowling alley or recreation premises, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of filing application for such license.

(c) No ~~class A or B~~ retail alcohol license shall be

issued to any person acting as agent for or in the employ of another, except that for Celass "B"/"Class B" retail licenses this restriction shall not apply to a hotel nor to a restaurant not a part of or located in or upon the premises of any mercantile establishment, or to a bona fide club, society or lodge that has been in existence for not less than six (6) months prior to the date of application. Such license for a hotel, restaurant, club, society or lodge may be taken in the name of an officer or manager, who shall be personally responsible for compliance with all of the terms and provisions of this article.

(d) W.S.A. §125.04(6), relating to the issuance of licenses to domestic or foreign corporations shall apply to the issuance of Celass "B" fermented malt beverage and "Celass B" intoxicating liquor retail licenses.

(e) No license shall be granted to any person under twenty-one (21) years of age, except as modified by W.S.A. §125.04(5)(d)2.

(f) No license shall be issued for operation on any premises upon which taxes or assessments or other financial claims of the City are delinquent or unpaid. It shall be the duty of the City Clerk to enforce this provision, in accordance with §9-23(b) of this code.

(g) No license shall be granted to or for any ~~premises, building, room or place~~ in the City wherein for a second time any of the provisions of this article or other provisions of any ordinance relating to the sale, manufacture or possession of fermented malt beverages or intoxicating liquors are violated and the violator convicted therefore, for a period of one (1) year from and after the date of such second violation.

(h) Each premises for which a Celass "B"/"Class B" retail license is granted shall be connected with City water and sewage facilities and shall be properly lighted and ventilated and supplied for each sex with separate sanitary toilet and lavatory facilities equipped with running water. (Code 1965, §11.03(4); Ord 73-91, §§1, 2, 8-7-91; Ord 74-09, §1, 6-9-09)

Sec. 9-77. Investigation of applicant for alcohol licenses~~class B license.~~

(a) **Generally.** The City Clerk shall notify a designee of the Chief of Police, Health Officer, Fire Chief, Director of Community Development, Inspection Supervisor and the Director of Finance of each application for a retail ~~alcohol~~class B license. These officers shall inspect or cause to be inspected each application for a retail ~~alcohol~~class B license and the premises, insofar as the application relates to their respective departments, together with such other investigation as shall be necessary to determine whether the applicant and the

premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall each furnish the City Clerk in writing the information derived from each investigation, accompanied by approval or disapproval as to whether a license should be granted or refused. The City Clerk shall submit this information to the Safety and Licensing Committee of the Common Council for a recommendation to the Common Council for approval or disapproval.

(b) Renewals.

(1) Renewal applications must be received 15 (fifteen) days prior to the third Wednesday in June in order to be considered a renewal. Applications for renewal will not be accepted after this date.

(2) No license shall be renewed without a reinspection of the premises and a report as originally required.

(3) Reinspection of the premises considers the application as it relates to their respective departments, together with such other investigation as shall be necessary to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto, including those governing sanitation in restaurants, and whether the applicant is a proper recipient of a license. These officials shall each furnish the City Clerk in writing the information derived from each investigation, accompanied by a recommendation approval or disapproval as to whether a license should be granted or refused based upon the results of that investigation.

(4) Refusals to renew licenses shall comply with Wis. Stat. Ch. 125. In determining the suitability of an applicant, consideration shall be given to the financial responsibility of the applicant, the appropriateness of the location and premises proposed, and, generally, the applicant's fitness for the trust to be reposed.

(Code 1965, §11.03(6); Ord 32-92, §1, 3-18-92; Ord 4-93, §1, 1-6-93; Ord 173-93, §1, 10-19-93; Ord 176-93, §1, 10-19-93; Ord 121-96, §1, 12-18-96, Ord 108-04, §1, 8-10-04))

Sec. 9-78. Granting; term; transfer.

Opportunity shall be given by the Common Council to any person to be heard for or against the granting of any license under this division. Upon the approval of the application by the Common Council, the City Clerk shall, upon the filing by the applicant of a receipt showing the payment of the required license fee to the Director of Finance, issue a license to the applicant. Each license shall be numbered in the order in which it is issued and shall contain the date of issuance, the fee paid and the name of the licensee. All licenses shall remain in force through June 30 after the granting thereof, unless sooner revoked. No license shall be transferable either as to licensee or location, except as provided by W.S.A. §125.04(12), and

except that the Common Council may authorize a transfer of location if the licensed premises become unsuitable for occupancy.
(Code 1965, §11.03(7); Ord 4-93, §1, 1-6-93)

Sec. 9-79. Appeal of denial.

If the investigating authority denies an application for a license ~~or grant~~ under this division, the City Clerk shall forthwith notify the applicant ~~by certified mail~~ of the recommendation for denial and the reason therefor. The notice shall indicate that the applicant has the right to appeal the decision but must contact the City Clerk's Office within thirty (30) days of receipt of the letter to schedule the appeal before the Safety and Licensing Committee. The Safety and Licensing Committee shall hear any person for or against the granting of the license ~~or grant~~ and shall report its recommendation to the Common Council, which shall grant or deny the license ~~or grant~~.
(Ord 45-01, §1, 2-12-01, Ord 108-04, §1, 8-10-04; Ord 75-09, §1, 6-9-09; Ord 76-15, §1, 9-22-15)

Sec. 9-80. Posting; duplicates.

(a) Every license and permit issued under this division shall be posted while in force in a conspicuous place in the room or place where fermented malt beverages or intoxicating liquors are kept for sale. No person shall post such license or permit or be permitted to post such license or permit upon premises other than those mentioned in the application, knowingly deface or destroy such license or permit, or remove such license or permit without the consent of the licensee or permit holder.

(b) Whenever a license or permit is lost or destroyed without fault of the holder or his agent or employee, a duplicate in lieu thereof under the original application shall be issued by the City Clerk on satisfying himself as to the facts, upon the payment of a fee, the amount of which is on file in the office of the City Clerk.
(Code 1965, §11.03(8); Ord 9-94, §1, 1-5-94)

Sec. 9-81. Revocation.

Any license issued under this division for the sale of fermented malt beverages or intoxicating liquors may be revoked under §9-29, §9-54 or W.S.A. §125.12. No license fee shall be refunded where a license is revoked. Whenever any license is revoked, at least six (6) months from the time of such revocation shall elapse before another license shall be granted for the same premises, and twelve (12) months shall elapse before any other license shall be granted to the person whose license was revoked.
(Code 1965, §11.03(10); Ord 76-09, §1, 6-9-09)

Sec. 9-82. Improper exhibitions.

(a) It shall be unlawful for any person to perform or engage in, 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) Expose his/her genitals, pubic area, perineum, anus, anal cleft or cleavage, anal region or pubic hair region with less than a fully opaque covering; or
- (2) Expose any device, costume or covering which gives the appearance of or simulates genitals, pubic hair, perineum, anal region or pubic hair region; or
- (3) Exposes any portion of the female breast below a point immediately above the top of the areola thereof; or
- (4) Show the covered male genitals in a discernibly turgid state; or
- (5) To engage in or simulate sexual intercourse and/or sexual contact, including the touching of any portion of the female breast or the male and/or female genitals.

(b) For the purposes of this ordinance, the term "licensed premises" means any establishment licensed by the ~~C~~ommon ~~C~~ouncil of the City of Appleton to sell alcohol beverages pursuant to Ch. 125, Stats. The term "licensee" means the holder of a retail "Class A", ~~Class "A"~~, "Class B", Class "B", ~~Class "A"~~, "Class C" license granted by the Common Council of the City of Appleton pursuant to Ch. 125, Stats.

(c) The provisions of this ordinance do not apply to the following licensed premises: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(d) Any person, partnership or corporation who violates any of the provisions of this ordinance shall be subject to penalty as prescribed in §1-18 of this Municipal Code, in addition to liquor license suspension, revocation or renewal as provided by §9-29 of the Code and by §125.12, Wis. Stats. A separate offense shall be deemed committed on each day of which a violation occurs or

continues.

(e) If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

(Ord 95-95, §1. 9-20-95)

Secs. 9-83 - 9-100. Reserved.