



City of Appleton

100 North Appleton Street
Appleton, WI 54911-4799
www.appleton.org

Meeting Agenda - Final Safety and Licensing Committee

Wednesday, February 23, 2022

5:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

2. Roll call of membership

3. Approval of minutes from previous meeting

[22-0205](#) Approval of minutes from previous meeting.

Attachments: [S & L Minutes 1-26-22.pdf](#)

4. **Public Hearings/Apearances**

5. **Action Items**

[22-0046](#) Resolution #1-R-22 Intoxicated Bartender Ordinance

Attachments: [#1-R-22 Intoxicated Bartenders.pdf](#)
[Intoxicated Bartender incidents 2021.pdf](#)

Legislative History

1/26/22 Safety and Licensing Committee held
Motion and second to deny were withdrawn.

Motion to hold until February 23rd to allow for additional revisions carried 5/0.

[22-0208](#) Auto-Aid Addendum with the Neenah/Menasha Fire Rescue

Attachments: [Auto-Aid_Neenah_Menasha_Memo.pdf](#)
[22-0078 - Addendum to Automatic Aid Agrm.pdf](#)
[2011 Auto Aid Agreement MOU.pdf](#)
[2010 Shared Response.pdf](#)

- [22-0209](#) Urban Search and Rescue Contract
- Attachments:** [Urban Search and Rescue Memo.pdf](#)
[Urban Search and Rescue 2022-2024 Agreement.pdf](#)
[2021_Act_104.pdf](#)
- [22-0047](#) Reserve "Class B" Liquor and Class "B" Beer License application for Jackson Investment Group d/b/a Jimmy's on the Ave, April Anderson, Agent, located at 409 W College Ave, contingent upon approval from the Community Development, Health and Inspections departments.
- Attachments:** [Jimmys on the Ave.pdf](#)
- [22-0067](#) Class "B" Beer License application for The Breaking Point d/b/a Breaking Point, Courtney J Hayden, Agent, located at 2011 N Richmond St, contingent upon approval the Health and Inspections departments.
- Attachments:** [Breaking Point.pdf](#)
[Resolution_The Breaking Point SUP#5-21_SIGNED.pdf](#)
[StaffReport Breaking Point SUP For01-12-22.pdf](#)
- [22-0129](#) Class "B" Beer License application for Taco House LLC d/b/a Taco House, Roberto Martinez, Agent, located at 135 E Wisconsin Ave, contingent upon approval from the Finance and Inspections departments.
- Attachments:** [Taco House.pdf](#)
[Resolution_135 E Wisconsin Ave SUP#3-20_SIGNED attached to liquor licen:](#)
- [22-0188](#) Change of Agent application for Aldi Inc d/b/a Aldi #69, Jamison Pierce, New Agent, located at 2310 S Kensington Dr.
- Attachments:** [Jamison Pierce S&L.pdf](#)
- [22-0189](#) Change of Agent application for Aldi Inc d/b/a Aldi #68, Michael J Haash, New Agent, located at 116 N Linwood Ave.
- Attachments:** [Michael J Haasch S&L.pdf](#)
- [22-0083](#) Cigarette License application for Fox River House LLC d/b/a Fox River House, Cassidy Evers, Agent, located at 211 S Walnut St.
- Attachments:** [Fox River House S&L.pdf](#)

6. Information Items

[22-0052](#)

Special Events:

Rally for Fair Maps, End Gerrymandering, Fair Maps Team, Houdini Plaza,
January 21, 2022

Missing, Murdered Indigenous Women, Girls and 2 Spirits, Houdini Plaza,
February 14, 2022

Avenue of Ice, Creative Downtown Appleton, College Ave amenity strip,
beginning on February 18, 2022

[22-0206](#)

Police Department Information on alcohol law violations.

[22-0207](#)

Director's Reports

1. City Clerk

- Spring Election updates

2. Police Chief

- Squad design change for special vehicles
- CCRT update
- Staffing update

3. Fire Chief

7. Adjournment

Notice is hereby given that a quorum of the Common Council may be present during this meeting, although no Council action will be taken.

Reasonable Accommodations for Persons with Disabilities will be made upon Request and if Feasible.



City of Appleton

100 North Appleton Street
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Meeting Minutes - Final Safety and Licensing Committee

Wednesday, January 26, 2022

5:30 PM

Council Chambers, 6th Floor

1. Call meeting to order

2. Roll call of membership

Present: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

3. Approval of minutes from previous meeting

[22-0048](#)

Approval of minutes from previous meeting.

Attachments: [S & L Minutes 1-12-22.pdf](#)

Hartzheim moved, seconded by Schultz, that the Minutes be approved. Roll Call. Motion carried by the following vote:

Aye: 4 - Reed, Schultz, Smith and Hartzheim

Absent: 1 - Van Zeeland

4. **Public Hearings/Appearances**

5. **Action Items**

[21-1744](#)

Class "B" Beer and "Class C" Wine License application for Alpine Swift LLC, Adam Marty, Agent, located at 1016 E Pacific St, contingent upon approval from all departments.

Attachments: [Alpine Swift LLC.pdf](#)
[StaffReport AlpineSwift SUP For01-12-22.pdf](#)
[Resolution AlpineSwift SUP#4-21_SIGNED.pdf](#)

Hartzheim moved, seconded by Smith, that the license be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[22-0046](#)

Resolution #1-R-22 Intoxicated Bartender Ordinance

Attachments: [#1-R-22 Intoxicated Bartenders.pdf](#)
[Intoxicated Bartender incidents 2021.pdf](#)

Motion and second to deny were withdrawn.

Motion to hold until February 23rd to allow for additional revisions carried 5/0.

Schultz moved, seconded by Reed, that the Resolution be held. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[22-0061](#)

Request for Nuisance Ordinance Update

Attachments: [Nuisance Ordinance Memo revised .pdf](#)

Hartzheim moved, seconded by Schultz, that the Ordinance update be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[22-0007](#)

Reserve "Class B" Liquor License application for Souvannapha Chomsisengphet d/b/a Basil Cafe, located at 1513 N Richmond St, contingent upon approval from all departments.

Attachments: [Basil Cafe.pdf](#)

This Report Action Item was recommended for approval

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[21-1789](#)

"Class A" Liquor License application for Banee Corporation d/b/a Appleton Mobil, Parmeet Arora, Agent, located at 1717 W College Ave, contingent upon approval from all departments.

Attachments: [Appleton Mobil.pdf](#)

Hartzheim moved, seconded by Reed, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[22-0030](#)

Temporary Class "B" Beer and "Class B" Wine License application for St. Pius X, Gerry Graphos, Person in Charge, located at 500 W Marquette St, contingent upon approval from all departments.

Attachments: [St Pius X Valentines Dinner S&L.pdf](#)

Hartzheim moved, seconded by Reed, that the Report Action Item be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

[22-0050](#)

Proposal to Modify the Duration of Farm Market Licenses.

Attachments: [1-26-22 Farm Market License Change.pdf](#)

Hartzheim moved, seconded by Reed, that the Farm Market License modification be recommended for approval. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

6. Information Items

[22-0064](#)

Alcohol License Application Review Process

Attachments: [S&L - Alcohol License Application Review Process - NJV 01-25-2022.pdf](#)

[22-0052](#)

Special Events:

Rally for Fair Maps, End Gerrymandering, Fair Maps Team, Houdini Plaza, January 21, 2022

Avenue of Ice, Creative Downtown Appleton, College Ave amenity strip, beginning on February 18, 2022

[22-0051](#)

Police Department information on alcohol law violations.

[22-0049](#)

Director's Reports

7. Adjournment

Hartzheim moved, seconded by Reed, that the meeting be adjourned at 6:23 p.m. Roll Call. Motion carried by the following vote:

Aye: 5 - Reed, Schultz, Van Zeeland, Smith and Hartzheim

Resolution #1-R-22
Intoxicated Bartender Ordinance

Submitted By: Alderperson Smith

Date: 1/19/2022

Referred To: Safety & Licensing Committee

Whereas a need has been identified,

Be it resolved that the following resolution is submitted,

It shall be unlawful for the licensee or any employee of a licensed establishment to be under the influence of an intoxicant while performing alcohol beverage services on the licensed premises. Under the influence means that the individual has a blood alcohol content of 0.08 or more or otherwise has consumed a sufficient amount of alcohol, controlled substance, or combination of alcohol and controlled substances or any other drug, to cause the individual to be less able to exercise clear judgement and reasonable care in the exercise of services performed. If a law enforcement officer has probable cause that a violation of this section has occurred, the officer, prior to an arrest, may request the individual to provide a sample of his or her breath for a preliminary breath screening test using a device approved by the State of Wisconsin for this purpose. The officer may request the individual to provide subsequent sample(s) of his or her breath if the officer has probable cause to conduct further preliminary breath screening test(s). The result of the preliminary breath screening may be used by the law enforcement officer for the purpose of deciding whether or not the person shall be arrested for a violation of this section. Refusal to submit to a requested test may be considered by the Common Council as grounds for revocation, suspension, non-issuance, or non-renewal of the server's operator's license.



“Excellence in Police Service”

Chief Todd Thomas
Appleton Police Department

222 South Walnut Street • Appleton, WI 54911-5899
(920) 832-5500

To: Chairperson Katie Van Zeeland, Safety and Licensing Committee
Aldersperson Mike Smith

From: Chief Todd Thomas

Date: January 24, 2022

Subject: **Incidents involving intoxicated bartenders - 2021**

Council Members,

Lt. Adam Nagel did research into the number of incidents where we needed to act on a bartender who was intoxicated. I attached the information he was able to locate, we know there were other incidents that did not rise to the level of a report or citation.

05/17/21

Appleton Officers responded to a disturbance at a bar on N. Richmond St. The bartender and patron were both involved in a physical fight. Both the bartender and patron were cited for Disorderly Conduct. The bartender submitted to a PBT which read 0.197. The officer indicated that alcohol was a contributing factor in the fight.

05/23/21

Appleton Officer conducts a traffic stop on a downtown bartender around bar close. Bartender smelled like alcohol. He claimed it was due to bartending and he had not been drinking. Bartender was arrested for OWI. The blood test came back at 0.202.

05/28/21

Appleton Officers responded to an anonymous complaint of a “very” intoxicated bartender at N. Richmond St bar. They arrived and observed the bartender was extremely intoxicated. They described her as being in no condition to be serving alcohol. She submitted to a PBT which read 0.245.

07/25/21

Appleton Officers responded to a complaint of loud music coming from W College Ave bar. Officers arrived at the bar and observed loud noise. Officers had contact with someone identifying themselves as the owner of the bar. This person had slurred speech and appeared to be highly intoxicated. When asked to vacate the bar at bar close, they argued with officers and were eventually cited for failing to vacate the bar. A PBT sample was not obtained.



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11/04/21

Appleton Officers received a complaint for a welfare check at a College Ave. bar. An anonymous person called dispatch and had a concern about an intoxicated bartender. Officers contacted the bartender. She was described as having slurred speech, redness in her eyes and was stumbling as she walked. The bartender in this case did not submit to a PBT and closed the bar.

12/30/21

At approximately 0255hrs officers noticed that an E Wisconsin Ave bar still had its lights and the OPEN sign on. When they arrived, they found multiple intoxicated people inside the bar. This included a person walking out of the business with two 24 packs of beer. The bar manager and an underage bartender were both intoxicated and no position to safely serve alcohol. Multiple citations issued. Both refused PBTs.

Lt. Nagel also spoke with the Neenah City Attorney about their ordinance. The Neenah ordinance was passed in 2013, before the current attorney was in their position. They looked through the notes for the council meeting at the time and were not able to find a specific reason for enacting the ordinance. They were clear that they don't randomly walk into establishments and PBT bartenders, and he is not aware of any citations being given, but they have used it a few times for educational purposes.

If the ordinance is passed by the council, we would anticipate the same approach. We would investigate only on a complaint or if we are in the establishment for another reason and have probable cause to believe that a bartender is in violation of the ordinance.

Chief Todd Thomas

CITY OF APPLETON

FIRE DEPARTMENT

 700 N. Drew Street
Appleton, WI 54911

 (920) 832-5810

 (920) 832-5830

 jeremy.hansen@appleton.org

MEMORANDUM

February 17, 2022

To: Katie Van Zeeland, Chair – Safety & Licensing Committee and Common Council
From: Jeremy Hansen, Fire Chief
Cc: Ryan Weyers, Deputy Fire Chief
Re: Addendum to Auto-Aid Agreement between City of Appleton and the Cities of Neenah and Menasha

In May 2012, the Appleton Fire Department (AFD) finalized an automatic assistance agreement (auto-aid) with the Cities of Neenah and Menasha, specifically, Neenah/Menasha Fire Rescue (NMFR). The auto-aid agreement, in partnership with Outagamie and Winnebago County Communication Centers, automatically dispatched the closest unit(s), regardless of municipal boundaries, for fire and emergency medical incidents through computer-aided dispatch (CAD). This process was seamless when both counties had the same CAD software. Aid agreements are developed when the agencies provide like services. This is done so community members do not see a deviation in the level of service they receive from the other organization.

The Outagamie County Communications Center switched to a new CAD software in June 2018. The interface between the two county's CAD software no longer communicated. Staff from the two counties, software vendors, and multiple fire departments worked diligently over the past 3.5 years to reinstitute auto-aid between the communities. As of January 2022, the CAD systems are interfacing, and auto-aid is working for many of the fire departments on the borders of Outagamie and Winnebago County. It should be noted that mutual aid, when a fire department requests another agency to respond into their community, has continued to operate without interruption.

The AFD upgraded our medical service level from Emergency Medical Responder (EMR) to Emergency Medical Technician (EMT) in January 2021. NMFR continues to practice at the EMR level. The AFD is requesting approval to amend the auto-aid agreement (see Addendum to Auto-Aid Agreement) to include auto-aid for fire response only. This is like what is in place between the AFD and the Town of Grand Chute Fire Department on the west and northwest sides of the city.

Lastly, the AFD and NMFR agree that either agency can request assistance for fire and emergency medical response through a mutual aid request to their respective dispatch center.

If you have any questions or concerns, please do not hesitate to contact me at (920) 832-5810. Thank you for your consideration.



**AMENDMENT to
MEMORANDUM OF UNDERSTANDING FOR
AGREEMENT FOR AUTOMATIC ASSISTANCE
between the cities of
NEENAH and MENASHA and APPLETON**

I. THE PARTIES

- 1.01 Appleton Fire Department, with offices at 700 North Drew Street, Appleton, Wisconsin 54911 (“AFD”)
- 1.02 Neenah Menasha Fire Rescue, with offices at 1254 East Columbian Avenue, Neenah, Wisconsin 54956 (“NMFR”).

II. THE RECITALS

- 2.01 AFD and NMFR entered into an agreement for automatic assistance with an effective date of June 1, 2011.
- 2.02 The Chiefs of AFD and NMFR entered into a memorandum of understanding for the agreement for automatic assistance with an effective date of May 10, 2012.
- 2.03 AFD and NMFR mutually agree to continue this agreement for the mutual benefit of all communities.

III. THE AGREEMENT

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

The Recitals are hereby made a part of the Agreement.

- 3.01 The following section shall be **struck and removed** from the memorandum of understanding:

Emergency Medical Services (EMS) (E Edward Incidents) First Responder:

- A. NMFR will provide the following to the City of Appleton:

(1) One Engine staffed with a minimum of three qualified firefighters –
(Area as defined on attached map.)

B. City of Appleton will provide the following to NMFR:

(1) One Engine staffed with a minimum of three qualified firefighters –
(Area as defined on attached map.)

3.02 All other previously agreed upon terms and conditions remain unchanged.

IV. MISCELLANEOUS

4.01 In the event that any part of this Agreement is found to be illegal, it shall be stricken from the Agreement and the Agreement interpreted as if that clause did not exist.

4.02 This Agreement may be executed in several counterparts, either by original signature or verified electronic signature, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. The headings in this Agreement are inserted for convenience of reference only and shall not constitute a part hereof.

4.03 This Agreement may be supplemented or amended only by written instrument executed by the parties affected by such supplement or amendment.

IN WITNESS WHEREOF, the parties have caused the forgoing instrument to be executed on this _____ day of _____, 2022.

City of Appleton

By: _____
Jacob A. Woodford, Mayor

Attest: _____
Kami Lynch, City Clerk

Approved as to form:

Appleton Fire Department

Christopher R. Behrens, City Attorney
CL: A22-0078

Jeremy Hansen, Fire Chief

City of Neenah

By: _____
Dean R. Kaufert, Mayor

Attest: _____
Charlotte Nagel, City Clerk

Approved as to form:

Neenah Menasha Fire Rescue

Adam J. Westbrook, City Attorney

Kevin Kloehn, Fire Chief

City of Menasha

By: _____
Donald Merkes, Mayor

Attest: _____
Haley Krautkramer, City Clerk

Approved as to form:

Pamela Captain, City Attorney

AGREEMENT FOR AUTOMATIC ASSISTANCE

CITIES OF NEENAH AND MENASHA AND CITY OF APPLETON

THIS AGREEMENT entered into this 20th day of May, 2011 by and between the Cities of Neenah and Menasha and City of Appleton hereinafter referred to as "Neenah and Menasha" and "City of Appleton" (respectively), each of which are Wisconsin municipal corporations; and each acting herein through their duly authorized officials.

WITNESSETH:

WHEREAS the governing officials of the governmental entities set forth above, political subdivisions of the State of Wisconsin and the United States of America, desire to secure for each entity the benefits of assistance in the protection of life and property from fire and other disasters;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. In consideration for each party's automatic assistance to the other upon the occurrence of an emergency condition and/or hazardous situation in any portion of the designated area where this Agreement for Automatic Assistance is in effect, a predetermined number of fire fighting equipment and/or emergency medical equipment or personnel of both parties shall be dispatched, to such point where the emergency condition and/or hazardous situation exists in order to assist in the protection of life and property subject to the conditions hereinafter stated. For the purpose of this agreement, "emergency condition" shall include any condition requiring fire protection or emergency medical services, or both.

Details as to amounts and types of assistance to be dispatched, methods of dispatching and communications, training programs and procedures and areas to be assisted will be developed by the Chief of the Neenah and Menasha Fire Rescue (NMFR) and the Chief of the Appleton Fire Department (AFD). These details will be stipulated in a Memorandum of Understanding and signed by the Chiefs of both departments. Said Memorandum of Understanding may be revised or amended at any time by mutual agreement of the Fire Chiefs as conditions may warrant.

2. Any dispatch of equipment and personnel pursuant to this Agreement shall be sent, unless such amount of assistance is unavailable due to emergency conditions and/or hazardous situations confronting either party's forces at the time of need for assistance under this Agreement.
3. Each party to this Agreement waives all claims against the other party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this Agreement. However, this waiver shall not apply to those cases in which the claim results from the failure of either party to accept responsibility for any civil liability for which a requesting party is responsible.

4. Neither party shall be reimbursed by the other for costs incurred pursuant to this Agreement. Personnel who are assigned, designated or ordered by their governing body to perform duties, pursuant to this Agreement, shall receive the same salary, pension, and all other compensation and rights for the performance of such duties, including injury or death benefits, and Worker's Compensation benefits, as though the service had been rendered within the limits of the entity where he or she is regularly employed. Moreover, all medical expenses; wage and disability payments; pension payments; damage to equipment and clothing; and expenses of travel; food; and lodging shall be paid by the entity in which the employee in question is regularly employed.
5. All equipment used by each party's fire department in carrying out this Agreement will, during the time response services are being performed, be owned by it; and all personnel acting for the party's fire department under this Agreement will, during the time response services are required, be firefighters of the fire department of the party where they are regularly employed.
6. At all times while equipment and personnel of either party's fire department are traveling to, from, or within the geographical limits of the other party in accordance with the terms of this Agreement, such personnel and equipment shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the party which regularly employs such personnel and equipment. Further, such equipment and personnel shall be deemed to be engaged in a governmental function of its governmental entity.
7. In the event that any individual performing duties subject to this Agreement shall be cited as a defendant party to any state or federal civil lawsuit, arising out of his or her official acts while performing duties pursuant to the terms of this Agreement, such individual shall be entitled to the same benefits that he or she would be entitled to receive had such civil action arisen out of an official act within the scope of his or her duties as a member of the department where regularly employed and occurred within the jurisdiction of the governmental entity where regularly employed. The benefits described in this paragraph shall be supplied by the party where the individual is regularly employed. However, in situations where the other party may be liable, in whole or in part, for the payment of damages then the other party may intervene in such cause of action to protect its interests.
8. It is agreed by and between the parties hereto that any party hereto shall have the right to terminate this Agreement upon ninety (90) days written notice to the other party hereto.
9. It is understood and agreed that both parties have heretofore entered into an "Agreement for Automatic Aid", effective on or before June 1, 2011. However, as to any mutual assistance between the parties arising out of the occurrence of an emergency condition and/or hazardous situations in the areas described in the Memorandum of Understanding, the conditions and obligations of this Agreement shall take precedence over the conditions and obligations of all other agreements.

10. Each party agrees that if legal action is brought under this Agreement, exclusive venue shall lie in the county where the emergency condition and/or hazardous situations occurred.
11. In case one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
12. Effective date of this Agreement shall be on the last date of the signature of any party hereto.

EXECUTED by the Cities of Neenah and Menasha and City of Appleton, each respective governmental entity acting by and through its Administrator or other duly authorized official in the manner required by each respective City, or otherwise as required by law, on the date hereinbelow specified.

Executed this 10th day of May, 2011.

City of Neenah

George Scherck
 Mayor George Scherck

Attest: Patricia A. Sturn
 City Clerk Patricia Sturn

City of Appleton

Timothy Hanna
 Mayor Timothy Hanna

Attest: Cindi Hesse
 City Clerk Cindi Hesse

City of Menasha

Don Merkes
 Mayor Don Merkes

Attest: Deborah A. Galeazzi
 City Clerk Deborah Galeazzi

Neenah Menasha Fire Rescue

Al Auxier
 Fire Chief Al Auxier

Appleton Fire Department

Len Vander Wyst
 Fire Chief Len Vander Wyst

Approved as to form:

James Walsh
 Appleton City Attorney James Walsh

Jim Godlewski
 Neenah City Attorney Jim Godlewski

Pamela Captain
 Menasha City Attorney Pamela Captain

MEMORANDUM OF UNDERSTANDING AGREEMENT FOR AUTOMATIC ASSISTANCE
BETWEEN THE NEENAH MENASHA FIRE RESCUE AND THE CITY OF APPLETON FIRE
DEPARTMENT

This Memorandum of Understanding is authorized by the Agreement for Automatic Assistance dated 10/10/11 approved by the Cities of Appleton, Neenah, and Menasha.

The purpose of this Memorandum of Understanding is to outline the procedures for implementing an Automatic Assistance response between the Neenah Menasha Fire Rescue, hereinafter referred to as "NMFR" and the City of Appleton Fire Department, hereinafter referred to as "City of Appleton". This Memorandum is a supplement to the Agreement for Automatic Assistance. In the event this Memorandum of Agreement conflicts with the Agreement for Automatic Assistance, the "Agreement for Automatic Assistance shall be controlling."

Terms

The terms and conditions of this Memorandum of Agreement terminate automatically upon the termination of the Agreement for Automatic Assistance.

Amount and Time of Assistance

This Agreement is for the exchange of fire and/or EMS service in specified response areas. Fire apparatus will respond on all reported structure fires and emergency medical (~~E-Edward~~) type incidents as assigned per CAD designation.

Response Areas:

Structure Fire Response

A. NMFR will provide the following to the City of Appleton:

- (1) One Engine staffed with a minimum of three qualified firefighters – (**Area as defined on attached map.**)

B. City of Appleton will provide the following to NMFR:

- (1) One Engine staffed with a minimum of three qualified firefighters – (**Area as defined on attached map.**)

Emergency Medical Services (EMS) (~~E-Edward Incidents~~) First Responder:

A. NMFR will provide the following to the City of Appleton:

- (1) One Engine staffed with a minimum of three qualified firefighters – (*Area as defined on attached map.*)

B. City of Appleton will provide the following to NMFR:

- (1) One Engine staffed with a minimum of three qualified firefighters – (*Area as defined on attached map.*)

Limitations

If the agreed upon response from either department is not available or is temporarily depleted, the assisting department need not respond. However, if a fill-in company is in quarters at a fire station that is part of this Agreement, that company will respond. If the response is not available, the other party will be notified immediately.

Training

Joint training exercises are to be conducted, at a minimum, semiannually. The training exercises will be coordinated and observed by the respective department training officers, for the purpose of maintaining coordination in firefighting procedures, dispatching and communications.

Communications

Communications for dispatch centers will be via the Outagamie County and/or Winnebago County Communication Center and each respective department's for the initial dispatch of incidents. Communications to the respective Communication Center to mobile units and fire ground personnel utilizing portable radios will be on the radio frequencies utilized by the Department in whose jurisdiction in which the emergency incident occurs.

Communications procedures and documents will be provided at the initial training session and updated as needed thereafter. Maintenance and replacement of radios will be the responsibility of the Department that owns the radios.

Dispatch to Emergencies

Upon receipt of an alarm in any of the designated response areas, the Communications Center receiving the alarm will dispatch the proper assignment. Should the agreed upon assistance not be available, the requesting department will be so notified.

Incident Command

The officer on the first arriving company will establish command of the incident until relieved by the appropriate authority. The fire department, in the City at which the incident occurs,

shall upon arrival at the scene, communicate with the initial Incident Commander for a situational update, then assume Command of the incident thereafter.

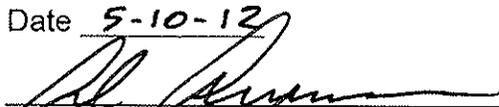
Fire Incident Reporting

Each department will be responsible for obtaining needed information to complete fire and emergency medical service reports for incidents within their respective jurisdictions. Units assisting in the incident shall cooperate with the agency in charge to provide any necessary information. Fire investigations are the responsibility of the respective jurisdiction, and responding agencies will cooperate in the investigation.

Revisions

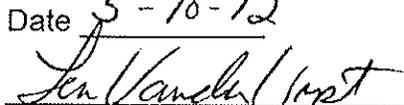
This Memorandum of Understanding may be revised or amended at any time by mutual agreement of the Fire Chief of the Neenah Menasha Fire Rescue and the Fire Chief of the City of Appleton.

Date 5-10-12



Al Auxier, Fire Chief – Neenah Menasha Fire Rescue

Date 5-10-12



Len Vander Wyst, Fire Chief – City of Appleton Fire Department.

MEMORANDUM OF UNDERSTANDING AGREEMENT FOR AUTOMATIC ASSISTANCE
BETWEEN THE NEENAH MENASHA FIRE RESCUE AND THE CITY OF APPLETON FIRE
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- (1) One Engine staffed with a minimum of three qualified firefighters – (*Area as defined on attached map.*)

B. City of Appleton will provide the following to NMFR:

- (1) One Engine staffed with a minimum of three qualified firefighters – (*Area as defined on attached map.*)

Limitations

If the agreed upon response from either department is not available or is temporarily depleted, the assisting department need not respond. However, if a fill-in company is in quarters at a fire station that is part of this Agreement, that company will respond. If the response is not available, the other party will be notified immediately.

Training

Joint training exercises are to be conducted, at a minimum, semiannually. The training exercises will be coordinated and observed by the respective department training officers, for the purpose of maintaining coordination in firefighting procedures, dispatching and communications.

Communications

Communications for dispatch centers will be via the Outagamie County and/or Winnebago County Communication Center and each respective department's for the initial dispatch of incidents. Communications to the respective Communication Center to mobile units and fire ground personnel utilizing portable radios will be on the radio frequencies utilized by the Department in whose jurisdiction in which the emergency incident occurs.

Communications procedures and documents will be provided at the initial training session and updated as needed thereafter. Maintenance and replacement of radios will be the responsibility of the Department that owns the radios.

Dispatch to Emergencies

Upon receipt of an alarm in any of the designated response areas, the Communications Center receiving the alarm will dispatch the proper assignment. Should the agreed upon assistance not be available, the requesting department will be so notified.

Incident Command

The officer on the first arriving company will establish command of the incident until relieved by the appropriate authority. The fire department, in the City at which the incident occurs,

shall upon arrival at the scene, communicate with the initial Incident Commander for a situational update, then assume Command of the incident thereafter.

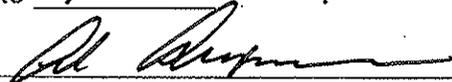
Fire Incident Reporting

Each department will be responsible for obtaining needed information to complete fire and emergency medical service reports for incidents within their respective jurisdictions. Units assisting in the incident shall cooperate with the agency in charge to provide any necessary information. Fire investigations are the responsibility of the respective jurisdiction, and responding agencies will cooperate in the investigation.

Revisions

This Memorandum of Understanding may be revised or amended at any time by mutual agreement of the Fire Chief of the Neenah Menasha Fire Rescue and the Fire Chief of the City of Appleton.

Date 5-10-12

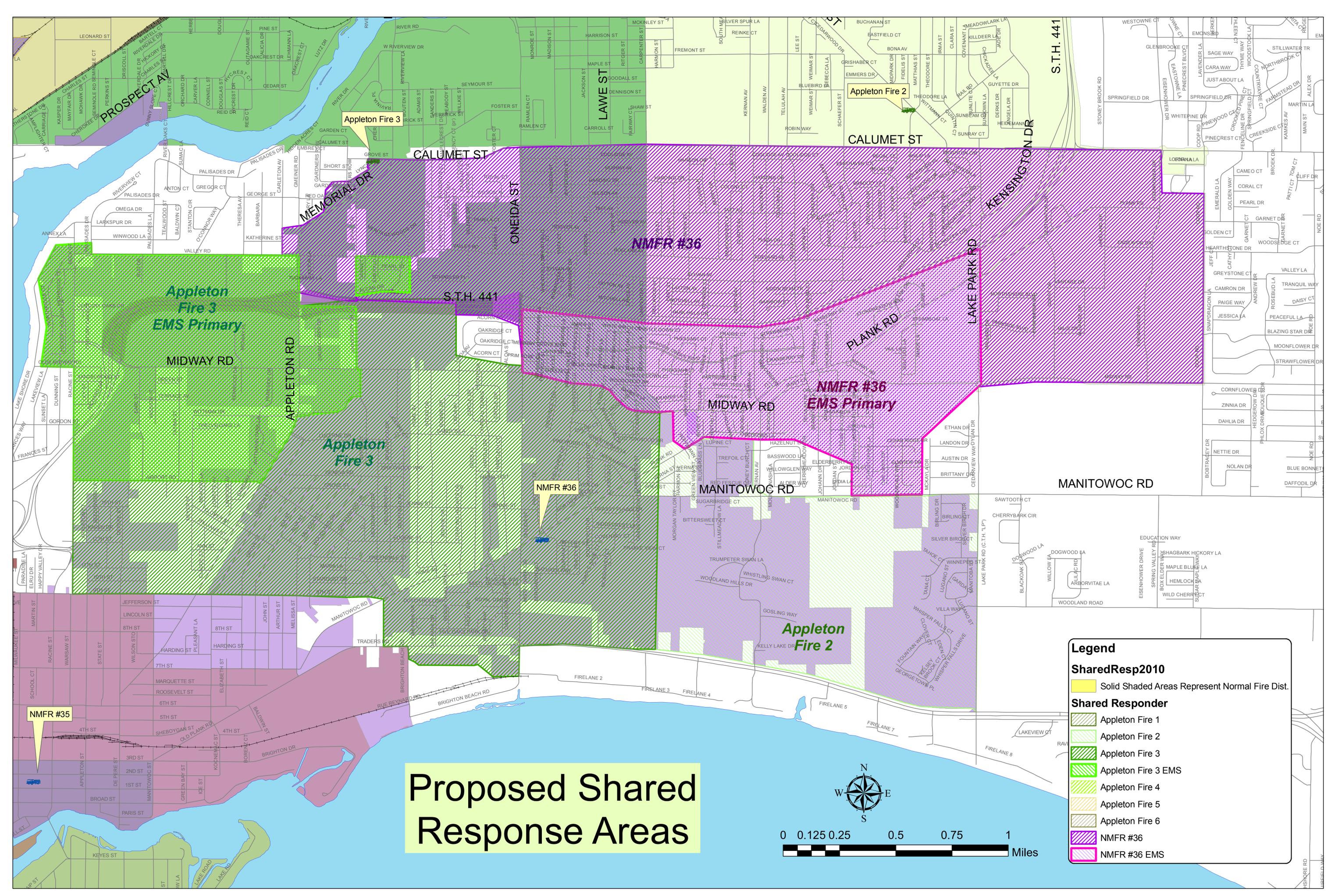


Al Auxier, Fire Chief – Neenah Menasha Fire Rescue

Date 5-10-12



Len Vander Wyst, Fire Chief – City of Appleton Fire Department.



Proposed Shared Response Areas

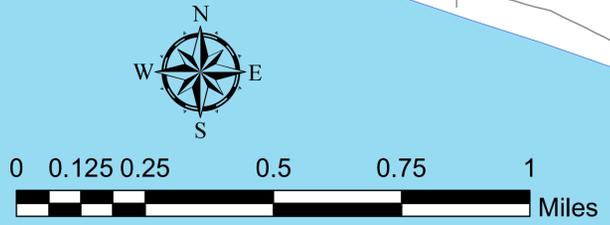
Legend

SharedResp2010

- Solid Shaded Areas Represent Normal Fire Dist.

Shared Responder

- Appleton Fire 1
- Appleton Fire 2
- Appleton Fire 3
- Appleton Fire 3 EMS
- Appleton Fire 4
- Appleton Fire 5
- Appleton Fire 6
- NMFR #36
- NMFR #36 EMS



NMFR #35

NMFR #36

NMFR #36

NMFR #36 EMS Primary

Appleton Fire 2

Appleton Fire 3 EMS Primary

Appleton Fire 3

Appleton Fire 2

Appleton Fire 3

S.T.H. 441

S.T.H. 441

MANITOWOC RD

MANITOWOC RD

MIDWAY RD

MIDWAY RD

PLANK RD

LAKE PARK RD

KEWINGTON DR

CALUMET ST

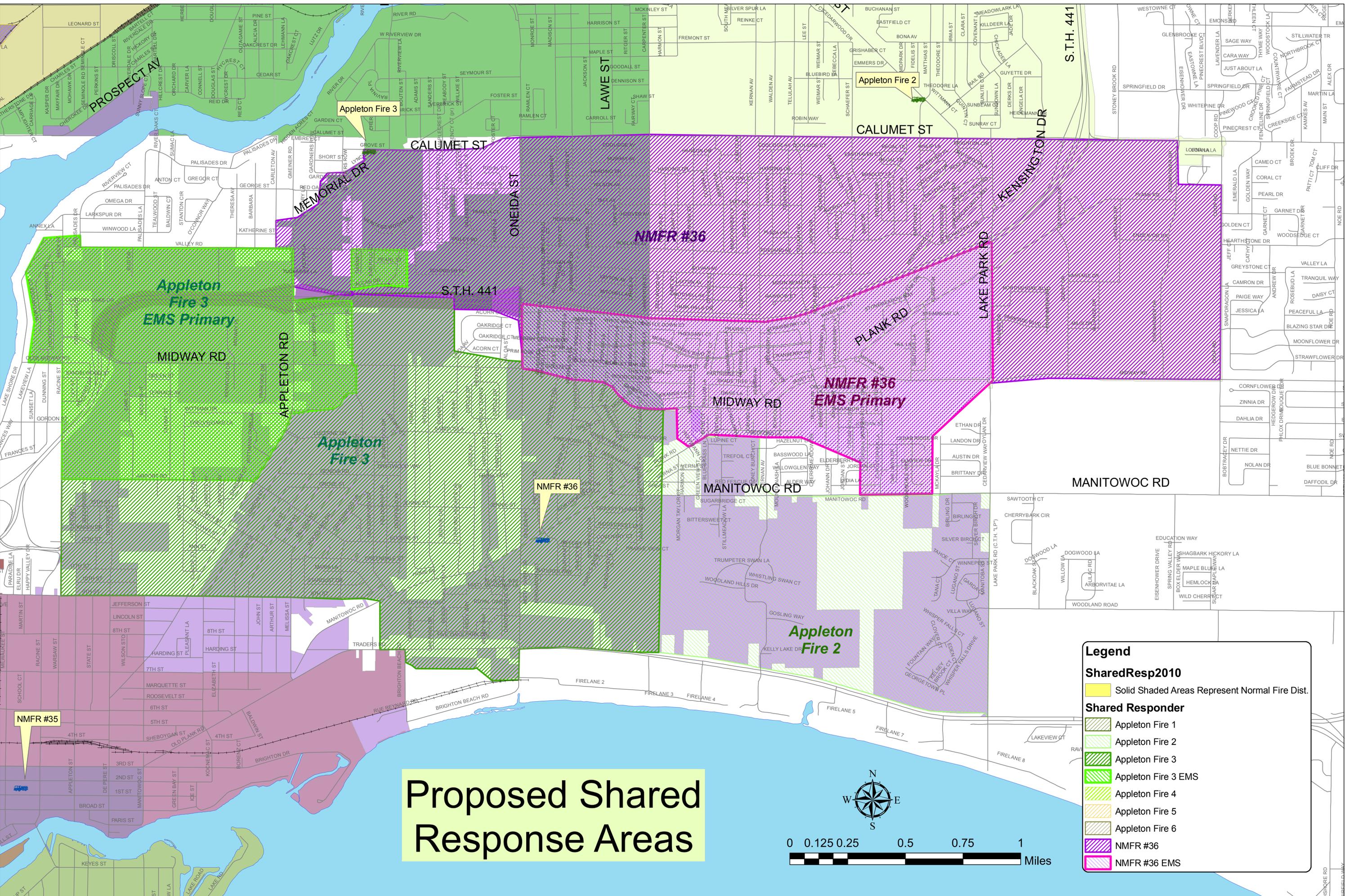
CALUMET ST

LAWE ST

PROSPECT AV

MEMORIAL DR

ONEIDA ST



CITY OF APPLETON

FIRE DEPARTMENT

 700 N. Drew Street
Appleton, WI 54911

 (920) 832-5810

 (920) 832-5830

 jeremy.hansen@appleton.org

MEMORANDUM

February 17, 2022

To: Katie Van Zeeland, Chair – Safety & Licensing Committee and Common Council
From: Jeremy Hansen, Fire Chief
Cc: Ryan Weyers, Deputy Fire Chief
Re: Agreement for Urban Search and Rescue Emergency Response Services

Wisconsin urban search and rescue emergency response capability began in 2009. Wisconsin Emergency Management (WEM) and the Department of Military Affairs (DMA) contracts with local agencies to supply team members. A member of the team must meet the structural collapse requirements under the National Fire Protection Association standards.

The Appleton Fire Department (AFD), along with 10 other fire departments, participated in the urban search and rescue team from its inception until the contract expired in 2019. The 11 participating municipalities sought changes to the contract. These changes included modifications to the reimbursement process, duty disability and workers compensation language, and redefining the scope of the team. The team's scope expanded from structural collapse rescue to an all-hazard urban search and rescue team mirroring the Federal Emergency Management Agency (FEMA) definition. Each of these changes required legislative action and were successfully implemented when Governor Evers signed Act 104 into law in December 2021. The urban search and rescue team is now referred to as Wisconsin Task Force 1 (WI-TF1).

The AFD provided 18 members to the urban search and rescue team prior to 2019. The AFD desires to commit 20 members to WI-TF1. Each member will be credentialed in advanced rope rescue, confined space rescue, trench rescue, water rescue, large area search, and structural collapse (approximately 400 hours). All training backfill is reimbursed, along with costs associated with deployment. Many of our staff already have the training from their affiliation prior to 2019.

The AFD strongly desires to, once again, be part of WI-TF1, as State of Wisconsin deployable assets that can be mobilized and deployed to aid a community in need. The additional skills will not only be used with the task force but also used within the city for all hazard type responses.

If you have any questions or concerns, please do not hesitate to contact me at (920) 832-5810. Thank you for your consideration.



**AGREEMENT FOR URBAN
SEARCH AND RESCUE EMERGENCY
RESPONSE SERVICES**

April 1, 2022, through June 30, 2024

Between

**STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

And

[municipality]

This agreement (Agreement) is by and between the State of Wisconsin through the Department of Military Affairs (the Department), Division of Emergency Management (the Division) and [MUNICIPALITY], Wisconsin (Participating Agency), a Local Agency, regarding the provision of personnel by Participating Agency to a statewide urban search and rescue team created pursuant to Wis. Stat. § 323.72(1). The Division and Participating Agency are each a Party and, collectively, the Parties.

RECITALS

- 1.0 To protect life and property against the dangers of emergencies, the Division has, pursuant to Wis. Stat. § 323.72(1), established a US&R team that can be deployed to provide Services in response to Emergencies.
- 2.0 The Division desires to enter into this Agreement with Participating Agency for the purpose of having Participating Agency supply qualified employees to serve on such a team and Participating Agency desires to provide such employees.

NOW THEREFORE, for the mutual promises set forth below, the Parties agree as follows:

TERMS AND CONDITIONS

- 1.0 **Recitals:** The Recitals are incorporated by reference.
- 2.0 **Definitions:** The following definitions are used throughout this Agreement:
 - 2.1 “Advisory Committee” means the WI-TF1 Advisory Committee established by this Agreement and consisting of five or seven members appointed by the Board of Directors of the Wisconsin State Fire Chiefs’ Association.
 - 2.2 “All-Hazards” means the grouping classification encompassing all conditions, environmental or man-made, that have the potential to cause injury, illness or death or damage to or loss of equipment, infrastructure services or property or, alternatively, causing functional degradation to societal, economic, or environmental aspects.
 - 2.3 “Certification” means an affirmation that a candidate has successfully met the requirements of a standard or level of a standard through a valid and reliable assessment as approved by the National Board on Fire Service Professional Qualifications.
 - 2.4 “Emergency” or “Emergencies” means an incident(s) or event(s) for which, in the sole determination of the Division, Services are needed to supplement state and local efforts and capabilities to save lives and protect property and public health and safety or to lessen or avert the threat of a catastrophe.
 - 2.5 “Harm” means, at a minimum, human casualties, destruction of property, adverse economic impact and/or damage to natural resources.

- 2.6 “Incident” means any natural, technological, or human-caused occurrence that may cause Harm and that may require action. Incidents may include major disasters, terrorist attacks, wildland and urban fires, floods, hazardous materials, explosions, nuclear accidents, aircraft accidents, earthquakes, cyberattacks, hurricanes, tornadoes, tropical storms, public health and medical emergencies, law enforcement encounters, service calls, mutual aid, false alarms, and other occurrences requiring an emergency response.
- 2.7 “Local Agency,” pursuant to Wis. Stat. §§ 323.70(1)(b) and 323.72(1), means an agency of a county, city, village, or town, including a municipal police or fire department, a municipal health organization, a county office of emergency management, a county sheriff, an emergency medical service, a local emergency response team, or a public works department.
- 2.8 “REACT Center” means the Regional Emergency All-Climate Training Center, which is a training facility owned and operated by the State of Wisconsin, Department of Military Affairs and operated by the Division.
- 2.9 “Services” means US&R emergency response services as described in Wis. Stat. § 323.72(1) and any subsequent amendments to that statute, which include services involving search, rescue and recovery in the technical rescue disciplines including structural collapse, rope rescue, vehicle extrication, machinery extrication, confined space, trench, excavation, and water operations in an US&R environment.
- 2.10 “US&R” means urban search and rescue, which involves the location, rescue (extrication), and initial medical stabilization of victims trapped in confined spaces. Structural collapse is most often the cause of victims being trapped, but victims may also be trapped in transportation accidents, mines and collapsed trenches. US&R is considered an all-hazards discipline, as it may be needed for a variety of emergencies or disasters, including earthquakes, hurricanes, typhoons, storms and tornadoes, floods, dam failures, technological accidents, terrorist activities, and hazardous materials releases.
- 2.11 “WI-TF1” means the all-hazards US&R team authorized by Wis. Stat. § 323.72(1) made up of firefighters, engineers, medical professionals, canine handlers, incident managers, and others that is a core component of a Search and Rescue Essential Support Function mission, including a Type 1 US&R task force, Type 3 US&R task force or any component thereof, as designated by the Federal Emergency Management Agency National Incident Management System Search and Rescue resource typing system. See Wis. Stat. § 323.72(7).

3.0 Participating Agency Obligations:

- 3.1. Recognizing that many of Participating Agency’s employees who are potential candidates for appointment to WI-TF1 may not have all required training as of the date this Agreement begins, the Parties agree to proceed as follows within 90 days after the Agreement begins.

- 3.1.1 After individuals selected for training have successfully completed the training, Participating Agency shall provide, on a form prescribed by the Division, a list of trained individuals that it deems to be good candidates for appointment to WI-TF1 but for the need for up-to-date training. The Division shall select individuals from list for initial and/or refresher training required by Section 4.0 of this Agreement.
- 3.2 Once the employees Participating Agency proposed to be appointed to WI-TF1 have successfully completed the required training, Participating Agency shall provide to the Division for Division approval a list on a form prescribed by the Division of one or more employees fully trained as set forth in Section 4.0 of this Agreement who Participating Agency proposes be a WI-TF1 member for Division approval, along with a description of the anticipated role the employee would have on WI-TF1 (e.g., Medical Specialist, Structural Collapse Search Technician, etc.). Only those employees who Participating Agency can demonstrate to the Division's satisfaction meet the following criteria at the time Participating Agency submits the list may be included on the list:
 - 3.2.1 Possess all required training and certifications necessary to perform Services in the specific role the employee would fill on WI-TF1, based on the training, competency, and job performance requirement standards for an US&R task force issued by the National Fire Protection Association (NFPA), the most current version of the urban search and rescue standards issued by the Emergency Management Accreditation program, and any training standards required by law, rule or regulation.
 - 3.2.2 Are employees in good standing.
 - 3.2.3 Are not probationary employees.
 - 3.2.4 Have been subjected to a background check by Participating Agency or the Division.
 - 3.2.5 Meet any medical or fitness standards agreed upon by the WI-TF1 Advisory Committee and the Division.
 - 3.2.6 Have been instructed on and, as required by the State of Wisconsin, are able to meet the then-current COVID-19 standards set by the State of Wisconsin, for its employees, including vaccination, testing, and mask-wearing requirements.
- 3.3 The Division, in consultation with the Advisory Committee established pursuant to Section 3.7 below, may appoint one or more of the employees on the list to the WI-TF1. Inclusion on the list or proposed WI-TF1 members does not guarantee appointment.
- 3.4 Upon receipt of an emergency response request by the Division pursuant to the Standard Operating Procedures, Participating Agency shall direct employees who have been appointed to WI-TF1 and designated for mobilization to travel to the REACT Center or such other location as designated by the Division to be deployed to provide Services in response to an Emergency.

- 3.5 Participating Agency may not self-deploy WI-TF1 members. This prohibition does not prevent Participating Agency from deploying its employees to respond to emergencies where urban search and rescue services are needed or responding with urban search and rescue vehicles, equipment and supplies under local authority, mutual aid agreements or other contracts entered into under local authority. Participating Agency recognizes that it is not entitled to reimbursement by the Division for such response costs and that the Division will not supply equipment or vehicles for such responses.
- 3.6 Participating Agency shall comply with all requirements of any grants which provide funding for WI-TF1.
- 3.7 An Advisory Committee has been established, the duties of which will be defined by the WI-TF1 Standard Operating Procedures.
- 3.8 The Division, in consultation with the Advisory Committee, has the authority to immediately suspend or terminate a WI-TF1 member from participation on the task force.

4.0 Required Training and Exercises:

- 4.1 All required training and exercises must be done at the REACT Center or at a location pre-approved in writing by the Division in consultation with the Advisory Committee. Refresher training shall be a minimum of eighteen (18) hours per WI-TF1 member per year. Additional specialty training may be made available at REACT upon written pre-approval by the Division. Participation in required training and exercises will be in accordance with the WI-TF1 Attendance Policy approved by the Division in consultation with the Advisory Committee.
- 4.2 Non-Duty Status: All individuals attending training or exercises at the REACT Center shall be in a non-duty status with Participating Agency.
- 4.3 Training and Exercise Schedule: To facilitate planning for required training and exercises, the REACT Center shall post the relevant schedule a minimum of twelve months in advance of the start date of the training, except that specialized training may be made available with less advance notice. Changes may be made to the training and exercise schedule for unforeseen circumstances by notification of Participating Agencies. The Division will provide as much advanced notice of any changes as possible.

5.0 Response Procedures and Limitations:

- 5.1 Participating Agency recognizes that its obligations under this Agreement are paramount to the State of Wisconsin. Participating Agency agrees that, if local fire response obligations in Participating Agency's own jurisdiction would limit necessary resources necessary to provide Services in response to an Emergency or make such resources unavailable, Participating Agency will seek aid from local jurisdictions to assist in local fire response obligations in Participating Agency's own jurisdiction to ensure availability of resources for the performance of Services.

5.2 Participating Agency and the Division agree that WI-TF1 or components of it may be used for any Emergency for which WI-TF1 members are trained and qualified.

5.3 Participating Agency's obligation to provide services under this Agreement shall arise, with respect to specific Emergency response actions, upon receipt of an Emergency response request pursuant to the Standard Operating Procedures. See Section 7 below.

6.0 Right of Refusal:

If, on occasion, a response under this Agreement would temporarily place a verifiable undue burden on the Participating Agency because Participating Agency's resources are otherwise inadequate or unavailable and mutual aid is unavailable, then if notice has been provided to the Division, the Participating Agency may decline a request for personnel to staff WI-TF1 and/or for response equipment.

7.0 Standard Operating Procedures:

Participating Agency and Division agree that WI-TF1 operations will be conducted in accordance with Standard Operating Procedures and a "Call-Out Procedure" that will be mutually approved by the Parties and other Local Agencies providing WI-TF1 members. Participating Agency agrees that it shall ensure that any of its employees appointed to WI-TF1 comply with these procedures.

8.0 Reimbursement of Costs

There are three types of Participating Agency costs that shall be reimbursed under this Agreement: (1) costs related to providing requested Services and (2) required training and exercise costs; and (3) costs related to an increase in duty-disability benefit premiums due to an injury a WI-TF1 member sustained while performing under this Agreement. In seeking reimbursement for those costs, Participating Agency shall comply with all Division-approved procedures and any relevant administrative rules.

9.0 Reimbursement for Response Costs:

9.1 Pursuant to Wis. Stat. § 323.72(2), the Division shall reimburse Participating Agency for costs incurred by Participating Agency in responding to an Emergency and providing Services at the request of the Division within 60 days after receiving a complete application for reimbursement on a form prescribed by the Division but only if (1) the Division determines that the provision of Services was necessary; and (2) Participating Agency applies for reimbursement within 45 days after the conclusion of that deployment of WI-TF1 for that particular Emergency.

9.2 Recoverable costs include but are not limited to the use of vehicles and apparatus, personnel expenses, backfill expenses and emergency expenses. The amount of reimbursement for the enumerated costs are as follows:

9.2.1 Reimbursement for use of Vehicle(s) and Apparatus: Participating Agency shall be

reimbursed for the approved use of its vehicles and equipment in providing Services at FEMA-established rates.

9.2.2 Personnel Expenses: Reasonable personnel expenses relating to WI-TF1 members deployed at the direction of the Division to provide Services which are reimbursable at \$55.00 per hour per deployed employee. During a deployment, this shall be calculated as portal to portal.

9.2.3 Backfill expenses: Participating Agency's reasonable personnel expenses incurred to cover the duties of employees deployed to provide Services as part of WI-TF1 are reimbursable at the Participating Agency's actual cost.

9.2.4 Emergency Expenses: Participating Agency's necessary and reasonable emergency expenses related to deploying employees to provide Services, which expenses must be based on actual expenditures and fully documented by the Participating Agency. The Division reserves the right to deny any reimbursement of Participating Agency expenditures it deems to be unreasonable or unjustifiable.

9.3 Participating Agency agrees to make reasonable and good faith efforts to minimize its costs related to providing personnel and equipment to perform Services in response to an Emergency.

10.0 Payment for Training and Exercise Costs:

10.1 In any given fiscal year, Participating Agency shall be paid for any training and participation in exercises of employees who the Division has appointed to WI-TF1 that is pre-authorized in writing by the Division at a rate of \$55 per hour per appointed employee consistent with the Attendance Policy.

10.2 Such payment will be made on a quarterly basis as determined by reference to the state's fiscal year. For example, the first quarter will be from July 1 through September 30 and so forth.

10.3 The Division will not pay for Participating Agency's personnel backfill expenses to cover team members who are traveling to and from or participating in training or exercises.

11.0 Reimbursement of Increased Duty Disability Costs:

11.1 The Division shall reimburse Participating Agency for costs incurred by Participating Agency for any increase in contributions for duty disability premiums under Wis. Stat. § 40.05(2)(aw) for its employees who are WI-TF1 members and who receive duty disability benefits under Wis. Stat. § 40.65 because of an injury that occurred while performing duties as a member of WI-TF1.

11.2 Application for reimbursement under this Section shall be made after the close of the State's fiscal year and shall seek reimbursement for any cost due to increased premiums referred to above imposed in the prior fiscal year.

11.3 Payment under this Section shall be made within 60 days of receipt of documentation of the following:

11.3.1 That the WI-TF1 member was injured while performing WI-TF1 duties after being deployed pursuant to a Division order.

11.3.2 That the member is receiving duty disability benefits because of such injury.

11.3.3 The amount of increase in premium for duty disability benefits to the Participating Agency that can be directly attributed to the receipt of such benefits by the member during the preceding fiscal year.

12.0 Employer-Employee Relationship and Obligations Maintained:

Except as provided in this Agreement, Participating Agency employees who are WI-TF1 members remain employees of Participating Agency and are not employees of the State of Wisconsin. This means, in part, that Participating Agency's employees are not entitled to Division contribution for any Public Employees Retirement Withholding System benefit(s), nor to any other benefits or any wage provided by the State of Wisconsin to its employees. Participating Agency shall be responsible for payment/withholding of any applicable federal, Social Security and State taxes from any wages paid or benefits provided to its employees.

13.0 Worker's Compensation:

A WI-TF1 member acting under this Agreement is an employee of the state for purposes of worker's compensation pursuant to Wis. Stat. § 323.72(4).

14.0 Dual Payment:

Participating Agency shall not be compensated for work performed under this Agreement both by the Division and any other state agency or person(s) responsible for causing an Emergency except as approved and authorized under this Agreement.

15.0 Reasonable Efforts:

Participating Agency shall make reasonable and good-faith efforts to minimize its costs related to its employees' participation in WI-TF1 training, exercise, and Emergency response Services.

16.0 Liability and Indemnity

16.1 Scope:

During operations authorized by this Agreement, WI-TF1 members supplied by Participating Agency are agents of the state for purposes of Wis. Stat. § 895.46(1). For the purposes of this Section, operations means activities, including travel, directly related to

providing Services. Operations also include training activities provided under this Agreement to WI-TF1 members but does not include travel to and from any training required or permitted under this Agreement.

16.2 Civil liability exemption; regional emergency response teams and their sponsoring agencies:

Pursuant to Wis. Stat. § 895.483(4), Participating Agency and its employees who are members of WI-TF1 are immune from civil liability for acts or omissions related to carrying out the Services.

16.3 Participating Agency Indemnification of State:

When acting as other than an agent of the State of Wisconsin under this Agreement, and when using the State's or Division's vehicles or equipment, Participating Agency shall indemnify, defend and hold harmless the State, which includes the Department, the Division and all state agencies, and its officers, officials, agents, employees, and members from all claims, suits or actions of any nature, including actions for attorneys' fees, arising out of the activities or omissions of Participating Agency, its officers, officials, subcontractors, agents or employees.

17.0 Insurance Obligations:

17.1 Insurance obligations are set forth in the Standard Terms and Conditions attached as Exhibit A. Prior to commencement of this Agreement, Participating Agency must either provide to the Division a certificate of insurance or, if Participating Agency is self-insured or uninsured, a certificate of protection in lieu of insurance certifying that Participating Agency is protected by a self-funded liability and property program or alternative funding source(s). Such certification must be provided on an annual basis.

17.2 Participating Agency agrees that it shall not cancel or make a material change to the insurance required by this Agreement without 30 days written notice to the Division.

18.0 Standard Terms and Conditions: The Wisconsin Standard Terms and Conditions are attached as Exhibit A and are incorporated into this Agreement by reference.

19.0 Miscellaneous

19.1 Disclosure of Independence and Relationship: Participating Agency certifies that no relationship exists between it, the State of Wisconsin or the Division that interferes with fair competition or is a conflict of interest, and no relationship exists between the team and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the Participating Agency will not be averse to the interest of the State.

Participating Agency agrees as part of this Agreement that, during performance of the terms of this Agreement, they will neither provide contractual services nor enter into any

agreement to provide services to a person or entity that is regulated or funded by the Department or has interests that are adverse to the Department. The Department of Administration may waive this provision, in writing, if those activities of the Participating Agency will not be adverse to the interests of the state.

- 19.2 Dual Employment: Wis. Stat. § 16.417 prohibits an individual who is a state employee or who is retained as a consultant full-time by a state agency from being retained as a consultant by the same or another agency where the individual receives more than \$5,000 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.
- 19.3 Employment: Participating Agency will not engage the service of any person or persons now employed by the state, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and the Department and Division.
- 19.4 Conflict of interest: Private and non-profit corporations are bound by Wis. Stat. §§ 180.0831 and 181.225 regarding conflicts of interest by directors in the conduct of state contracts.
- 19.5 Recordkeeping and Record Retention: The Participating Agency shall establish and maintain adequate records of all expenditures incurred under the Agreement. All records must be kept in accordance with generally accepted accounting principles and be consistent with federal and state laws and local ordinances. The Division, the federal government, and their duly authorized representatives shall have the right to audit, review, examine, copy, and transcribe any pertinent records or documents relating to any contract resulting from this Agreement held by Participating Agency. The Participating Agency shall retain all documents applicable to the Agreement for a period of not less than three (3) years after the final payment is made or longer where required by law.
- 19.6 Indemnification Regarding Employment Disputes: Participating Agency shall indemnify, defend, and hold harmless the State of Wisconsin, including the Division and the Department, with respect any disputes Participating Agency may have with its employees. Such disputes include but are not limited to charges of discrimination, harassment, improper wage payment, and discharge without just cause.
- 19.7 Term, Termination and Review of Agreement:
- 19.7.1 Term: This Agreement shall begin on April 1, 2022, and terminate on June 30, 2024, unless terminated earlier pursuant to Section 19.7.2.
- 19.7.2 Termination:
- 19.7.2.1 The Division and/or Participating Agency may terminate this Agreement at any time upon one hundred twenty (120) days written notice to the other Party.

19.7.2.2 The Division may also terminate this Agreement at will effective upon delivery of written notice to the Participating Agency under any of the following conditions:

19.7.2.2.1 Funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for training.

19.7.2.2.2 Federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments by this Agreement.

19.7.2.2.3 Any license or certification required by law or regulation to be held by the Participating Agency to provide the services required by this Agreement is for any reason denied, revoked, lapses, or not renewed.

19.7.2.3 Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Upon termination, the Division's liability under Sections 8-11 will be limited to events occurring during the term of this Agreement.

19.7.3 Review: The Agreement shall be reviewed by the Parties and other participating agencies no later than six (6) months prior to the expiration of this Agreement.

19.8 Entire Agreement: The contents of the Agreement including its Exhibits shall constitute the entire agreement between the Parties relating to the subject matter of the Agreement. The Agreement supersedes any and all prior agreements, whether expressed orally or in writing, relating to the subject matter of the Agreement.

19.9 Applicable Law: This Agreement shall be governed by the laws of the State of Wisconsin. The Participating Agency and State shall at all times comply with and observe all federal and state laws and regulations, the federal and state constitutions, and local ordinances and regulations in effect during the period of this Agreement and which may in any manner affect its performance of its obligations under this Agreement, including the provision of Services.

19.10 Assignment: No right or duty of the Participating Agency under this Agreement, whole or in part, may be assigned or delegated without the prior written consent of the State of Wisconsin.

19.11 Successors in Interest: The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and

permitted assigns.

- 19.12 Force Majeure: Neither party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of God and/or war or for other reasons beyond that Party's reasonable control.
- 19.13 Notifications: Participating Agency shall immediately report by telephone and in writing any demand, request, or occurrence that reasonably may give rise to a claim against the State, its officers, Divisions, agents, employees, and members. Such reports shall be directed to:

ATTN: Administrator
Division of Emergency Management
DMA Wisconsin
PO Box 7865
Madison, WI 53707-7865
Telephone #: (608) 242-3232
FAX #: (608) 242-3247

Copies of such written reports shall also be sent to:

ATTN: Office of the Department of Military Affairs General Counsel
Wisconsin Department of Military Affairs
2400 Wright Street
Madison, WI 53704

- 19.14 Severability: If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 19.15 Amendments: The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written approval of Division and Participating Agency.
- 19.16 Approval Authority: Participating Agency's representative(s) certify by their signature herein that he or she has the necessary and lawful authority to enter into contracts and agreements on behalf of Participating Agency.
- 19.17 No Waiver: No failure to exercise, and no delay in exercising, any right, power or remedy, including payment, hereunder, on the part of the Division, state, or Participating Agency shall operate as a waiver of the same, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise of the same or the exercise of any other right, power or remedy created by the Agreement. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided in the written waiver. A waiver of any covenant, term or condition

contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

19.18 Construction of Agreement: This Agreement is intended to be solely between the Parties. No part of the Agreement shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the Parties.

The Division and Participating Agency make no representations to third parties with regard to the ultimate outcome of the provision of Services.

Approving Signatures:

ON BEHALF OF THE WISCONSIN EMERGENCY MANAGEMENT DIVISION

Dated this ____ day of _____, 2022

Greg Engle, Acting Division Administrator

[SIGNATURE PAGE]

EXHIBIT A

EXHIBIT A TO AGREEMENT FOR URBAN SEARCH AND RESCUE EMERGENCY RESPONSE SERVICES AGREEMENT (the Agreement)

STATE OF WISCONSIN STANDARD TERMS AND CONDITIONS

ANTITRUST ASSIGNMENT: The Participating Agency and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the Participating Agency hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.

APPLICABLE LAW AND COMPLIANCE: This Agreement shall be governed under the laws of the State of Wisconsin. The Participating Agency shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this Agreement and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this Agreement if the Participating Agency fails to follow the requirements of s. 77.66, Wis. Stats. and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this Agreement with any federally debarred Participating Agency or a Participating Agency that is presently identified on the list of parties excluded from federal procurement and non-procurement Agreements.

CANCELLATION: The State of Wisconsin reserves the right to cancel any Agreement in whole or in part without penalty due to nonappropriation, unavailability or insufficiency of funds or for failure of the Participating Agency to comply with terms, conditions, and specifications of this Agreement.

WORK CENTER CRITERIA: A work center must be certified under s.16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped.

INSURANCE RESPONSIBILITY: The Participating Agency performing services for the State of Wisconsin shall:

Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.

Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/Agreement. Minimum coverage shall be one million (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. Minimum coverage shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

The state reserves the right to require higher or lower limits where warranted.

NONDISCRIMINATION / AFFIRMATIVE ACTION: In connection with the performance of work under this Agreement, the Participating Agency agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s.51.01(5), Wis. Stats., sexual orientation as defined in s.111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Participating Agency further agrees to take affirmative action to ensure equal employment opportunities.

Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the Participating Agency. An exemption occurs from this requirement if the Participating Agency has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the Agreement is awarded, the Participating Agency must submit the plan to the contracting state agency for approval. Instructions on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

The Participating Agency agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.

Failure to comply with the conditions of this clause may result in the Participating Agency's becoming declared an "ineligible" Participating Agency, termination of the Agreement, or withholding of payment.

Pursuant to 2019 Wisconsin Executive Order 1, Participating Agency agrees it will hire only on the basis of merit and will not discriminate against any persons performing a contract, subcontract or grant because of military or veteran status, gender identity or expression, marital or familial status, genetic information or political affiliation.

Pursuant to s. 16.75(10p), Wis. Stats., Participating Agency agrees it is not, and will not for the duration of the Agreement, engage in a prohibited boycott of the State of Israel as defined in s. 20.931(1)(b). State agencies and authorities may not execute a contract and reserve the right to terminate an existing contract with a company that is not compliant with this provision. This provision applies to contracts valued \$100,000 or over.

PUBLIC RECORDS. Upon receipt of notice from the State of Wisconsin of a public records request for records produced or collected under this Agreement, the Participating Agency shall provide the requested records to the contracting agency in order to ensure compliance with s. 19.36(3), Wis. Stats. Participating Agency, following final payment under this Agreement, shall retain all records produced or collected under this Agreement for six (6) years. Participating Agency is also considered a contractor for the purposes of Wis. Stat. § 19.36(3) and must comply with its provisions.

TAXES: The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state.

VENDOR TAX DELINQUENCY: Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.

State of Wisconsin



2021 Senate Bill 374

Date of enactment: **December 3, 2021**
Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 104

AN ACT *to repeal* 323.70 (7), 323.72 (3) (a) and 323.72 (5); *to consolidate, renumber and amend* 323.72 (3) (intro.) and (b); *to amend* 20.465 (3) (dr), 20.465 (3) (dv), 20.465 (3) (jt), 323.70 (3), 323.70 (4) (intro.), 323.71 (3), 323.71 (4) (b), 323.72 (title), 323.72 (1), 323.72 (2), 323.72 (4) and 895.483 (4); and *to create* 40.05 (2) (aw), 40.05 (2) (ax), 40.06 (8), 40.06 (9), 323.70 (3m), 323.72 (2m), 323.72 (6) and 323.72 (7) of the statutes; **relating to:** a statewide urban search and rescue task force, regional emergency response teams, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 2. 20.465 (3) (dr) of the statutes is amended to read:

20.465 (3) (dr) *Emergency response supplement.* As a continuing appropriation, the amounts in the schedule to be used for response costs of a regional emergency response team that are not reimbursed from the appropriation under s. ~~323.70 (3) or (4)~~ 20.465 (3) (jt) and for response costs of a local agency that are not reimbursed under s. 323.71 (4).

SECTION 3m. 20.465 (3) (dv) of the statutes, as created by 2021 Wisconsin Act 58, is amended to read:

20.465 (3) (dv) *Urban search and rescue task force.* As a continuing appropriation, the amounts in the schedule for training, equipment, and administrative costs for an urban search and rescue task force under s. 323.72.

SECTION 5. 20.465 (3) (jt) of the statutes is amended to read:

20.465 (3) (jt) *Regional emergency response reimbursement.* All moneys received by the division of emergency management under s. 323.70 (4) for reimbursement of regional emergency response teams under s. 323.70 (3), and for reimbursement to a local agency for

any increase in contributions for duty disability premiums under s. 40.05 (2) (ax) for employees who receive duty disability benefits under s. 40.65 because of an injury incurred while performing duties as a member of a regional emergency response team under a contract under s. 323.70 (2). All moneys received under s. 323.70 (4) as reimbursement for expenses incurred for a regional emergency response team response shall be credited to this appropriation account.

SECTION 6. 40.05 (2) (aw) of the statutes is created to read:

40.05 (2) (aw) For purposes of this subsection, the participating employer of an employee subject to s. 40.65 who is on a deployment, training, or readiness exercise as the member of an urban search and rescue task force under a contract under s. 323.72 (1) is the local agency, and the local agency shall contribute any additional percentage or percentages related to the deployment, training, or readiness exercises under a contract under s. 323.72 (1) as calculated by the actuary under s. 40.03 (5) (c). A local agency may seek reimbursement from the department of military affairs under s. 323.72 (2m).

SECTION 7. 40.05 (2) (ax) of the statutes is created to read:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

40.05 (2) (ax) For purposes of this subsection, the participating employer of an employee subject to s. 40.65 who is responding to an emergency involving a level A release, or a potential level A release as a member of a regional emergency response team under a contract under s. 323.70 (2) is the local agency, and the local agency shall contribute any additional percentage or percentages related to response to an emergency involving a level A release, or a potential level A release under a contract under s. 323.70 (2) as calculated by the actuary under s. 40.03 (5) (c). A local agency may seek reimbursement from the department of military affairs under s. 323.70 (3m).

SECTION 8. 40.06 (8) of the statutes is created to read:

40.06 (8) For periods during which a protective occupation participant who is a participating employee is on a deployment, training, or readiness exercise with an urban search and rescue task force under a contract under s. 323.72 (1), all of the following shall apply:

(a) The employer remits required contributions to the department under s. 40.05 (1) (a) and (2) (a).

(b) The employer reports to the department service and earnings that are at least the same rate the employee would have received if the employee had not been on the deployment, training, or readiness exercise.

SECTION 9. 40.06 (9) of the statutes is created to read:

40.06 (9) For periods during which a protective occupation participant who is a participating employee is responding to an emergency involving a level A release, or a potential level A release as a member of a regional emergency response team under a contract under s. 323.70 (2), all of the following shall apply:

(a) The employer remits required contributions to the department under s. 40.05 (1) (a) and (2) (a).

(b) The employer reports to the department service and earnings that are at least the same rate the employee would have received if the employee had not been responding to an emergency involving a level A release or potential level A release.

SECTION 10. 323.70 (3) of the statutes is amended to read:

323.70 (3) ~~The From the appropriations under s. 20.465 (3) (dr) and (jt), the division shall reimburse a regional emergency response team local agency contracted under sub. (2) for costs incurred by the team in responding to an emergency involving a level A release, or a potential level A release, if the team followed the procedures in the rules promulgated under sub. (7) (b) to determine if division determines that an emergency requiring a the response existed. Reimbursement under this subsection is limited to amounts collected under sub. (4) and the amounts appropriated under s. 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the regional emergency response team has made a good faith effort to identify the person responsible under sub. (4) and that person cannot be identified, or, if that person~~

is identified, the team has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the regional emergency response team shall be issued to the local agency within 60 days after receiving a complete application for reimbursement on a form prescribed by the division if the agency applies for reimbursement within 45 days after the conclusion of the deployment of the regional emergency response team.

SECTION 11. 323.70 (3m) of the statutes is created to read:

323.70 (3m) From the appropriation under s. 20.465 (3) (jt), the division shall reimburse a local agency under sub. (1) for costs incurred by the local agency for any increase in contributions for duty disability premiums under s. 40.05 (2) (ax) for employees who receive duty disability benefits under s. 40.65 because of an injury incurred while performing duties as a member of regional emergency response team under sub. (2).

SECTION 12. 323.70 (4) (intro.) of the statutes is amended to read:

323.70 (4) (intro.) A person shall reimburse the division for costs incurred by a regional emergency response team in responding to an emergency involving a level A release or a potential level A release if ~~the team followed the procedures established under sub. (7) (b) to determine~~ if an emergency requiring the team's response existed and if any of the following conditions applies:

SECTION 13. 323.70 (7) of the statutes is repealed.

SECTION 14. 323.71 (3) of the statutes is amended to read:

323.71 (3) ~~The From the appropriation under s. 20.465 (3) (dr), the division shall reimburse a local emergency response team for costs incurred by the team in responding to an emergency involving a hazardous substance release, or potential release, if the team followed the procedures in the rules promulgated under s. 323.70 (7) (e) to determine if division determines that an emergency requiring the team's response existed. Reimbursement under this subsection is limited to the amount appropriated under s. 20.465 (3) (dr). Reimbursement is available under s. 20.465 (3) (dr) only if the local emergency response team has made a good faith effort to identify the person responsible under sub. (4) and that person cannot be identified, or, if that person is identified, the team has received reimbursement from that person to the extent that the person is financially able or has determined that the person does not have adequate money or other resources to reimburse the local emergency response team. Reimbursement under this subsection shall be issued to the local agency within 60 days after receiving a complete application for reimbursement on a form prescribed by the division if the agency applies for reimbursement within 45 days after the conclusion of the deployment of the local emergency response team.~~

SECTION 15. 323.71 (4) (b) of the statutes is amended to read:

323.71 (4) (b) A local emergency response team may receive reimbursement under par. (a) only if the team followed the procedures established under s. 323.70 (7) (e) to determine if division determines that an emergency requiring the team's response existed.

SECTION 16. 323.72 (title) of the statutes is amended to read:

323.72 (title) ~~Structural collapse Urban search and rescue emergency response.~~

SECTION 17. 323.72 (1) of the statutes is amended to read:

323.72 (1) ~~A regional structural collapse team~~ An urban search and rescue task force designated by the division shall assist in the at the direction of the division in an emergency response to a structural collapse incident in a region of this state designated by the division involving search, rescue, and recovery in the technical rescue disciplines to include structural collapse, rope rescue, vehicle extrication, machinery extrication, confined space, trench, excavation, and water operations in an urban search and rescue environment. Whenever ~~a regional structural collapse team~~ an urban search and rescue task force assists in an emergency response under this subsection, ~~it the division shall determine under the rules promulgated under sub. (5) whether an emergency requiring the team's urban search and rescue task force's response existed.~~ If the regional structural collapse team division determines that such an emergency existed, it shall make a good faith effort to identify the person who is required to reimburse the division under sub. (3) and shall provide that information to the division. The division shall contract with local agencies, as defined in s. 323.70 (1) (b), to establish ~~no more than 4 regional structural collapse teams~~ an urban search and rescue task force. A member of ~~a regional structural collapse team~~ an urban search and rescue task force shall meet the highest most current training, competency, and job performance requirement standards for a structural collapse team ~~under search and rescue task force issued by the National Fire Protection Association standards NFPA 4006 and 1670 and the most current version of the urban search and rescue standard issued by the Emergency Management Accreditation program.~~

SECTION 18. 323.72 (2) of the statutes is amended to read:

323.72 (2) ~~The~~ From the appropriation under s. 20.465 (3) (h) or (hm), the division shall reimburse a regional structural collapse team local agency under sub. (1) for costs incurred by the team local agency in responding to an emergency involving a structural collapse incident if the team determines that a structural collapse emergency requiring a an urban search and rescue task force response existed as provided under the rules promulgated under sub. (5) if the division determines that

~~such a response was necessary.~~ Reimbursement under this subsection is limited to amounts collected under sub. (3). ~~Reimbursement under this subsection is available only if the regional structure collapse team has identified the person who is required to reimburse the division under sub. (3) and provided that information to the division shall be issued to the local agency within 60 days after receiving a complete application for reimbursement on a form prescribed by the division if the agency applies for reimbursement within 45 days after the conclusion of the deployment of the urban search and rescue task force.~~

SECTION 19. 323.72 (2m) of the statutes is created to read:

323.72 (2m) From the appropriation under s. 20.465 (3) (hm), the division shall reimburse a local agency under sub. (1) for costs incurred by the local agency for any increase in contributions for duty disability premiums under s. 40.05 (2) (aw) for employees who receive duty disability benefits under s. 40.65 because of an injury incurred while performing duties as a member of an urban search and rescue task force under sub. (1).

SECTION 20. 323.72 (3) (intro.) and (b) of the statutes are consolidated, renumbered 323.72 (3) and amended to read:

323.72 (3) A person shall reimburse the division for costs incurred by ~~a regional structural collapse team~~ an urban search and rescue task force in responding to an emergency if the ~~team~~ division determines under the rules promulgated under sub. (5) that an emergency requiring the team's urban search and rescue task force's response existed and that ~~one of the following conditions applies: (b) The~~ the person caused the structural collapse emergency.

SECTION 20g. 323.72 (3) (a) of the statutes is repealed.

SECTION 21. 323.72 (4) of the statutes is amended to read:

323.72 (4) A member of ~~a regional structural collapse team~~ an urban search and rescue task force who is acting under a contract under sub. (1) is considered an employee of the state for purposes of worker's compensation benefits.

SECTION 22. 323.72 (5) of the statutes is repealed.

SECTION 23. 323.72 (6) of the statutes is created to read:

323.72 (6) The department of military affairs may submit to the joint committee on finance a request to supplement the appropriation account under s. 20.465 (3) (hm) for the purposes for which the appropriation is made. If the cochairpersons of the committee do not notify the department within 14 working days after receiving the request that the cochairpersons have scheduled a meeting for the purpose of reviewing the request, the appropriation account under s. 20.465 (3) (hm) shall be supplemented from the appropriation account under s. 20.865 (4) (a), as provided in the request. If, within 14

working days after receiving the request, the cochairpersons notify the department that the cochairpersons have scheduled a meeting for the purpose of reviewing the request, the appropriation account may be supplemented from the appropriation account under s. 20.865 (4) (a) only as approved by the committee. Notwithstanding s. 13.101 (3), the committee is not required to find that an emergency exists prior to supplementing the appropriation account under s. 20.465 (3) (hm).

SECTION 24. 323.72 (7) of the statutes is created to read:

323.72 (7) In this section, “urban search and rescue task force” means an all hazards rescue team that is a core component of a Search and Rescue Essential Support Function 9 (ESF 9) mission, including a type I urban search and rescue task force, type III urban search and

rescue task force, or any component thereof, as designated by the Federal Emergency Management Agency National Incident Management System Search and Rescue resource typing system.

SECTION 25. 895.483 (4) of the statutes is amended to read:

895.483 (4) ~~A regional structural collapse team~~ An urban search and rescue task force, a member of such a ~~team~~ task force, and a local agency, as defined in s. 323.70 (1) (b), that contracts with the division of emergency management in the department of military affairs for the provision of ~~a regional structural collapse team~~ emergency services, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under s. 323.72 (1).

Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 07-01-2021 ending: 06-30-2022
(mm dd yyyy) (mm dd yyyy)

To the Governing Body of the: Town of } Appleton
 Village of }
 City of }

County of Outagamie Aldermanic Dist. No. _____
 (if required by ordinance)

Check one: Individual Limited Liability Company
 Partnership Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number	
FEIN Number	
TYPE OF LICENSE REQUESTED	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input type="checkbox"/> Class B liquor	\$
<input checked="" type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$
TOTAL FEE	\$

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
Jackson, James, Carl Jackson Investment Group

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>Jackson</u>	<u>James</u>	<u>Carl</u>	<u>523 w 7th St, Appleton, 54911</u>
Vice President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>Jackson SR</u>	<u>James</u>	<u>Carl</u>	<u>697 N Waldoch, Appleton, WI 54913</u>
Secretary / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Treasurer / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Agent Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
<u>Anderson</u>	<u>April</u>	<u>Lynn</u>	<u>320 3rd St neenah, WI 54956</u>
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)

1. Trade Name Jimmy's on the ave Business Phone Number 708-378-0586
 2. Address of Premises 409 w college Ave Post Office & Zip Code 54911

3. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)

Beverages will be stored in locked room in the basement.
Beverages will sold from the bar.

4. Legal description (omit if street address is given above): _____

5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? Yes No

(b) If yes, under what name was license issued? _____

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
Agent will be taking course.
7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No
9. (a) **Corporate/limited liability company applicants only:** Insert state _____ and date _____ of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <i>Jackson, James, C</i>	Title/Member <i>Owner</i>	Date <i>1/18/22</i>
Signature <i>Jm Jh</i>	Phone Number 	Email Address

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <i>1-19-22</i>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton Alcohol License Questionnaire

1. Name of Applicant: James Jackson

2. Name of Business: Jimmy's on the Ave

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

3. Address of Business: 409 w College, Appleton WI 54911

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No X

AND/OR been convicted of a felony? Yes _____ No X

If yes to either question, please explain in detail below:

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>James</u>	<u>C</u>	<u>Jackson SR</u>	<u>● / ● / ●</u>
First name	M.I.	Last name	Date of Birth
<u>James</u>	<u>C</u>	<u>Jackson JR</u>	<u>● / ● / ●</u>
First name	M.I.	Last name	Date of Birth
			/ /
First name	M.I.	Last name	Date of Birth
			/ /
First name	M.I.	Last name	Date of Birth

6. Name of person/corporation you are buying the premise and equipment from?

Name: Leasing space /NA

First name Middle Initial Last name

Address: _____

City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: Lu Saloon

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes _____ If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.

No If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.

9. If alcohol sales were a previous use in this building, when did the operation cease?

24 months ago.

10. Seating capacity: Inside 90 Outside —

11. Operating hours (Inside the building): 5pm - 2am
Operating hours (Outdoor seating areas): —

12. Employees/Staff

Number of floor personnel 2 Number of door checkers 1

13. In general, state the size and operational details of the proposed establishment:

- a. Gross floor building area of the premises to be licensed: 1373 square feet.
- b. Gross outdoor seating areas of the premises to be licensed: — square feet.
- c. Below, identify the operational details of the proposed establishment:

General Tavern operations

[Signature]
Signature

1/18/22
Date

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village of APPLETON County of Outagamie
 City

The undersigned duly authorized officer/member/manager of Jackson Investment Group
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Jimmy's on the Ave
(Trade Name)

located at 409 w College Ave

appoints April Anderson
(Name of Appointed Agent)
320 1/2 3rd st neenah wi 54956
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).
Jackson Investment Group

Is applicant agent subject to completion of the responsible beverage server training course? Yes No
 How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 2 yr

Place of residence last year 320 1/2 3rd st neenah wi 54956

For: Jackson Investment Group
(Name of Corporation / Organization / Limited Liability Company)

By: [Signature]
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

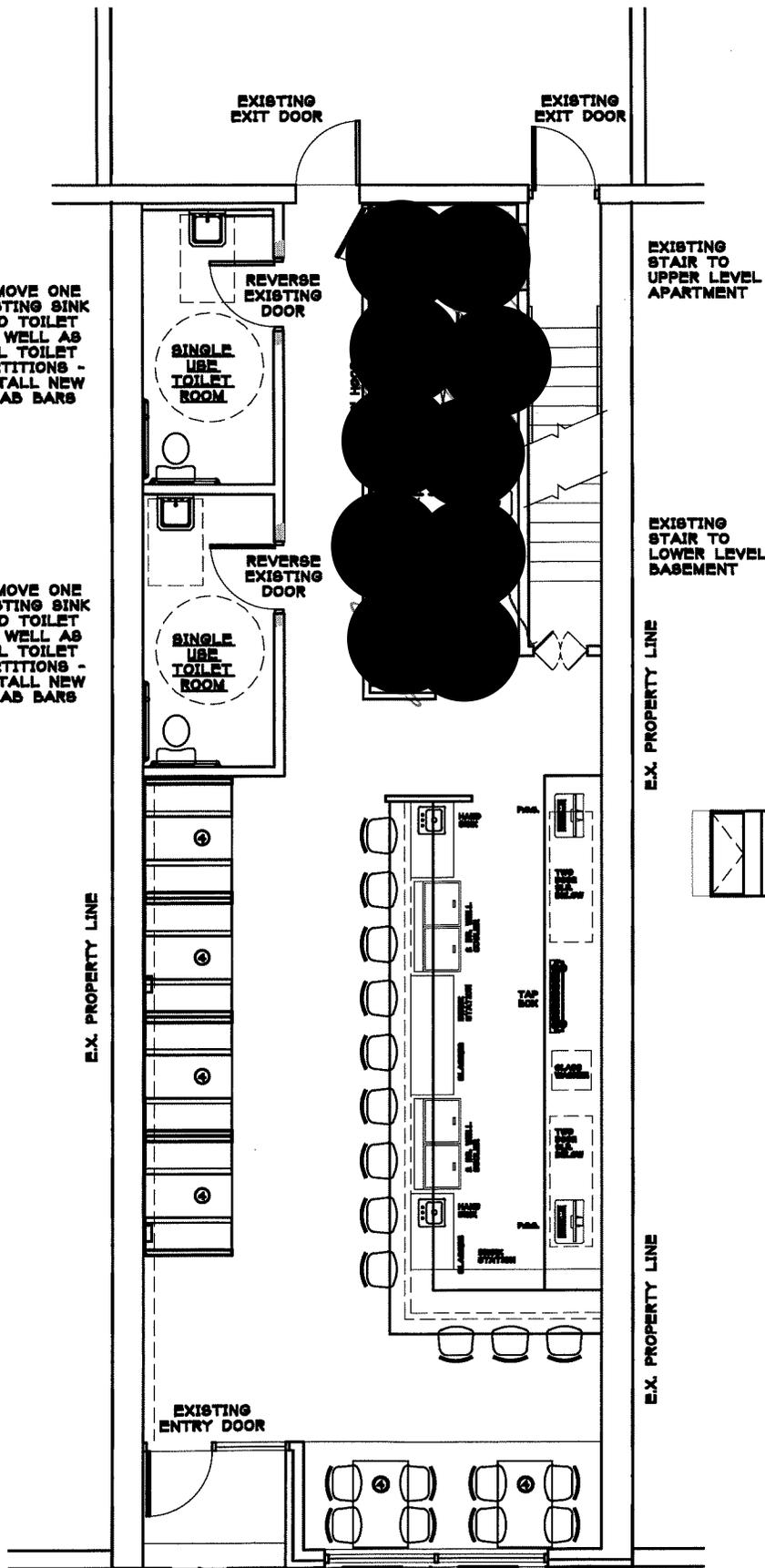
I, April Anderson, hereby accept this appointment as agent for the
(Print / Type Agent's Name)
 corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

April Anderson 1/18/22 Agent's age [Redacted]
(Signature of Agent) (Date)
320 3rd St neenah, wi 54956 Date of birth [Redacted]
(Home Address of Agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)



REMOVE ONE EXISTING SINK AND TOILET AS WELL AS ALL TOILET PARTITIONS - INSTALL NEW GRAB BARS

REMOVE ONE EXISTING SINK AND TOILET AS WELL AS ALL TOILET PARTITIONS - INSTALL NEW GRAB BARS

E.X. PROPERTY LINE

EXISTING STAIR TO UPPER LEVEL APARTMENT

EXISTING STAIR TO LOWER LEVEL BASEMENT

E.X. PROPERTY LINE

E.X. PROPERTY LINE



2-DOOR REF & SANDWICH PREP TABLE

EXISTING EXIT DOOR

EXISTING EXIT DOOR

REVERSE EXISTING DOOR

REVERSE EXISTING DOOR

EXISTING ENTRY DOOR

FLOOR PLAN

SCALE: 3/16"=1'-0"

NORTH



6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
Course completed on Jan 10th 2022
Valid for 2 years
7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No
9. (a) **Corporate/limited liability company applicants only:** Insert state WI and date March 2018 of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <u>Haupen, Courtney J</u>	Title/Member <u>owner</u>	Date <u>1/27/22</u>
Signature <u>Courtney J Haupen</u>	Phone Number <u>[REDACTED]</u>	Email Address <u>[REDACTED]</u>

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <u>1-27-22</u>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton Alcohol License Questionnaire

1. Name of Applicant: Courtney Hayden

2. Name of Business: The Breaking Point LLC
(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) rage room / paint splatter rooms

3. Address of Business: 2011 N Richmond St Appleton

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes X No BA
AND/OR been convicted of a felony? Yes _____ No X

If yes to either question, please explain in detail below:

OWI in 2011?

5. List all partners, shareholders or investors of your business. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>Courtney</u>	<u>J</u>	<u>Hayden</u>	<u>●●●●</u>
First name	M.I.	Last name	Date of Birth
			/ /
			/ /
			/ /
			/ /

6. Name of person/corporation you are ^{leasing} buying the premise and equipment from?

Name: Craig Weborg
First name Middle Initial Last name

Address: _____ Menasha WI 54952
City State ZIP

7. What was the previous name and primary nature of the business operating at this location?

Name: Elite Wrestling

(Check Applicable Box(s) to identify primary business activity)

- Restaurant
- Tavern/Night Club/Wine Bar
- Microbrewery/Brewpub
- Painting/Craft Studio
- Other (describe) _____

8. Was this premise licensed for alcohol sales/consumption during the past license year?

Yes _____ If yes, please contact the Community and Economic Development Department at 832-6468 about obtaining a copy of an existing Special Use Permit and related requirements that may run with property.

No X If no, please contact the Community and Economic Development Department at 832-6468 about obtaining a Special Use Permit. A Special Use Permit may be required for your business activity prior to the issuance of a Liquor License, pursuant to the City of Appleton Zoning Ordinance.

9. If alcohol sales were a previous use in this building, when did the operation cease?

1 months ago.

10. Seating capacity: Inside 15 Outside _____

11. Operating hours (Inside the building): (4pm - 9pm M,T,Th) (4pm - 11pm Fri) (11am - 11pm Sat)
Operating hours (Outdoor seating areas): _____

12. Employees/Staff

Number of floor personnel 1-4 Number of door checkers 1

13. In general, state the size and operational details of the proposed establishment:

a. Gross floor building area of the premises to be licensed: 3,000 square feet.

b. Gross outdoor seating areas of the premises to be licensed: _____ square feet.

c. Below, identify the operational details of the proposed establishment:

rage room, paint splatter room, airsoft range
beer/seltzer will be kept at a small
beer near the front of our premises.

Christy Taylor
Signature

1/27/22
Date

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village of APPLETON County of outagamie
 City

The undersigned duly authorized officer/member/manager of The Breaking Point LLC
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as The Breaking Point
(Trade Name)

located at 2011 N Richmond St

appoints Courtney Hayden
(Name of Appointed Agent)

WS939 County Road A Black Creek WI 54106
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 34 years

Place of residence last year WS939 County Road A Black Creek WI 54106

For: The Breaking Point LLC
(Name of Corporation / Organization / Limited Liability Company)

By: Courtney Hayden
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, Courtney Hayden, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Courtney Hayden 11/27/22
(Signature of Agent) (Date)
WS939 County Road A Black Creek WI 54106
(Home Address of Agent)

Agent's age 34
 Date of birth 11/27/88

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #5-21**

WHEREAS, Courtney Hayden, owner of The Breaking Point has applied for a Special Use Permit to allow alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, and

WHEREAS, the location for the proposed indoor recreational use with alcohol sales and service is located in the C-2 General Commercial District, and the proposed use may be permitted by Special Use Permit within this zoning district pursuant to Chapter 23 of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission held a public hearing on January 12, 2022 on Special Use Permit #5-21 at which all those wishing to be heard were allowed to speak or present written comments and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department's staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for imposing conditions on the Special Use Permit under Section 23-66(c)(5) of the Municipal Code, and forwarded Special Use Permit #5-21 to the City of Appleton Common Council with a favorable conditional or not favorable (CIRCLE ONE) recommendation; and

WHEREAS, the City of Appleton Common Council has reviewed the report and recommendation of the City of Appleton Plan Commission at their meeting on January 19, 2022.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the Common Council, based on Community and Economic Development Department's staff report and recommendation, as well as other spoken and written evidence and testimony presented at the public hearing and Common Council meeting, and having considered the recommendation of the City Plan Commission, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)

3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #5-21:

- A. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.
 - B. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.
 - C. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
 - D. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.
4. The City Clerk's Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this 19th day of January 2022.



Jacob A. Woodford, Mayor

ATTEST:



Kami Lynch, City Clerk



REPORT TO CITY PLAN COMMISSION

Plan Commission Public Hearing Date: January 12, 2022

Common Council Meeting Date: January 19, 2022

Item: Special Use Permit #5-21 for an indoor recreational use with alcohol sales and consumption

Case Manager: Jessica Titel, Principal Planner

GENERAL INFORMATION

Owner: CNR, LLC c/o Craig Weborg

Applicant: The Breaking Point c/o Courtney Hayden

Address/Parcel #: 2009 & 2011 N. Richmond Street (Tax Id #31-5-2326-00)

Petitioner's Request: The applicant is requesting a Special Use Permit for an indoor recreational use with alcohol sales and consumption.

BACKGROUND

The building was constructed in 1947 and the property contains a multi-tenant building with an off-street parking lot.

STAFF ANALYSIS

Project Summary: The applicant proposes to establish an indoor recreational use with alcohol sales and service on the subject site, which would occupy approximately 2,400 square feet of the existing multi-tenant building. The uses include rage rooms, splatter room, air soft target shooting and a small bar area.

Operational Information: A plan of operation is attached to the staff report.

Existing Site Conditions: The 15,571 square foot site is currently developed with a multi-tenant building, which is approximately 5,856 square feet in size. The site provides off-street parking on the east and west sides of the building, including parking provided on the adjacent parcel (Tax Id #31-5-2327-00). Access is provided by curb cuts on North Richmond Street and West Glendale Avenue.

Current Zoning and Procedural Findings: The subject property has a zoning designation of C-2 General Commercial District. Per Section 23-113(e) of the Municipal Code, an indoor recreational use that also includes alcohol sales and consumption requires a Special Use Permit in the C-2 District. The Plan Commission makes a recommendation to the Common Council who will make the final decision on the Special Use Permit. A two-thirds vote of the Common Council is required for approval.

Surrounding Zoning and Land Uses: The surrounding area is under the jurisdiction of the City of Appleton (north, south, east, and west). The uses are generally commercial and residential in nature.

Special Use Permit #5-21

January 12, 2022

Page 2

North: C-2 General Commercial District. The adjacent land uses to the north are currently a mix of commercial uses.

South: C-2 General Commercial District. The adjacent land uses to the south are currently a mix of commercial uses.

East: R-1B Single-Family District. The adjacent land uses to the east are currently single-family residential.

West: M-2 General Industrial District. The adjacent land uses to the west are currently a mix of commercial uses.

Appleton Comprehensive Plan 2010-2030: Community and Economic Development staff has reviewed this proposal and determined it is compatible with the Commercial designation shown on the City's *Comprehensive Plan 2010-2030 Future Land Use Map*. Listed below are related excerpts from the City's *Comprehensive Plan 2010-2030*.

Goal 1 – Community Growth

Appleton will continue to provide opportunities for residential, commercial, and industrial growth, including appropriate redevelopment sites within the downtown and existing neighborhoods, and greenfield development sites at the City's edge.

Goal 8 – Economic Development

Appleton will pursue economic development that retains and attracts talented people, brings good jobs to the area, and supports the vitality of its industrial areas, downtown, and neighborhood business districts.

OBJECTIVE 9.4 Economic Development:

Ensure the continued vitality of downtown and the City's neighborhood commercial districts.

OBJECTIVE 10.5 Land Use:

Support the continued redevelopment and revitalization of land uses adjacent to Appleton's key transportation corridors and downtown.

Technical Review Group (TRG) Report: These items appeared on the December 7, 2021 Technical Review Group agenda. The following comments were received from participating departments and have been incorporated into the Conditions of Approval:

- Police Department: *Ensure the applicant is willing/able to comply with our noise ordinances with their proposed business plan, specifically "Sec. 12-87. Radio or other electric sound amplification device – prohibited. No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet."*
- Fire Department: *Please note the occupant loads provided by the applicant have not been verified through review by a representative of a Fire Department. We recommend the applicant supply the FD with a WI occupant worksheet when they want these numbers posted, as required in the Municipal Ordinance, whenever food & drink is served. Appleton Fire will print the sign for posting.*

Zoning Ordinance Requirements and Substantial Evidence: When reviewing an application for a Special Use Permit, the City must determine if the applicant's proposal satisfies Municipal Code requirements and conditions. Pursuant to Section 23-66(c)(5) of the Municipal Code, the Plan Commission and Common Council must provide substantial evidence supporting their decision to approve, approve with conditions, or deny the Special Use Permit. Substantial evidence means "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a Special Use Permit and that reasonable persons would accept in support of a conclusion." Any requirements and conditions listed for approval must be reasonable, and to the extent practicable, measurable.

Finding of Fact: This request was reviewed in accordance with the standards (proper zoning district, district regulations, special regulations, comprehensive plan and other plans, traffic, landscaping and screening, neighborhood compatibility, and impact on services) for granting a Special Use Permit under Section 23-66(e)(1-8) of the Municipal Code, which were found in the affirmative, as long as all stipulations are satisfied.

RECOMMENDATION

Staff recommends, based on the above analysis, that Special Use Permit #5-21 for an indoor recreation use with alcohol sales and consumption located at 2009 & 2011 North Richmond Street (Tax Id #31-5-2326-00), as shown on the attached maps and per attached plan of operation, along with the attached resolution, **BE APPROVED** to run with the land, subject to the following conditions:

1. All applicable codes, ordinances, and regulations, including but not limited to Fire, Building, and Health Codes and the Noise Ordinance, shall be complied with.

Substantial Evidence: Standardized condition to ensure the applicant understands the City's Municipal Code and all applicable State and Federal laws must be followed.

2. This Special Use Permit is needed for the on-site alcohol sales and consumption, not the indoor recreational use. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

Substantial Evidence: Standardized condition that establishes parameters for the current application and identifies the process for review of any future changes to the special use.

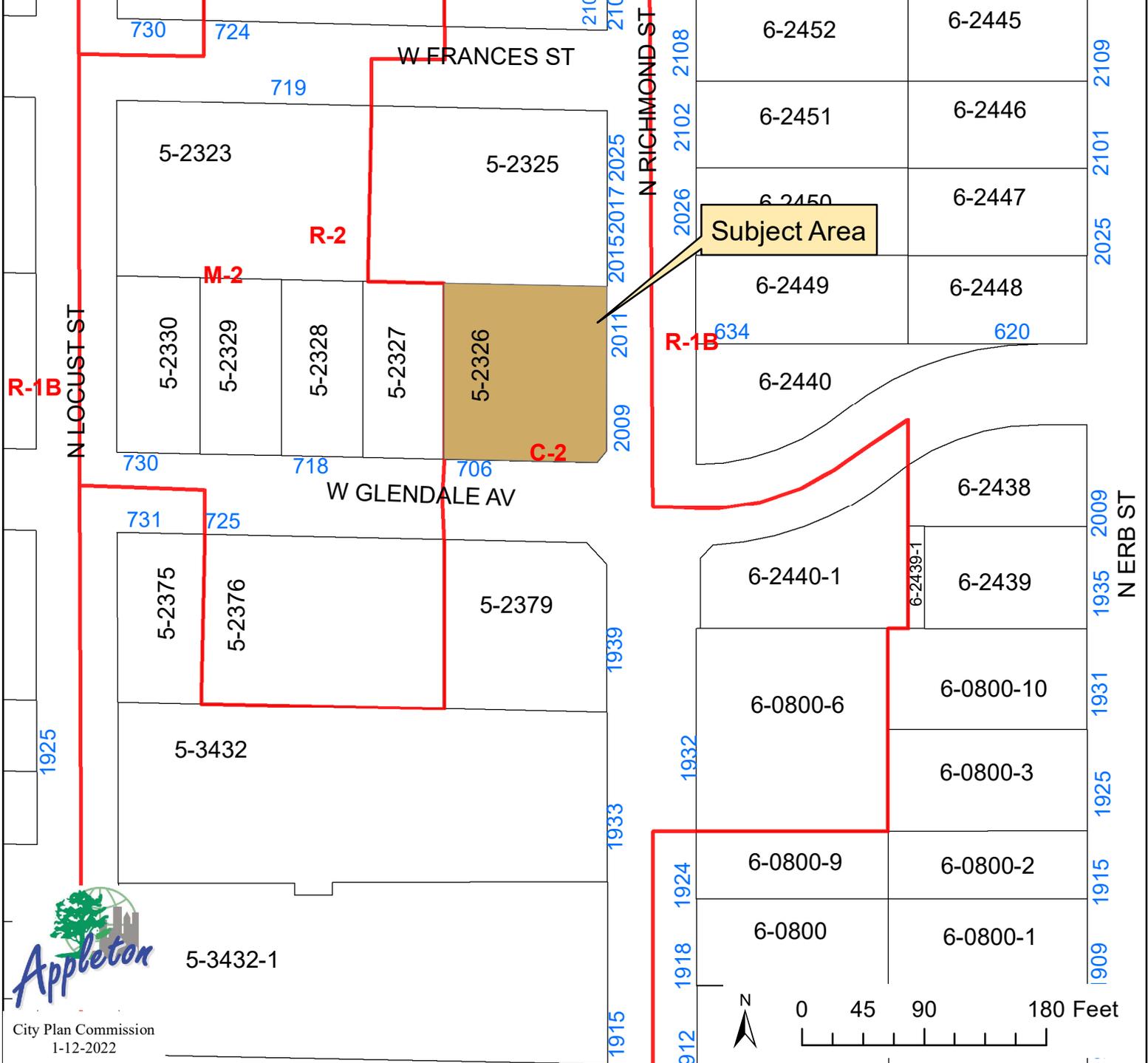
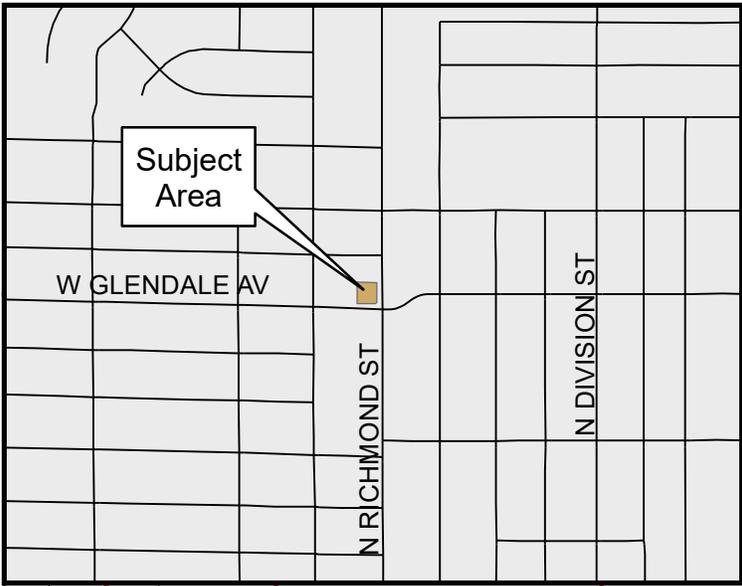
3. The applicant shall receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.

Substantial Evidence: This condition provides notice to the applicant that a Liquor License is also needed prior to serving alcohol.

4. The use shall conform to the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Appleton Municipal Code.

Substantial Evidence: This condition is one of the special regulations included in Section 23-66(h)(6) of the Zoning Ordinance for this particular use.

Special Use Permit
Alcohol Sales and Consumption
The Breaking Point
2009 & 2011 N. Richmond Street
Zoning Map



RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #5-21**

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WHEREAS, the City of Appleton Plan Commission held a public hearing on January 12, 2022 on Special Use Permit #5-21 at which all those wishing to be heard were allowed to speak or present written comments and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission has reviewed and considered the Community and Economic Development Department’s staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Plan Commission reviewed the standards for granting a Special Use Permit under Sections 23-66(e)(1-8) of the Municipal Code; and

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1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)

3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #5-21 for alcohol sales and consumption on the premises located at 2009 & 2011 N. Richmond Street, and also identified as Parcel Number 31-5-2326-00, subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #5-21:

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4. The City Clerk's Office is hereby directed to give a copy of this resolution to the owner/applicant, Community and Economic Development Department, Inspections Division, and any other interested party.

Adopted this 19th day of January 2022.

Jacob A. Woodford, Mayor

ATTEST:

Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business Information:

Name of business: The Breaking Point LLC

(Check applicable proposed business activity(s) proposed for the building or tenant space)

- Restaurant
- Bar/Night Club
- Wine Bar
- Microbrewery
- Other amusement

Years in operation: 2 years

Percentage of business derived from food service: 0 %

Type of proposed establishment (detailed explanation of business operations):

amusement
2 rage rooms
1 paint splatter room, air soft target shooting
small beer/seltzer bar

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Week Days Monday thru Thursday	4pm	9pm
Friday	4pm	11pm
Saturday	11am	11pm
Sunday	closed	

Building Capacity and Area:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 16-18 persons

Gross floor area of the existing building(s): 2,400

Gross floor area of the proposed building(s): 2,400

Describe Any Potential Noise Emanating From the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

Mostly evening hrs (4pm-9pm)
On a noise scale from 1-10, I'd rate
our noise level a 5.

Describe how the crowd noise will be controlled inside and outside the building:

no anticipated outside crowds
inside gatherings will be kept
to minimum

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

~~_____~~
~~_____~~
~~_____~~

Outdoor Space Uses:

(Check applicable proposed area)

- Patio
- Deck
- Sidewalk Café
- Other _____
- None

Size: _____ square feet.

Type of materials used and height of material to enclose the perimeter of the outdoor space:

Fencing Landscaping Other _____. Height _____ feet.

Is there any alcohol service incorporated within the outdoor space? Yes ___ No ___

Are there plans for outdoor music/entertainment? Yes ___ No ___

If yes, describe how the noise will be controlled:

Is there any food service incorporated within the outdoor space? Yes ___ No ___

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Week Days: Monday thru Thursday		
Friday		
Saturday		
Sunday		

NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):

******Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

Off-Street Parking:

Number of spaces existing: 30

Number of spaces proposed: 30

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

~~Bark at the Moon - dog grooming~~
~~Just Pets - pet store~~

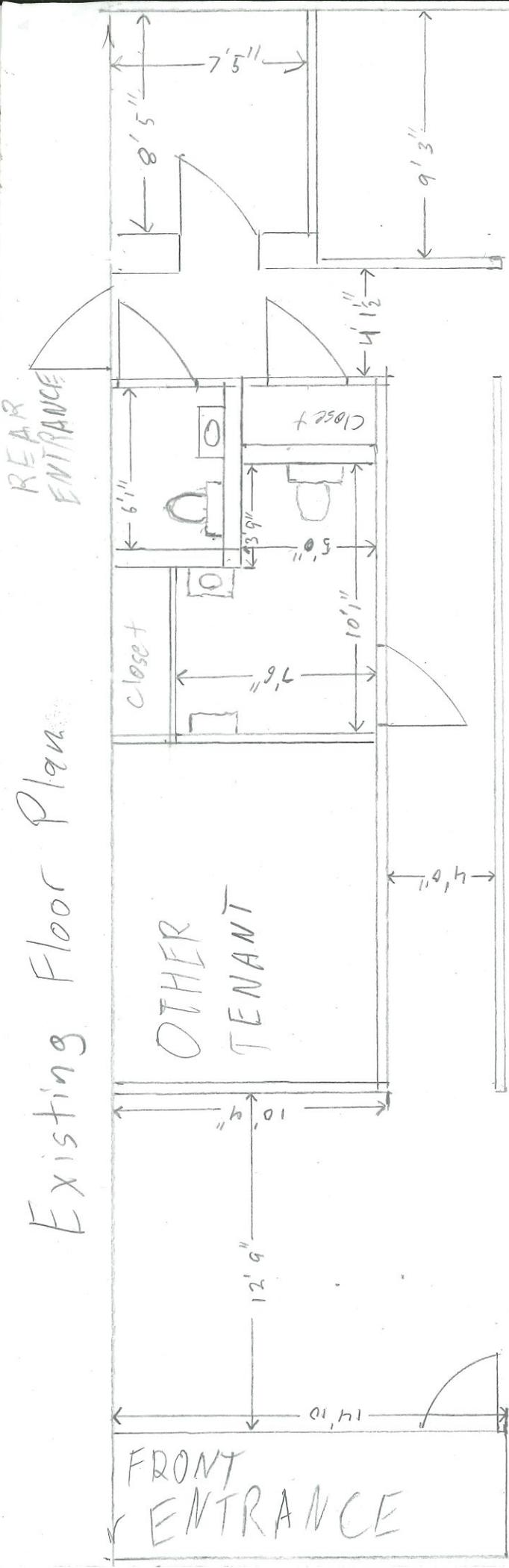
Number of Employees:

Number of existing employees: 4

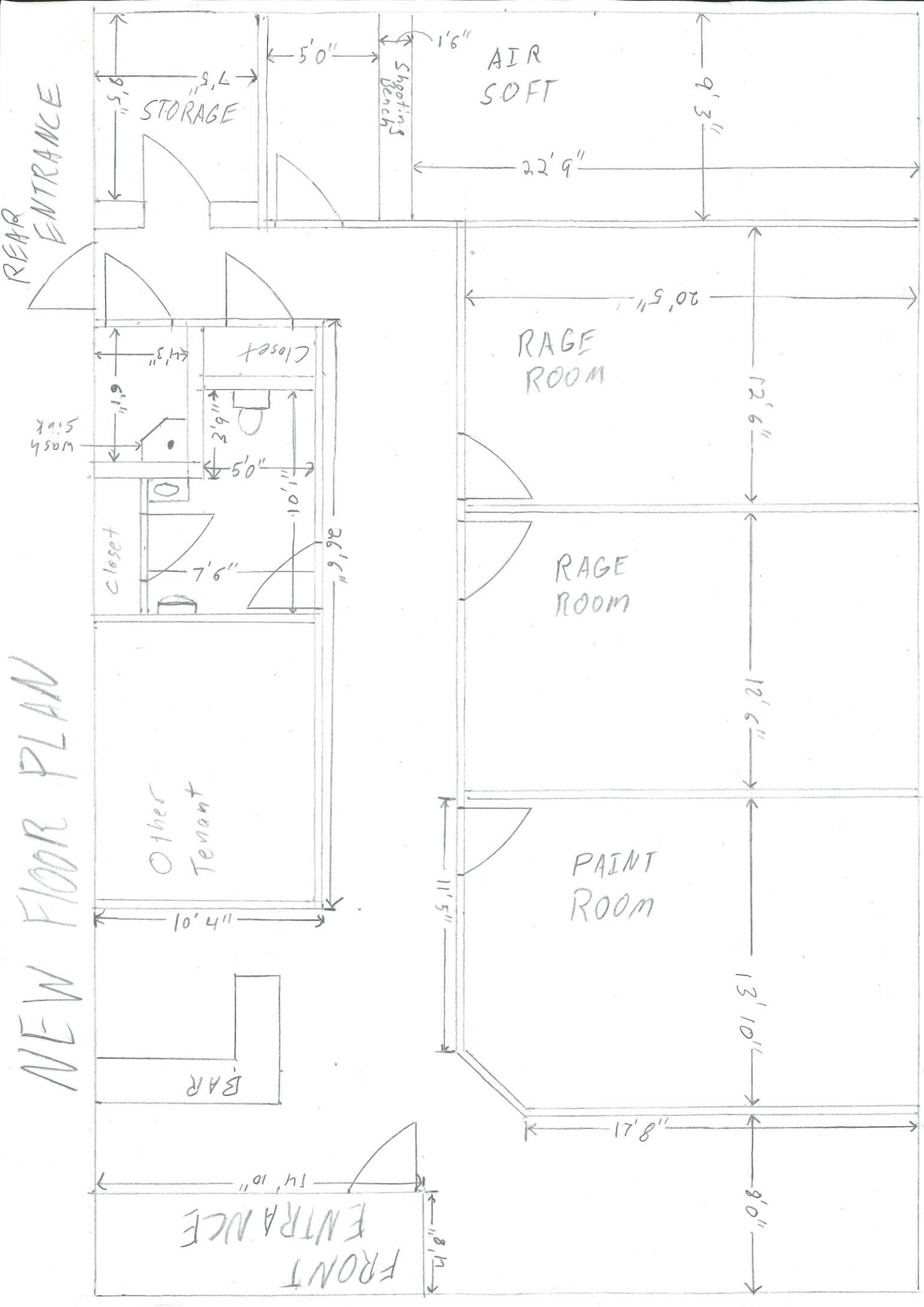
Number of proposed employees: 4

Number of employees scheduled to work on the largest shift: 4

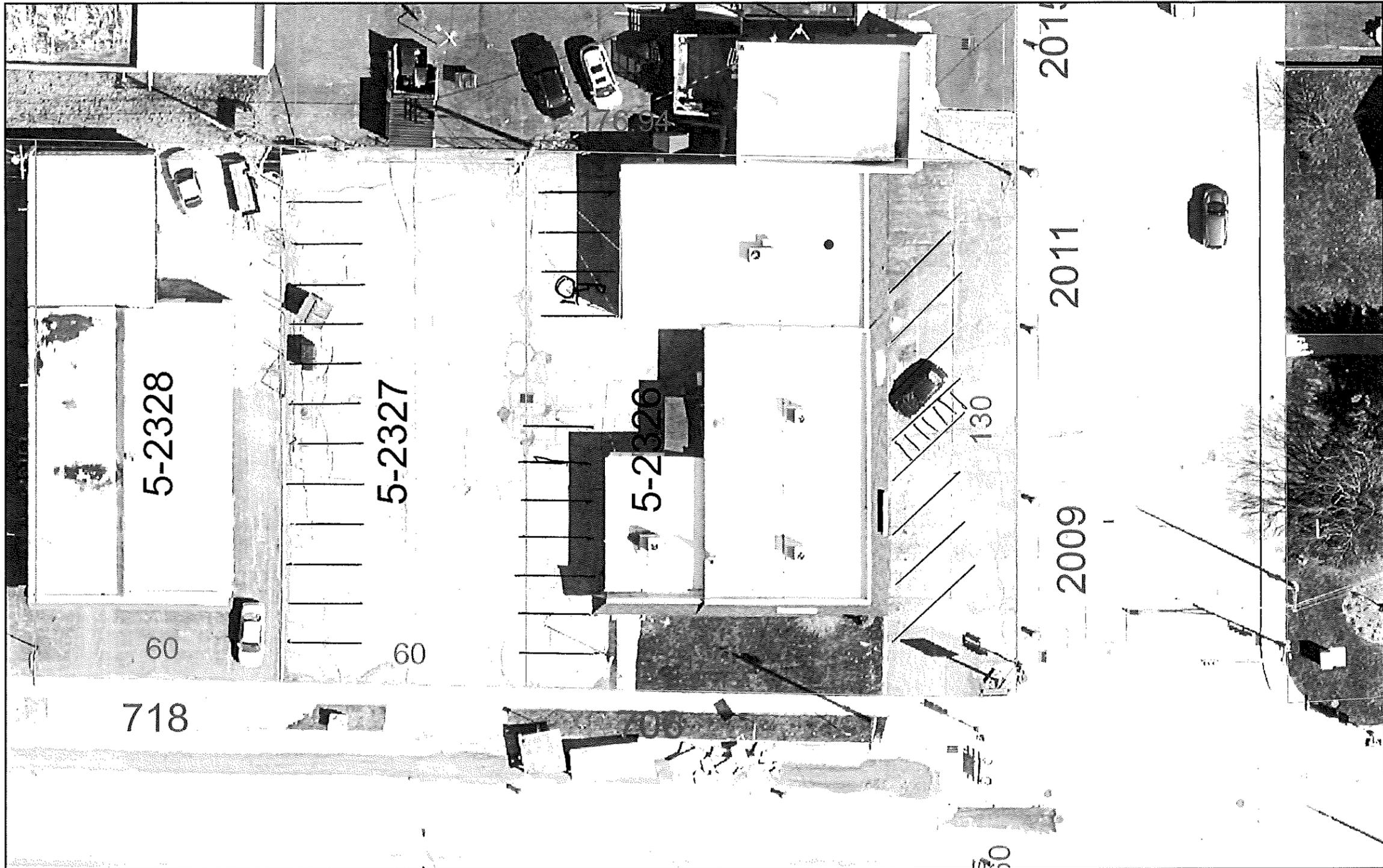
Existing Floor Plan



NEW FLOOR PLAN



ArcGIS Web Map



11/29/2021, 10:39:01 AM

 City Limits  City Parcels  Easements

1:564
0 0 0.01 0.01 mi
0 0.01 0.01 0.02 km

Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 7-1-21 ending: 6-30-22
(mm dd yyyy) (mm dd yyyy)

To the Governing Body of the: Town of } Appleton
 Village of }
 City of }

County of Outagamie Aldermanic Dist. No. _____
 (if required by ordinance)

Check one: Individual Limited Liability Company
 Partnership Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number [REDACTED]	
FEIN Number [REDACTED]	
TYPE OF LICENSE REQUESTED	FEE
<input type="checkbox"/> Class A beer	\$
<input checked="" type="checkbox"/> Class B beer	\$ 100
<input type="checkbox"/> Class C wine	\$
<input type="checkbox"/> Class A liquor	\$
<input type="checkbox"/> Class A liquor (cider only)	\$ N/A
<input type="checkbox"/> Class B liquor	\$
<input type="checkbox"/> Reserve Class B liquor	\$
<input type="checkbox"/> Class B (wine only) winery	\$
Publication fee	\$ 60
TOTAL FEE	\$ 160

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
Taco House LLC

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name <u>Martinez</u>	(First) <u>Carlos</u>	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) <u>3313 N Casaloma Appleton WI 54913</u> <u>APT 96</u>
Vice President / Member Last Name <u>Martinez</u>	(First) <u>Roberto</u>	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) <u>301 E Greenfield St Appleton WI 54911</u>
Secretary / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Treasurer / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
Agent Last Name <u>Martinez</u>	(First) <u>Roberto</u>	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) <u>301 E Greenfield St Appleton WI 54911</u>
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)

1. Trade Name Taco House Business Phone Number 920-364-9362
 2. Address of Premises 135 E Wisconsin Ave Post Office & Zip Code 54911

3. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, consumption, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.)
The alcohol will be stored in are walk-in cooler in Back Bay kitchen and in front By the Bar area. also it will be in side are Building/location at all times. Customers will consume the Alcohol Beverage in Building only in Bar area & Dining area.

4. Legal description (omit if street address is given above): _____
 5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? Yes No
 (b) If yes, under what name was license issued? _____

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** Yes No
7. Is the applicant an employe or agent of, or acting on behalf of anyone except the named applicant? Yes No
If yes, explain.
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** Yes No
9. (a) **Corporate/limited liability company applicants only:** Insert state _____ and date _____ of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** Yes No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** Yes No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] Yes No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] Yes No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? Yes No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) <i>Martinez, Carlos</i>	Title/Member <i>owner</i>	Date <i>2-8-2022</i>
Signature <i>Carlos Martinez</i>	Phone Number 	Email Address <i>4-29-2020</i>

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk <i>2-8-22</i>	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	



City of Appleton

Liquor License Questionnaire

1. Name of Applicant: Carlos Martinez

2. Name of Business: Taco House

3. Address of Business: 135 E WISCONSIN AVE
Appleton WI 54911

4. Have you or any member of your organization ever been convicted of a misdemeanor or ordinance violation? Yes _____ No
AND/OR been convicted of a felony? Yes No _____
If yes to either question, please explain in detail: Relay for Pardon \$
intent to Deliver

5. List all partners, shareholders or investors. Include full name, middle initial and date of birth. Please use additional sheets if necessary.

<u>Carlos</u>		<u>Martinez</u>	●/●/●
First name	Initial	Last name	Date of Birth
<u>Roberto</u>		<u>Martinez</u>	●/●/●
First name	Initial	Last name	Date of Birth
_____		_____	____/____/____
First name	Initial	Last name	Date of Birth
_____		_____	____/____/____
First name	Initial	Last name	Date of Birth

6. Name of person/corporation you are buying the premises and equipment from?

Name: _____
First name Initial Last name

Address: _____

City, State, Zip: _____

7. What was the previous name and nature of the business operating at this location?

Los Tres Manantiales

8. Are alcohol sales an existing use in this building? Yes _____ No X
 If no, When did the operation cease? 0 months ago. Never sold out of this location
9. Are alcohol sales a new use in this building? Yes X No _____
 If yes, please contact the Community Development Department at 832-6468 to obtain a Special Use Permit.
10. Is your primary business restaurant? Yes X No _____
11. Seating capacity: Inside 15 Outside _____
12. Operating hours: 11AM-9pm Sunday-Thursday 11AM-3AM F-Sat.
13. Number of floor personnel 3-4 Number of door checkers 1-2

14. In general, state the size, design and type of the proposed establishment and the operational details.

So its a pretty small location 20x55 FT. Front area
will have 2 tables 4 chairs each, and Bar will have 5 stools.
I will Be more of a fast Restaurant atmosphere.

4-29-2020
 Date 2-8-2022

Carla Staff
 Signature

Reasonable accommodations for persons with disabilities will be made upon request and if feasible.

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town
 Village of Appleton County of outagamie
 City

The undersigned duly authorized officer/member/manager of Taco House LLC
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as
Taco House LLC
(Trade Name)

located at 135 E Wisconsin Ave Appleton WI 54911

appoints Roberto Martinez
(Name of Appointed Agent)
301 E Greenfield St Appleton WI 54911
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 23 years

Place of residence last year 301 E Greenfield St Appleton WI 54911

For: Taco House
(Name of Corporation / Organization / Limited Liability Company)

By: Roberto Martinez
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, Roberto Martinez, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

[Signature] 11-16-2021
(Signature of Agent) (Date)

Agent's age [Redacted]
 Date of birth [Redacted]

301 E Greenfield St Appleton WI 54911
(Home Address of Agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

RESOLUTION

**CITY OF APPLETON
RESOLUTION APPROVING SPECIAL USE PERMIT #3-20**

WHEREAS, Carlos Martinez, owner of the Taco House restaurant has applied for a Special Use Permit for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, and also identified as Parcel Number 31-6-0323-00; and

WHEREAS, the location for the proposed restaurant with alcohol sales and consumption is located in the C-2 General Commercial District, and the proposed use is permitted by special use within this zoning district; and

WHEREAS, the City of Appleton Common Council held a public hearing on April 22, 2020, on Special Use Permit #3-20 at which all those wishing to be heard were allowed to speak or present written comments, and other materials presented at the public hearing; and

WHEREAS, the City of Appleton Common Council has reviewed and considered the Community and Economic Development Department's staff report and recommendation and other spoken and written evidence and testimony presented at the public hearing; and

WHEREAS, the City of Appleton Common Council may approve the proposed Special Use Permit provided all the standards listed in Section 23-66(e)(1-8) are found in the affirmative, and may impose any condition on the Special Use Permit provided the condition(s) are related to the purpose of the City of Appleton Municipal Code and are based on substantial evidence; and

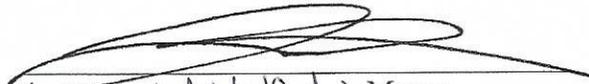
NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED by the City of Appleton Common Council, based on the special use permit application, Community and Economic Development Department's staff report, testimony and substantial evidence presented at the public hearing with regard the Special Use Permit #3-20, that the Common Council:

1. Determines all standards listed in Sections 23-66(e)(1-8) are found in the affirmative YES or NO (CIRCLE ONE)
2. If NO, the City of Appleton Common Council hereby denies Special Use Permit #3-20 for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, also identified as Parcel Number #31-6-0323-00 based upon the following standards and determinations: (List reason(s) why the Special Use Permit was denied)
3. If YES, the City of Appleton Common Council hereby approves Special Use Permit #3-20 for a restaurant with alcohol sales and consumption located at 135 East Wisconsin Avenue, also identified as Parcel Number #31-6-0323-00 subject to the following conditions:

CONDITIONS OF SPECIAL USE PERMIT #3-20

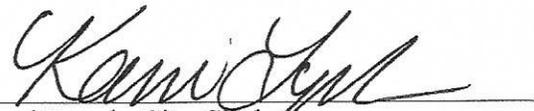
1. The applicant shall apply for and receive approval of a Liquor License from the City Clerk prior to serving alcohol on the premises.
2. The applicant shall comply with the standards established in Chapter 9, Article III, Alcoholic Beverages, of the Municipal Code.
3. The premises shall be kept free of litter and debris.
4. All Zoning, Building, Fire, Engineering, Utility and other Municipal Codes, and all applicable State and Federal laws shall be complied with.
5. The applicant shall have twelve (12) months from the issuance of the Special Use Permit (SUP) to obtain a liquor license and commence use of the tenant space located at 135 East Wisconsin Avenue, or Special Use Permit #3-20 will expire.
6. Any expansions of the special use, changes to the development plan(s), plan of operation or any conditions of approval may require a major or minor amendment request to this Special Use Permit pursuant to Section 23-66(g) of the Zoning Ordinance. Contact the Community and Economic Development Department to discuss any proposed changes.

Adopted this 22nd day of April 2020.



Jacob A. Woodford), Mayor

ATTEST:



Kami Lynch, City Clerk

PLAN OF OPERATION AND LOCATIONAL INFORMATION

Business information:

Name of Business: Taco House

Years in operation: New Restaurant

(Check applicable proposed business activity(s) proposed for the premises)

Restaurant.

Tavern/Night Club/Wine Bar.

Painting/Craft Studio.

Microbrewery/Brewpub (manufacturing a total of not more than 310,000 U.S. gallons of fermented malt beverages per calendar year).

Brewery (manufacturing a total of more than 310,000 U.S. gallons of fermented malt beverages per calendar year).

Winery (manufacturing of wine).

Craft-Distillery (manufacturing a total of not more than 100,000 proof gallons of intoxicating liquor per calendar year).

Distillery (manufacturing a total of more than 100,000 proof gallons of intoxicating liquor per calendar year).

Tasting room offering fermented malt beverages, wine or intoxicating liquor for consumption and/or retail sales on the premises where the fermented malt beverages, wine or intoxicating liquor is manufactured and/or at an off-premises location associated with premises. Tasting rooms may include food sales.

Other _____.

Detailed explanation of business activities:

This location will be serving Taco, Burritos,
Tortas, Quesadillas ext. also Beverages.

Existing Gross Floor Area of building/tenant space, including outdoor spaces

(square feet) 982.37 sf

Proposed Gross Floor Area of building/tenant space, including outdoor spaces

(square feet) 982.37 sf

Occupancy limits:

Maximum number of persons permitted to occupy the building or tenant space as determined by the International Building Code (IBC) or the International Fire Code (IFC), whichever is more restrictive: 15 persons.

Proposed Hours of Operation for Indoor Uses:

Day	From	To
Monday thru Thursday	11 AM	9 pm
Friday	11 AM	3 AM
Saturday	11 AM	3 AM
Sunday	11 AM	9 pm

Production/Storage information:

(Check applicable proposed business activity(s) proposed for the premises)

- Current production of fermented malt beverages: _____ U.S. gallons per year.
- Proposed production of fermented malt beverages: _____ U.S. gallons per year.
- Current production of wine: _____ U.S. gallons per year.
- Proposed production of wine: _____ U.S. gallons per year.
- Current production of intoxicating liquor: _____ proof gallons per year.
- Proposed production of intoxicating liquor: _____ proof gallons per year.

None. If none, leave the following 2 storage questions blank.

Identify location of grains and/or juice, grapes, other fruits or other agricultural product storage and type of storage container(s) used:

Identify the storage location of spent grains and/or grapes, other fruits or other agricultural products and type of storage container(s) used:

Outdoor Space Uses:

(Check applicable outdoor space uses)

- Patio.
- Deck.
- Sidewalk Café.
- Other _____.
- None.

Size: _____ square feet.

Type of materials used and height of material to enclose the perimeter of the outdoor space:

- Fencing Landscaping Other _____.
- Height _____ feet.

Is there any alcohol consumption incorporated within the outdoor facility? Yes ___ No ___

If yes, please describe:

Are there plans for outdoor music/entertainment? Yes ___ No ___

If yes, describe how the noise will be controlled:

Is there any food service incorporated in this outdoor facility proposal? Yes ___ No ___

Proposed Hours of Operation for Outdoor Space:

Day	From	To
Monday thru Thursday		
Friday		
Saturday		
Sunday		

NOTE: Hours of Operation for Outdoor Uses (Sidewalk Café with Alcohol):

*******Municipal Code Section 9-262(b)(4): The permit holder can begin serving alcoholic beverages in the sidewalk café at 4:00 p.m. Monday through Friday and 11:00 a.m. on Saturday and Sunday. All alcoholic beverages must be removed from the sidewalk café by 9:30 p.m.**

Describe Any Potential Noise Emanating from the Proposed Use:

Describe the noise levels anticipated from all equipment or other mechanical sources:

I would say it would be a Low Level.
Only thing would be appliances & music.

Describe how the crowd noise will be controlled inside and outside the building:

Building doors will be closed at all times

If off-street parking is available for the business, describe how noise from the parking lot will be controlled:

By staff

Off-Street Parking:

Number of spaces existing on-site: + 20

Number of spaces proposed on-site: —

Other Licensed Premises:

The number of licensed premises within the immediate geographic area of the proposed location will be considered in order to avoid an undue concentration that may have the potential of creating public safety problems or deterring neighborhood development.

List nearby licensed premises:

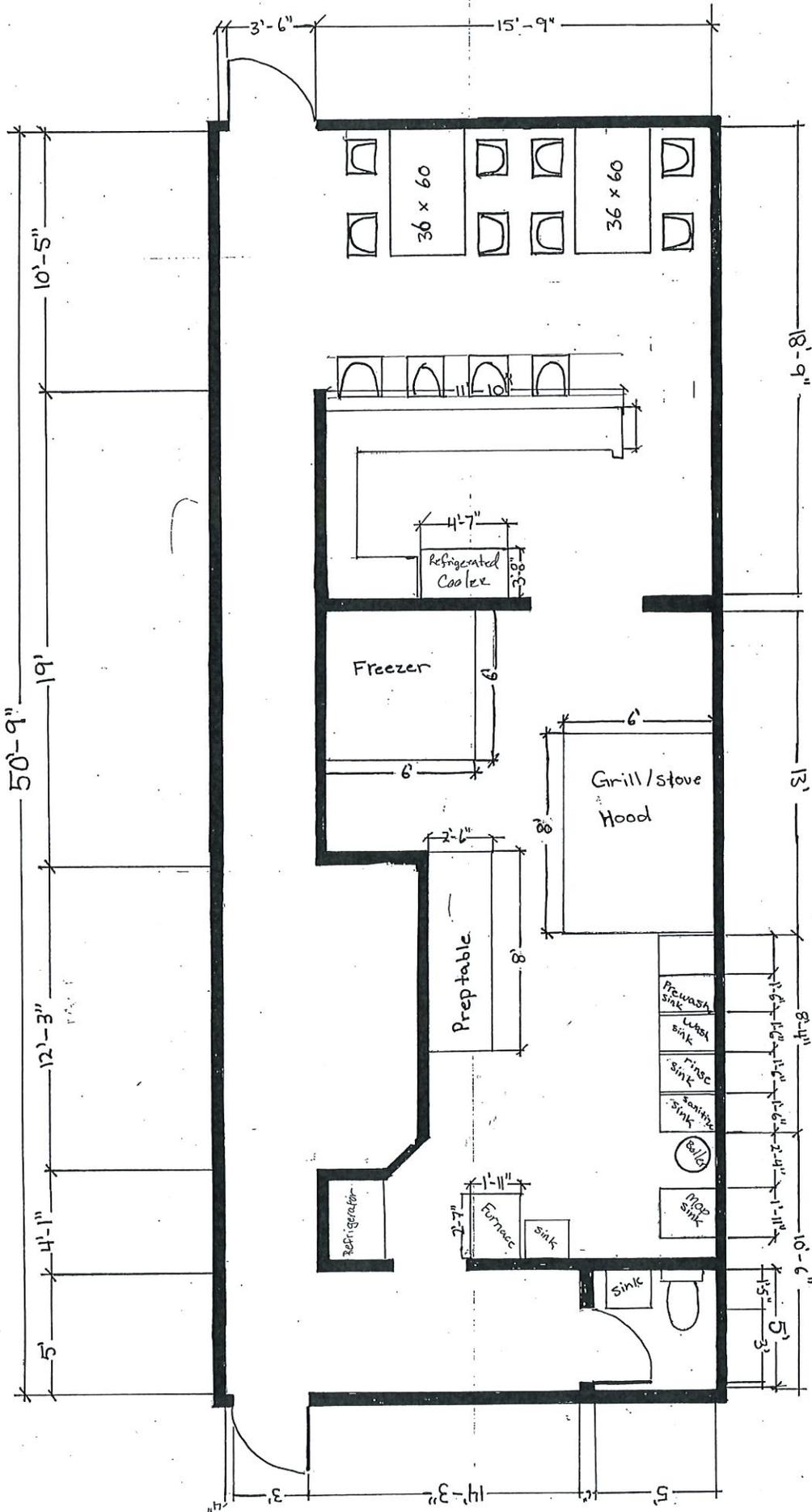
—
—
—

Number of Employees:

Number of existing employees: —

Number of proposed employees: 3

Number of employees scheduled to work on the largest shift: 3

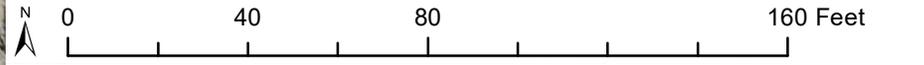
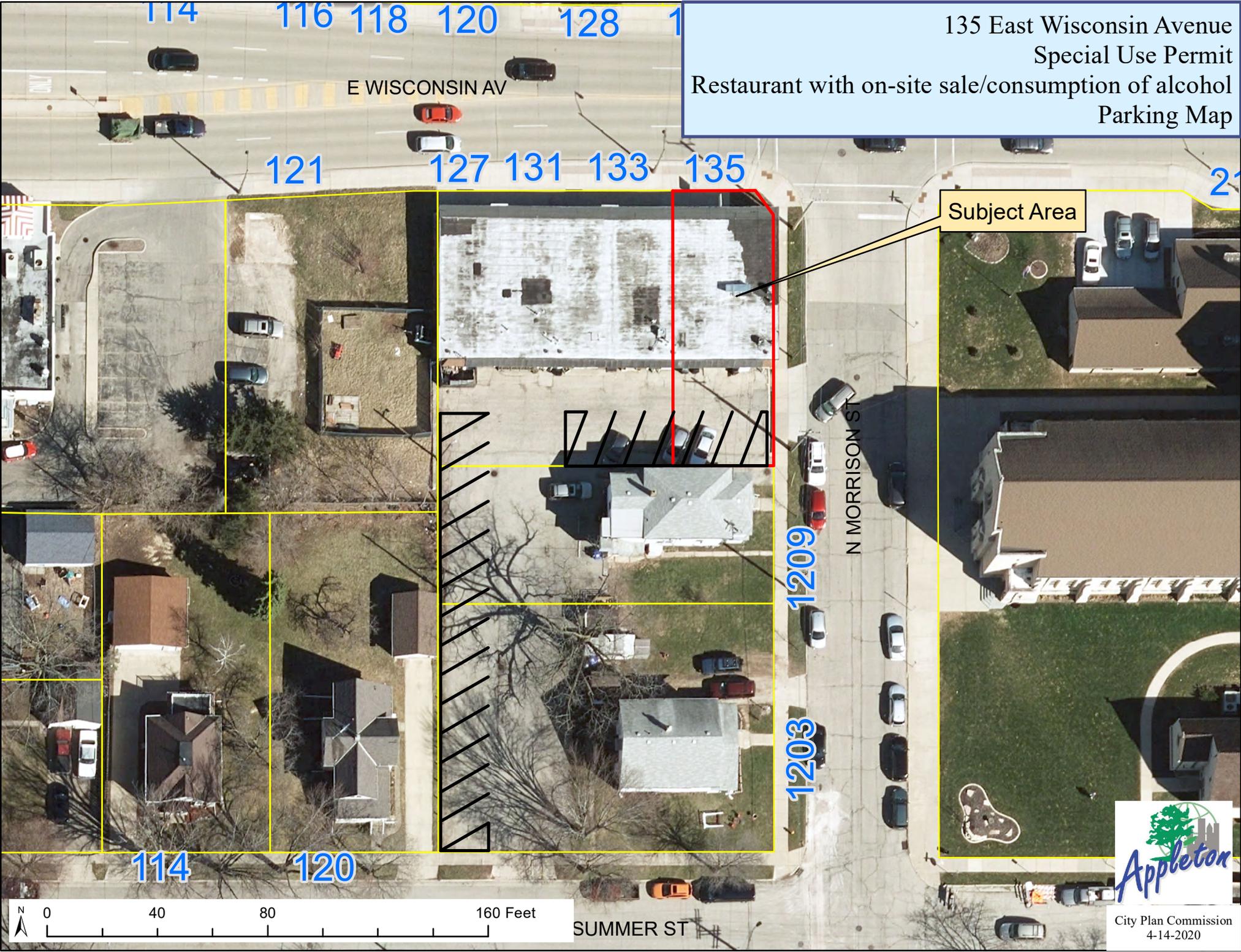


135 WILSONS RD
 10.10.20

Scale 1/4" = 1'

135 East Wisconsin Avenue
Special Use Permit
Restaurant with on-site sale/consumption of alcohol
Parking Map

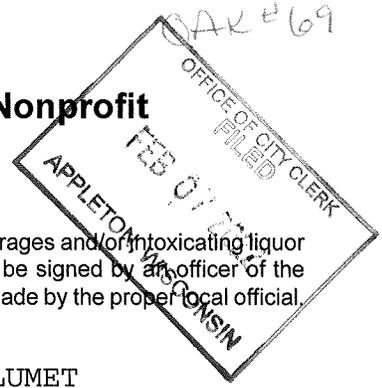
Subject Area



City Plan Commission
4-14-2020

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.



All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village of APPLETON County of CALUMET
 City

The undersigned duly authorized officer/member/manager of ALDI INC (WISCONSIN)
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as ALDI #69
(Trade Name)

located at 2310 S KENSINGTON DR., APPLETON, WI 54915

appoints JAMISON PIERCE
(Name of Appointed Agent)
415 S OLDE ONEIDA ST. APT 108 APPLETON, WI 54911
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).
N/A

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 47 YEARS

Place of residence last year 415 S OLDE ONEIDA ST. APT 108 APPLETON, WI 54911

For: ALDI, INC (WISCONSIN)
(Name of Corporation / Organization / Limited Liability Company)
By: [Signature]
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, JAMISON PIERCE, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

[Signature] 2/1/2022
(Signature of Agent) (Date)
415 S OLDE ONEIDA ST. APT 108 APPLETON, WI 54911
(Home Address of Agent)
Agent's age ●
Date of birth ●/●/●

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

BAK # 69

Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
PIERCE		JAMISON			
Home Address (street/route)		Post Office	City	State	Zip Code
415 S OLDE ONEIDA ST.		APT. 108	APPLETON	WI	54911
Home Phone Number		Age	Date of Birth		Place of Birth
●●●●●●●●		●	●●●●●●●●		●●●●●●●●

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- AGENT** of **ALDI #69**
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

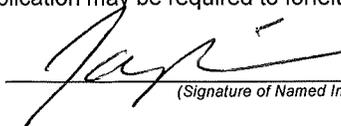
The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? 29 years
2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? Yes No
If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? Yes No
If yes, describe status of charges pending.
4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? Yes No
If yes, identify. (Name, Location and Type of License/Permit)
5. Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? Yes No
If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name <u>Aldi</u>	Employer's Address <u>2310 S Kensington Dr. Appleton WI</u>	Employed From <u>6/21/2017</u>	To <u>2/11/2022 current</u>
Employer's Name <u>Northern Tool & Equipment</u>	Employer's Address <u>4675 Assured Dr Grand chie, WI</u>	Employed From <u>9/1/2014</u>	To <u>6/15/2017</u>

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.


(Signature of Named Individual)

OAK # 68

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town Village of APPLETON County of CALUMET
 City

The undersigned duly authorized officer/member/manager of ALDI INC (WISCONSIN)
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as ALDI #68
(Trade Name)

located at 116 N LINWOOD AVE., APPLETON WI 54914

appoints MICHAEL HAASCH
(Name of Appointed Agent)
311 N 6TH ST. DE PERE, WI 54115
(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

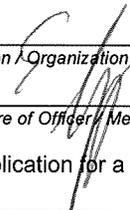
Yes No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).
N/A

Is applicant agent subject to completion of the responsible beverage server training course? Yes No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 25 YEARS

Place of residence last year 311 N 6TH ST. DE PERE, WI 54115

For: ALDI, INC (WISCONSIN)
(Name of Corporation / Organization / Limited Liability Company)

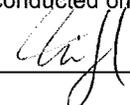
By: 
(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, MICHAEL HAASCH, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

 2/4/22 Agent's age ●
(Signature of Agent) (Date)
311 N 6TH ST. DE PERE, WI 54115 Date of birth ●/●/●
(Home Address of Agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

OAK #68

Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print) (last name)		(first name)		(middle name)	
HAASCH		MICHAEL		J	
Home Address (street/route)		Post Office		City	State
311 N 6TH ST				DE PERE	WI
Home Phone Number		Age	Date of Birth		Place of Birth
●●●●●●●●		●	●/●●●●		●●●●●●●●

The above named individual provides the following information as a person who is (check one):

- Applying for an alcohol beverage license as an **individual**.
- A member of a **partnership** which is making application for an alcohol beverage license.
- AGENT** of **ALDI #68**
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

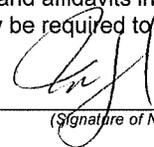
The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? 7 years
2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? Yes No
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? Yes No
 If yes, describe status of charges pending.
4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? Yes No
 If yes, identify. (Name, Location and Type of License/Permit)
5. Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? Yes No
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name <u>Matrix Sciences</u>	Employer's Address <u>1030 Parkview Rd Green Bay WI</u>	Employed From <u>4/2018</u>	To <u>5/2021</u>
Employer's Name <u>Northland Labs</u>	Employer's Address <u>1030 Parkview Rd Green Bay WI</u>	Employed From <u>5/2016</u>	To <u>4/2018</u>

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.


(Signature of Named Individual)

Application for Cigarette and Tobacco Products Retail License

Submit to municipal clerk.

MUNICIPAL USE ONLY

License Number
Period Covered
Date of Issuance

Applicant's Wisconsin 15-digit Sales Tax Account Number
 [REDACTED]

← This must be issued in the same Legal Name of the licensee below.

Legal Name (corporation, limited liability company, partnership or sole proprietorship) FOX RIVER HOUSE LLC			Federal Employer Identification No. (FEIN) [REDACTED]		
Trade or Business Name (if different than Legal Name) FOX RIVER HOUSE			Telephone Number ()		
Business Address (License Location) 211 S. WALNUT ST		Business Located In <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town		Business Telephone (920) 903-9968	
Municipality APPLETON	State WI	Zip Code 54911	of: APPLETON	County OUTAGAMIE	
Mailing Address (if different than Business Address)			Municipality	State	Zip Code

Organization (check one)

Sole Proprietor

Wisconsin Corporation – Enter date incorporated: 11/1/21

Out-of-State Corporation – Are you registered to do business in Wisconsin?

Yes No

Partnership

Other (describe)

- Yes No 1. Does the applicant understand that they must purchase cigarettes and tobacco products only from distributors, jobbers, or subjobbers, who hold a permit with the Wisconsin Department of Revenue?
- Yes No 2. Does the applicant understand that they must obtain a Tobacco Products Distributor permit if purchasing untaxed tobacco products from an out-of-state company? (Tobacco Products Distributor permit is available from the Wisconsin Department of Revenue at 608-266-6701. See application form CTP-129, revenue.wi.gov/dor/forms/ctp-129.pdf.)
- Yes No 3. Does the applicant understand that they cannot purchase/exchange cigarettes or tobacco products from another retailer, including transferring existing stock to a new owner?
- Yes No 4. Does the applicant understand that they must provide employees with tobacco sales training approved by the Wisconsin Department of Health Services? (<https://witobaccocheck.org>)
- Yes No 5. Does the applicant understand that they may not sell, give or otherwise provide cigarettes/tobacco products and nicotine products to minors (including electronic cigarettes containing nicotine)?
- Yes No 6. Does the applicant understand that they may not sell single cigarettes?
- Yes No 7. Does the applicant understand that cigarette and tobacco products invoices must be kept on the licensed premises for two years from the date of the invoice and be available for inspection by the Wisconsin Department of Revenue/law enforcement and that failure to comply can result in criminal penalties, including loss of cigarettes/tobacco products?
- Yes No 8. Does the applicant understand that only cigarettes and roll-your-own (RYO) tobacco products listed on the Wisconsin Department of Justice's website labeled "Directory of Certified Tobacco Manufacturers and Brands" at www.doj.state.wi.us/dls/tobacco-directory may be sold in Wisconsin?

Cigarettes / Tobacco will be sold over counter through vending machine both

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the applicant. Applicant agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, cannot be assigned to another. Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.

Cassidy Ems
(Officer of Corporation / Member / Manager of Limited Liability Company / Partner / Individual)

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of September 19, 2019: Sections 134.65, 134.66, 139.321, 139.79, 139.76, 995.10, and 995.12, Wis. Stats.