



City of Appleton

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

Meeting Agenda - Final Safety and Licensing Committee

Wednesday, September 8, 2021

5:30 PM

Council Chambers, 6th Floor

1. Call meeting to order
2. Roll call of membership
3. Approval of minutes from previous meeting
[21-1272](#) Safety & Licensing Minutes from September 1, 2021.

Attachments: [S & L Minutes 9-1-21.pdf](#)

4. Public Hearings/Apearances

5. Action Items

- [21-1270](#) Resolution #14-R-21 - Excessive Vehicle Noise

Attachments: [#14-R-21 Excessive Vehicle Noise.pdf](#)

[APD Analysis of Resolution on Mufflers.pdf](#)

- [21-1234](#) Class "B" Beer and Reserve "Class B" Liquor License application for ANK Restaurant Inc d/b/a Cinders Charcoal Grill, Adam Del Fosse, Agent, located at 221 S Kensington Dr, contingent upon approval from all departments.

Attachments: [Cinders Charcoal Grill.pdf](#)

- [21-1273](#) Temporary Class "B" applications filed after the agenda was published.

6. Information Items

[21-1249](#)

Special Events:

Wisconsin Arborist Association Tree Climbing Championship, Erb Park, September 17-18, 2021

Valley Social Dance Studio, Outdoor Dance, Telulah Park, September 19, 2021

Appleton Public Library presents: Solar Viewing w/ Solar System Ambassador, Houdini Plaza, September 29, 2021

Appleton Public Library presents: The Skies Above You w/ Solar System Ambassador, Pierce Park, October 27, 2021

Appleton North Homecoming Parade, 5000 N Ballard Rd, October 1, 2021

American Cancer Society, Making Strides Against Breast Cancer, Telulah Park, October 9, 2021

[21-1271](#)

Director's Reports

-City Clerk

-Fire Chief

-Police Chief

[21-1274](#)

Police Department information on alcohol law violations.

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, September 1, 2021

6:45 PM

Council Chambers, 6th Floor

SPECIAL

1. Call meeting to order

The meeting was called to order by Chair Van Zeeland at 6:45 p.m.

2. Roll call of membership

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

3. Approval of minutes from previous meeting

[21-1231](#)

Approval of minutes from the August 11, 2021 meeting.

Attachments: [S & L Minutes 8-11-21.pdf](#)
[S & L Minutes REV 8-11-21.pdf](#)

Van Zeeland moved, seconded by Smith that the Minutes be amended to mark Alderperson Schultz as excused versus absent. Roll Call. Motion carried 5/0.

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

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

4. **Public Hearings/Appearances**

5. **Action Items**

[21-1177](#)

Class "B" Beer and "Class B" Liquor License application for Spats Food and Spirits LLC d/b/a Spats, Nicholas Kapheim, Agent, located at 733 W College Ave, contingent upon approval from all departments.

Attachments: [Spats.pdf](#)

This Report Action Item was recommended for approval

[21-1194](#) "Class B" Liquor License application for Urban Modern Kitchen LLC d/b/a Urban Modern Kitchen, Cintya Mendoza, Agent, located at 800 East Wisconsin Ave, contingent upon approval from all departments.

Attachments: [Urban Modern Kitchen.pdf](#)

This Report Action Item was recommended for approval

[21-1201](#) Temporary Class "B" Beer and "Class B" Wine License application for Fox Cities Chamber of Commerce, Kristen Greiner, Person in Charge, located at 125 N Superior St, September 16, 2021, contingent upon approval from all departments.

Attachments: [Fox Cities Chamber Open House S&L.pdf](#)

This Report Action Item was approved

[21-1165](#) Temporary Class "B" applications filed after the agenda was published.

There were no applications filed.

6. Information Items

[21-1180](#) Special Events:
Aaron's Walk A Thon, Aaron's Heart of Gold, Appleton Memorial Park, August 29, 2021
Rise Together Day Presenting Food, Cars & Coffee, Jones Park, September 11, 2021
Latino Fest 2021, Casa Hispana Inc, Pierce Park, September 11, 2021
A Day in the Park, Appleton Parks & Recreation, Pierce Park, September 14, 2021
Irish Fest, Irish Fest of the Fox Cities, Jones Park/McGuinness Irish Pub, September 17-18, 2021
Green New Deal Festival, Sunrise Fox Valley, Pierce Park, September 19, 2021
License to Cruise, Fox Cities Chamber of Commerce, September 24, 2021
October, Fox Cities Chamber of Commerce, September 25, 2021
Xavier High School Homecoming Parade, October 1, 2021
Xavier High School Fun Run, Dog Walk & Bike Ride, October 2, 2021
Ladies Night Out, Appleton Downtown Inc, Downtown Appleton Establishments, October 7, 2021
Appleton East Homecoming Parade, October 8, 2021
50th Downtown Appleton Christmas Parade, Appleton Parade Committee, November 23, 2021

[21-1232](#) Police Department information on liquor law violations.

[21-1233](#) Director's Reports
1. City Clerk
2. Police Chief
3. Fire Chief

7. Adjournment

Hartzheim moved, seconded by Smith, that the meeting be adjourned at 6:49 p.m. Roll Call. Motion carried by the following vote:

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

Resolution #14-R-21

Amend Municipal Code to include Definitions for “Intentional Motor Vehicle Operation” and “Intentional Motor Vehicle Modification” for Noise Generation

Date: September 1, 2021

Submitted By: Brad Firkus – District 3, Joe Martin – District 4, Alex Schultz – District 9, Kristin Alfheim – District 11, Nate Wolff – District 12

Referred To: Safety & Licensing Committee

WHEREAS, the City of Appleton’s Municipal Code identifies noise as a serious hazard to the public health, welfare, safety and quality of life and,

WHEREAS, the people have a right to an environment free from excessive sound that may jeopardize their health, welfare, or safety, or degrade the quality of life and,

WHEREAS, Appleton Municipal Code, Sec. 12-80, states that no person shall make or cause to be made any loud, disturbing, fluctuating or unnecessary sounds or noises such as may tend to annoy or disturb a reasonable person, and Sec 12-81 (f), states that No person shall operate any motor vehicle unless such motor vehicle is equipped with an adequate muffler in constant operation and property maintained to prevent excessive or unusual noise, **however, does not** specify the intentional modification of vehicular exhaust systems specifically to emit excessive noise, in common vernacular “pop”, “bang” or “crackle”, nor does is specify certain methodologies of operator manipulation of gas flow to combustion engines to intentionally emit excessive noise, and,

WHEREAS, Section 12-76 of the Municipal Code does not have a definition of Intentional Vehicle Modifications to Emit Excessive Noise nor does not have a definition of Intentional Vehicle Operation to Emit Excessive Noise, and

WHEREAS, Health in All Policies dictates that public health and well-being drive all policy,

NOW THEREFORE, BE IT RESOLVED, that Appleton Code Article IV, Noise, Sec. 12-76 be amended to include the following definitions;

Intentional Vehicle Modifications to Emit Excessive Noise means any intentional after-market mechanical modifications to light motor vehicles which amplify the sound of escaping gases specifically designed to create excessive noise emissions under normal operation.

Intentional Vehicle Operation to Emit Excessive Noise means the operation of any intentional light motor vehicle operation in such a manner that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation with the express purpose of excessive combustion noise emissions.

and,

BE IT FURTHER RESOLVED that infractions of the Noise ordinance under these newly defined classifications of intent, specifically to disrupt the peace, be enforced consistent with the policies and penalties defined under Sec 12-76.



Chief Todd Thomas
Appleton Police Department

222 South Walnut Street
Appleton, WI 54911

Date: September 2, 2021
From: Chief Todd Thomas
To: Safety and Licensing Committee Chairperson Alderperson Katie Van Zeeland
City Council Members
Re: Analysis of Resolution #14-R-21

I met with ACA Glad to discuss this resolution and provide any feedback, specifically from the perspective of the Police Department. There are several points of analysis from the Police Department that I will bullet point for the committee and council.

- The resolution contains two additions to the definitions in city ordinance 12-76, which are both already covered under **WI 347.39 (1) and (2)**: with the key terms being *modifications*, *amplify*, and *excessive noise*. Additionally, City Ordinance Sec. 12-81 already adopts the provisions of 347.39.
- The definitions in the proposed resolution are different than state law because the new language is specific to only “light motor vehicle” (vehicles under #8,000), while state laws apply to all motor vehicles.
- The final “be it resolved” states that infractions under the newly defined classifications be enforced consistent with policy and penalties defined under 12-76, which is the definitions section; our assumption is that the desire is for it to be enforced under **12-81 Prohibited Acts (f)**.

I have attached the resolution language, the applicable current WI Traffic Law, and the current ordinance that adopts the language in state law, in addition to already being adopted in our traffic code.

NOW THEREFORE, BE IT RESOLVED, that Appleton Code Article IV, Noise, Sec. 12-76 be amended to include the following definitions;

Intentional Vehicle Modifications to Emit Excessive Noise means any intentional after-market mechanical modifications to light motor vehicles which amplify the sound of escaping gases specifically designed to create excessive noise emissions under normal operation.

Intentional Vehicle Operation to Emit Excessive Noise means the operation of any intentional light motor vehicle operation in such a manner that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation with the express purpose of excessive combustion noise emissions. and,

BE IT FURTHER RESOLVED that infractions of the Noise ordinance under these newly defined classifications of intent, specifically to disrupt the peace, be enforced consistent with the policies and penalties defined under Sec 12-76



Chief Todd Thomas
Appleton Police Department

222 South Walnut Street
Appleton, WI 54911

Current Wisconsin Traffic Law adopted by city ordinance

SS.347.39 MUFFLERS

(1) No person shall operate on a highway any motor vehicle subject to registration unless such motor vehicle is equipped with an adequate muffler in constant operation and properly maintained to prevent any excessive or unusual noise or annoying smoke. This subsection also applies to motor bicycles.

(2) No muffler or exhaust system on any vehicle mentioned in sub. (1) shall be equipped with a cutout, bypass or similar device nor shall there be installed in the exhaust system of any such vehicle any device to ignite exhaust gases so as to produce flame within or without the exhaust system. No person shall modify the exhaust system of any such motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this section.

(3) In this section, "muffler" means a device consisting of a series of chambers of baffle plates or other mechanical design for receiving exhaust gases from an internal combustion engine and which is effective in reducing noise.

Current City Ordinance on Prohibited Acts - Muffler

COA Municipal Code Sec. 12-81 Prohibited Acts (f) No person shall operate any motor vehicle unless such motor vehicle is equipped with an adequate muffler in constant operation and properly maintained to prevent excessive or unusual noise. The provisions of W.S.A. §347.39 are hereby adopted by reference and made a part of this section.

Please let me know if you have further questions,

Chief Todd Thomas

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	\$ 10,660

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
ANK restaurant Inc

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>Khan</u>	<u>Nasir</u>		<u>74 Roosevelt street Pequannock, NJ 07440</u>
Vice President / Member Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)
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>Del Fosse</u>	<u>Adam</u>		<u>N207 Country ayne Appleton, WI 54915</u>
Directors / Managers Last Name	(First)	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code)

1. Trade Name Cinder's Charcoal Grill Business Phone Number 201-696-1078
 2. Address of Premises 221 S Kensington Dr. Appleton Post Office & Zip Code 54915

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 is stored in the basement of the building in the deep freezer.
It is also stored in the bar coolers and storage room cooler. Alcohol is
consumed in the one story 5900 SQ ft building Especially in the bar section
In addition to inside the builidng, alcohol is also consumed outside patio
470 SQ FT.

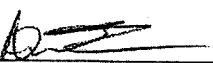


4. Legal description (omit if street address is given above): _____

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? Kensington Restaurant Inc

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 WI and date 08/07/21 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? Yes No
If yes, explain.
The current agent is working as a manager for the current owner's of restaurant called Kensington Restaurant Inc.
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.) Nasir Khan	Title/Member President	Date 08/11/2021
Signature 	Phone Number 	Email Address 

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk 08-26-2021	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: ~~John~~ Nasir Khan

2. Name of Business: Ank restaurant Inc.

(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: 221 S. Kensington Dr Appleton, WI 54915

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 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>Nasir</u>		<u>Khan</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
			/ /
First name	M.I.	Last name	Date of Birth
			/ /

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

Name: ~~John~~ Kensington Restaurant Inc. ~~Private~~

First name	Middle Initial	Last name
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Address: 221 S. Kensington Dr. Appleton, WI 54915

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

Name: Cinderella's Charcoal Grill

(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?

Still open months ago.

10. Seating capacity: Inside 150 Outside 20

11. Operating hours (Inside the building): 11am - 9pm
Operating hours (Outdoor seating areas): 11am - 9pm

12. Employees/Staff

Number of floor personnel 25 Number of door checkers 2

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

a. Gross floor building area of the premises to be licensed: 5,900 square feet.

b. Gross outdoor seating areas of the premises to be licensed: 476 square feet.

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

Cinderella's Charcoal Grill is full service restaurant.
There is a full functioning bar. Basement
contains the refrigerator.

[Signature]
Signature

08/24/2021
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 ANK restaurant Inc
(Regulated 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
Cinder's Charcoal Grill

(Trade Name)
located at 221 S Kensington Dr Appleton WI 54915

appoints Adam Del Fosse
(Name of Appointed Agent)

N207 Country Ayre Appleton, WI 54915
(Home Address of Appointed Agent)

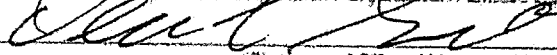
to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability 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).
Kensington Restaurant Inc Appleton, WI

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? 20 years

Place of residence last year N207 Country Ayre Appleton, WI 54915

For: ANK Restaurant, Inc.
(Name of Corporation / Organization / Limited Liability Company)

By: 
(Signature of Officer / Member / Manager)

I, Adam Del Fosco

(Write Type Agent's Name)

herby accept this appointment as agent for the

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.

Adam Del Fosco

8-26-21

(Signature of Agent)

(Date)

Agent's age

N207 Country Ayre Appleton, WI 54915

(Home Address of Agent)

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 _____

(Date)

(Signature of Proper Local Official)

Title

(Town Chair, Village President, Police Chief)

AT-114 (M-4-17)

When in District of Revenue