



LEGAL SERVICES DEPARTMENT

Office of the City Attorney

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TO: Members of the Community and Economic Development Committee

FROM: Stacy Doucette, Assistant City Attorney *SD*

DATE: April 2, 2014

RE: Overview of Licenses and the Demerit Point System

The purpose of this memo is to familiarize everyone with the demerit point system and the process of assessing those demerit points. According to the liquor license policy adopted by the Safety and Licensing Committee, the possession of a beer or liquor license in the City is a privilege and not a right, a privilege that must not be taken for granted but rather must be continually conditioned by the holder's adherence to applicable laws and regulations. A copy of the liquor license policy along with a copy of the Police Department's licensed premises policy is attached to this memo for your reference.

TYPES OF LICENSES

CLASS "A" – The licensee may sell fermented malt beverages (Ex. beer, wine coolers) to consumers in the original packages or containers for off-premises consumption only. (Ex. Gas stations)

"CLASS A" – The licensee may sell intoxicating liquors to consumers in the original packages or containers for off-premises consumption. (Ex. liquor store, grocery store)

CLASS "B" – The licensee may sell fermented malt beverages (Ex. beer, wine coolers) to consumers for on-premises or off-premises consumption only. (Ex. restaurant)

"CLASS B" – The licensee may sell intoxicating liquors to consumers by the glass for on-premises consumption and off-premises consumption in quantities not exceeding four liters at any one time. (Ex. bars and most restaurants)

COMBINATION LICENSE – The combination license allows the business to sell both fermented malt beverages and intoxicating liquors. "Class A" licenses and "Class B" licenses are issued as a combination license.

RESERVE "CLASS B" – The same as a "Class B" license; however, this license cost \$10,000. The license holder may be reimbursed for improvements made to the property up to \$10,000. The license stays with the location and can't be moved to another location. These licenses

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were added to the quota in 1997 to create more licenses for each municipality. The number of these licenses increases based upon the population.

EXEMPT LICENSE – If a municipality has issued all of its “Class B” licenses, an exempt “Class B” license can be issued to a full-service restaurant with seating capacity for 300 or more persons, a hotel that has 100 or more rooms for sleeping and an attached restaurant or banquet room or an opera house or theater for the performing arts operated by a non-profit.

TEMPORARY CLASS “B” (aka picnic licenses) – The licensee may sell fermented malt beverages to consumers at a picnic or similar gathering for a limited duration.

“CLASS C” – The licensee may sell wine by the glass or in an opened original container for consumption on the premises were sold.

OPERATOR LICENSES (aka bartender’s licenses) – The license is issued to an individual so they can serve alcoholic beverages. A person does not need an operator’s license if they are under the immediate supervision of someone that has a license.

<u>TYPE OF LICENSE</u>	<u>NUMBER WITHIN THE CITY</u>
Class “A” Beer	30
“Class A” Beer/Liquor Combination	21
Class “B” Beer	19
“Class B” Beer/Liquor Combination	97
Class C Wine	11
Reserve “Class B” Beer/Liquor Combination	23 + 3 pending
Exempt “Class B” Beer/Liquor Combination	2
<u>Total</u>	203 licenses
Inactive licenses	3

DEMERIT POINTS

The demerit point system is designed to identify habitually troublesome liquor licenses who repeatedly violate the state statutes and/or City of Appleton ordinances and take consistent action against such licensees. The following demerit points are assigned to the following types of violations:

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

Person under age 21 on premises	80
Sale to intoxicated person	80
False statement on application	70
Operating while license is suspended	200
Unauthorized transfer/use of license	90
Conducting unlawful business	150
No licensed bartender on premises	40
Open after hours/Failure to vacate	50
After hours carry-outs	50
Gambling/gambling paraphernalia on premises	150
Nude or semi-nude entertainer/employee on premises	150
Failure to display license	25
Owner/employee selling controlled substances	150
Illegal drug paraphernalia on premises	100
Other acts – failure to maintain order/disorderly conduct, noise complaints, etc.	45
<i>Penalty enhancer for severe offenses:</i>	100

Enhanced penalty for conduct which

(1) results in bodily harm to any individual

(2) creates a substantial risk of death or bodily harm;

(3) involves the use of a firearm or other dangerous weapon; or

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

HEALTH CODE VIOLATIONS

DEMERIT POINTS

Non-critical violation	25
Critical violation	80

POINT ASSESSMENTS

When calculating violations, the date of the violation is used as the basis for assigning the demerit points per violation. By using the date of the violation, defendants and licensees can't avoid a suspension or revocation by delaying the matter in court. However, points are only assigned after there is a conviction for the violations. In addition, the demerit point system based upon the convictions removes any subjective evaluations and instead provides a mechanism for the City to take fair and consistent action against all licensees.

When a citation is issued to an employee of a licensed premise, the Police Department will send the licensee notification of the violation. The purpose is to put the licensee on notice of the violation before there is a conviction and before any demerit points are assessed. It is also not unusual for the licensee to appear in court with the employee. The City Attorney's Office will provide the defendant and/or the licensee with as much information as possible including information about the demerit points if given the opportunity, so the person makes an informed decision prior to entering a plea. However, the City Attorney's Office can't provide legal advice to the defendant or the licensee.

After there is a conviction for a violation and the demerit points total 25-149 within a 12-month period, a warning is given to the licensee. The Police Department informs the Safety and Licensing Committee that a licensee will be assessed demerit points. After the committee meeting, a letter is sent to the licensee informing the licensee of the points assessment and how many points they have accumulated in the twelve month window and the eighteen month window. The letter also reminds the licensee that the Police Department offers training for free. A copy of this letter is attached.

For demerit points totaling 150-199 within a 12 month period, the license shall be suspended for not less than ten (10) days nor more than ninety (90) days. After the convictions, the City's Attorney's Office will send a letter to the licensee explaining that based upon the specific convictions and based upon the ordinance, the license has accumulated demerit points totaling 150 to 199 within twelve months. In addition, a copy of the ordinance is sent with the relevant sections highlighted. This letter also explains to the licensee that they have a right to a hearing before the Safety and Licensing Committee and that they are entitled to an attorney. Finally, the letter asks that the licensee contact the Attorney's Office to discuss the demerit points.

If the licensee fails to contact the City Attorney's Office, phone calls are then made to the licensee to make sure that the licensee received the letter and to discuss the potential suspension. Often times, at this point a licensee will hire an attorney. It is also not unusual for the attorney, the licensee or a defendant to go back to court. There have been several cases in which the convictions are reopened and litigated. Therefore, often times, there will be several months or longer between the date of the violation and the conviction.

Finally, when the citations have been litigated or closed, the City Attorney's Office will meet with the licensee and/or their attorney to discuss the ordinance and to discuss settlement. The liquor license policy allows the City Attorney's Office to work out a settlement agreement prior to a hearing. Over the last several years, suspensions have not resulted in hearings. The standard practice has been that if the licensee is facing a suspension for the first time, the Safety and Licensing Committee has authorized the City Attorney's Office to stipulate to a 10 day suspension. If a licensed premises would be facing a second suspension further discussions would need to occur

with the Committee, since no standard practice has been established due to the fact that this has not happened in the last few years. The settlement is then brought before the Safety and Licensing Committee and the Common Council for approval. The City's liquor license policy requires that the 10 day suspension begin within 13 days of the Common Council approving the stipulation.

Finally, demerit points totaling 200 or more within an 18 month time period shall result in the license being revoked. When a licensee reaches this point total, the licensee has probably already gone through the suspension process, which means that they have already met with the City Attorney's Office at least once. It is possible that a licensee could accumulate 200 or more demerit points without ever being suspended; however, that was not the case with the revocations that have occurred in the last few years. A similar process is used for the revocations. A formal letter is sent explaining the process and reasons for the revocation. The licensee is asked to contact the City Attorney's Office and follow up is done if the City Attorney's Office does not hear from the licensee. In addition, a complaint is usually drafted and personally served on the licensee as well. Typically, a meeting is set up with the licensee to discuss the situation and possibly work out a resolution. Again, at this point in time, it is not unusual for the licensee to go back and ask the court to reopen one or more cases.

When all of court cases are closed and a licensee has violations that total 200 or more demerit points, they really have only three options regarding the license.

1) The licensee can go forward with a revocation hearing. The disadvantage for the licensee is two-fold. If the license is revoked, the licensee is prohibited from having any other license under Chapter 125 for twelve months. In addition, no other license shall be granted for the same premises for at least 6 months.

2) The licensee can surrender the license. The advantage to this option is that the licensee and the premises are not subject to the time limitations stated above.

3) The licensee can transfer or sell the business before the license is officially revoked. Upon the transfer or sale, all demerit points are canceled unless any of the following apply:

- (a) the new licensee if related to the former licensee by blood, adoption or marriage,
- (b) the new licensee held a business interest in the previous licensed business, real estate or equipment,
- (c) the former licensee or an individual related to the former licensee by blood, adoption or marriage retains an interest in the business, real estate or equipment used by the business or
- (d) the new licensee's acquisition of the business did not involve an arm's length transaction consisting of an open market sale in which the owner is willing, but not obligated to sell, and the buyer is willing, but not obligated to buy.

Although, a license may be revoked or surrendered, the licensee is not prohibited from continuing to operate any other business. Therefore, a restaurant can still serve food or a gas station can still remain open. Of the businesses that have faced a revocation or non-renewal for demerit point violations, Senor Tequilas is the only business that is closed. However, Senor Tequilas was in foreclosure prior to the revocation and has remained closed well beyond the six month time limitation.

STATE STATUTE

The City of Appleton ordinances are consistent with state statute. Pursuant to WSA § 125.12(2), any resident of a municipality (which includes employees of the municipality) may file a sworn written complaint with the clerk of the municipality alleging among other things that the establishment has violated state statute or municipal ordinances. WSA §125.12(2)(b)2 goes onto state that if the complaint is found to be true, the license shall either be suspended for not less than 10 days nor more than 90 days or revoked. Finally, WSA § 125.12(2)(c) states that when a license is revoked, the licensee shall not be granted any other license under Chapter 125 for 12 months from the date of the revocation.

SUSPENSIONS (2008-2014)

Capitol Center	2008
Gingerrootz	2008
Pulse (222 W. Franklin)	2008
Uncle Jim's	2008
Motomart (3400 E. Calumet)	2009
Senor Tequilas	2009
Express Gas Station (E. Wisconsin Ave.)	2010
MT Pockets	2010
Kokomos (1200 S. Oneida)	2010
Jerry's Pages and Pipes	2011
McKnight and Carlson Wines	2011
Speakeasy	2011
LaMichoacana	2012
TJs Japanese Steakhouse	2012
Wooden Nickel	2012
Chester's Pub	2013
DK Petroleum	2013
Hide-a-way	2013
Sangrias	2013

REVOCATIONS (2008-2014)

Senor Tequilas (includes Venue and Casablanca's)	2012
*TJ's Japanese Steakhouse	2014
*This license was ultimately surrendered after the business was sold.	

NON-RENEWALS (2008-2014)

Fire Alarm	2009
The timing of the convictions/ investigation lead the City to do a non-renewal; however, the non-renewal was based upon demerit points that totaled 200 or more. This property has since been sold to the cemetery.	

CITY OF APPLETON POLICY		TITLE: GENERAL POLICY STATEMENT ON BEER/LIQUOR LICENSING	
ISSUE DATE: unknown	LAST UPDATE: November 2010		
POLICY SOURCE: Office of the City Clerk			TOTAL PAGES: 11
Reviewed by Attorney's Office Date: September 22, 2011	Safety and Licensing Committee Approval Date: July 29, 2010 Update approved: Oct. 28, 2010 Approved: Oct. 13, 2011	Council Approval Date: August 4, 2010 Update: November 3, 2010 Approve: October 19, 2011	

I. PURPOSE

The City of Appleton believes the safety and welfare of its citizens and neighborhoods are of highest priority and the judicious dispensing of alcohol is in keeping with this belief. The possession of a beer or liquor license in the city is a privilege not a right; a privilege that must not be taken for granted but rather must be continually conditioned by the holder's adherence to applicable laws and regulations.

II. POLICY

All licenses granted and issued for the sale of fermented or intoxicating liquors shall be carried out under the provisions of W.S.A. Chapter 125 and the City of Appleton Municipal Code, Chapter 9, Article III.

Safety and Licensing Committee shall consider the application at a public meeting at which all interested parties will be given an opportunity to be heard. The Committee will, by a majority vote of those present, make a recommendation to the Common Council which shall consider the application at its next regularly scheduled meeting.

In performing its review and preparing its recommendation for approval or disapproval, the Safety and Licensing Committee shall take the following matters under consideration:

- The existence of the community need will also be assessed by the committee. In this regard, such things as the type of operation proposed will be assessed for area and community impact.
- A building should not only be appropriate to the intended use, but should also be appropriate from an aesthetic and tax revenue standpoint.
- The number of licensed premises within the immediate geographic area of the proposed location will be considered.

III. DISCUSSION

No corporation, partnership or individual will be allowed to apply for a beer/liquor license until a Special Use Permit has been applied for, if required, for the premises. This would allow the Community Development Department to address the standards required for issuing such a Special Use Permit:

- 1) Zoning. The proposed use conforms to the underlying zone district purpose and development standards and is in harmony with the general purposes and intent of the Appleton zoning ordinance. When there is an existing nonconforming structure, the development standards may be waived by the Common Council.
- 2) Plans. The proposed use conforms to the VISION 20/20: Comprehensive Plan, any applicable urban design or other plan officially adopted by the Common Council.
- 3) Traffic. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 4) Landscaping and Screening. Appropriate landscaping and screening has been or will be provided to protect adjacent uses or properties from light, noise, and other visual impacts that are associated with the proposed use as established in Appleton Municipal Code Section 23-172(i), Perimeter parking lot and loading space landscaping and Section 23-601, Landscaping and screening standards.
- 5) Neighborhood Compatibility. The proposed use is compatible with the predominant or prevailing land use of the neighborhood surrounding the proposed development.
- 6) Services. Adequate facilities, access roads, drainage and/or necessary services have been or will be provided.

Additionally, the Special Use Permit may be granted with conditions and restrictions upon the establishment, location, construction, maintenance and method of the special use as deemed necessary for the protection of the public interest and to secure compliance with standards 1 through 6 listed above. In all cases in which special uses are subject to conditions, the Plan Commission may recommend and the City Council may require evidence and guarantees, as it may deem necessary (as proof that the stipulated conditions are being and will be complied with).

Special Use Permits shall be issued permanently or for a specified period of time as may be specified by the City Council upon recommendation of the Plan Commission and shall be an obligation of any party to whom a property may be transferred or assigned.

IV. DEFINITIONS

Abandonment or non-use – means a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was granted by the city council for a period of one (1) year. The Common Council may, for good cause shown, extend such period.

Class “A” License – A license to sell beer to consumers in original packages or containers for off-premises consumption.

“Class A” License - A license to sell intoxicating liquor to consumers only in original packages or containers for off-premises consumption.

Class “B” License – A license to sell beer to consumers for on-premises or off-premises consumption.

“Class B” License – A license to sell intoxicating liquor to consumers by the glass for on-premises consumption.

“Class C” License – A license to sell wine by the glass or in an opened original container for consumption on the premises where sold.

Grant – (or granting) – means the approval of a license application by the governing body.

Issuance – means completion of the licensing process by distributing the license to the licensee after proof of payment of the license fee has been received by the appropriate municipal official.

Temporary Class “B” or Temporary “Class B” – A license to sell beer or wine at a picnic or similar gathering of limited duration. Such license may be issued only to a bona fide club, local or county fair, agricultural societies, churches, lodges or societies that have been in existence for at least six months.

Reserve “Class B” license – A liquor license available under the quota system existing before Dec. 1, 1997 that were not granted or issued by the municipality as of Dec. 1, 1997 and determined by engaging in a series of calculations as described in Wis. Statutes.

Provisional Retail license – A license issued to a person who has applied for a Class “A”, Class “B”, “Class A”, “Class B”, or “Class C” license for a period of 60 days or when the license is issued to the holder, whichever is sooner.

V. PROCEDURES

All new and renewal license applications shall be filed with the Office of the City Clerk on State of Wisconsin approved application forms. No other form will be accepted. A minimum \$50.00 processing fee and publication fee (\$60.00 – new application, \$20.00 – renewal application) must be paid prior to the processing of the license application. All remaining fees must be paid prior to the issuance of the license.

When the license application is filed for all applications for Class “A”, “Class A”, Class “B”, “Class B”, and Class “C” with the City Clerk, it shall be forwarded to the Director of Community Development, the Inspection Supervisor, the Health Officer, the Police Chief, the Fire Chief, and the Finance Director, the Alderperson of the ward for information and review. The purpose of the review shall be to assemble information regarding applications for beer and liquor licenses which may be helpful to the Safety and Licensing Committee in its decision-making process.

When a provisional retail license is requested, the City Clerk shall inform the applicant that they must possess a Health license prior to operating this business. The City Clerk shall immediately notify the Health Department when such license has been issued.

Based upon the findings of the review, a written report by the staff member shall be submitted to the City Clerk who will present this information to the Safety and Licensing Committee. The Common Council shall not consider any application requiring staff review until it has been on file with the City Clerk for a minimum of fifteen (15) days.

The City Clerk will provide each applicant with a copy of all City policies and ordinances covering liquor and beer licensing. In addition, the Clerk will inform the applicant that one or more meetings will be scheduled at which the applicant’s request will be discussed.

Staff Inspection Procedures

All approving departments shall investigate and shall provide a written report to the City Clerk.

Police Department investigation:

1. The character and reputation of the applicant including the applicant’s criminal record based upon a local and state check.
2. A financial background investigation of the corporation, partnership or individual.
3. If the owner is a corporation, a complete listing of all corporate officers and stock holders owning more than 10% of the shares.
4. A detailed summary of the nature of the proposed operation, to include: Special features or operating policies which may impact the demand for police services.

5. Whether the applicant currently has or previously had another Class A, B or C license in the city or in the State or is involved in multiple ownership circumstances.
6. Also, to be considered will be the design, type and size of the proposed establishment and the operational details; number of floor personnel and door checkers; the groups to which the proposed establishment intends to cater; noise, crowd, parking lot control methods; outdoor facilities; and plans for live entertainment including decibel level and soundproofing measures.
7. The review of the operation should include if there is any agreed-to restriction that would enhance the application, i.e., a service bay only, beer only, the hours of operation, and the number of bar stools.

Fire Department Investigation:

1. Compliance with all State and Local Fire codes.
2. Proper posting of capacity sign in an approved location.
3. Fire inspection history with facility and/or owner.
4. Any other items of concern regarding fire prevention and/or suppression.

Health Department Inspection:

1. The proposed building's compliance with all health code provisions.
2. The condition of the building and equipment from a health-standard viewpoint.
3. Any previous problems from a Health Department standpoint with the proposed owner.
4. Other health matters of potential concern.

Community Development Department Investigation:

1. Insure that all requirements of the Special Use Permit have been met. Review and determine whether or not the applicant must apply for and receive approval of a Special Use Permit pursuant to the current Zoning Ordinance.
2. The property reflects the current zoning ordinance. Insure the use of the building or property is allowed as a permitted use or special use in the Zoning District in which it is located.
3. Such things as traffic, noise, parking and other related issues will be reviewed for their impact on the surrounding area.
4. Other planning and development factors.

Inspection Division Investigation:

1. Compliance with state building code and local building and zoning code requirements.

2. Any previous building code problems with the proposed owner.
3. Other items of concern from a building inspection standpoint.

Related Procedures for License Recommendations

1. The Police, Fire and Health departments shall make a minimum of one inspection during each license year. The most recent inspection shall be used to make recommendations on granting the renewal license.
2. Inspection Division shall inspect the licensed premise only when a new application is received, a change of ownership is requested, or a complaint against the property is received.
3. With regard to the license renewal period, all compliance shall be completed before issuance. All applicants who do not apply for renewal by April 15th will not receive the reduced renewal fee.
4. Throughout the license year, the Police and Health Departments shall notify the Safety and Licensing Committee of any convictions which result in the assessment of demerit points against any license.
 - a. Accumulation of demerit points shall be grounds for recommending non-renewal, revocation, suspension, denial or transfer or granting of the license. The Safety and Licensing Committee may recommend that prosecution be undertaken by the City Attorney. Such action shall not preclude independent prosecution by the City Attorney.
 - b. If the Safety and Licensing Committee recommends that prosecution be undertaken by the City Attorney, a hearing shall be scheduled before the Safety and Licensing Committee. If a hearing takes place, the Safety and Licensing Committee shall comply with the requirements of Section 9.54 of the Municipal Code and the suspension or revocation would take place the Friday following Council action. Prior to the hearing date, the City Attorney may work out a settlement agreement with the licensee in lieu of the hearing. Any settlement agreement shall comply with the requirements of Section 9.54 of the Municipal Code and must be approved by the Safety and Licensing Committee and the Common Council, and begin within a 13-day period of Council action.
 - c. If the license is suspended by the Safety and Licensing Committee and the Common Council, the City Clerk will provide that licensee with a sign that must be posted in a conspicuous location on the premise. The sign shall read as follows:

The (type of license) for this establishment:
(establishment name,
agent and address)
is suspended from
(date and time approved by Safety and Licensing Committee and
Common Council) through
(date and time approved by Safety and Licensing Committee and
Common Council)
due to the establishments violation of State Statute(s) and/or the
Appleton City Ordinance(s) prohibiting (type of violation(s)).

By Order of the City of Appleton Safety and Licensing Committee
and the Appleton Common Council on
(date suspension is approved).

Sale of fermented malt beverages in a park by the City

The City cannot grant a license to sell fermented malt beverages to itself. However, pursuant to W.S.A. 125.06, the sale of fermented malt beverages can occur in a public park operated by a municipality without a license as long as the municipality authorizes the sale. The Parks and Recreation Committee has jurisdiction to consider whether the sale of fermented malt beverages shall be allowed in a park. The Committee will, by a majority vote of those present, make a recommendation to the Common Council. If the Parks and Recreation Committee and the Common Council authorize the sale of fermented malt beverages in any park the following will apply:

1. Any person serving fermented malt beverages shall obtain an operator's license.
2. The police department will periodically conduct inspections and CAT checks at these locations.
3. The police department shall report any violations to the Park and Recreation Committee and the Safety and Licensing Committee.
4. Since technically a license cannot be obtained, demerit points cannot be assessed according to ordinance if a violation occurs at such a location. Therefore, demerit points shall be assessed to the location as if the location has a license in the same manner established in City Ordinance 9-54.
5. The Park and Recreation Committee shall suspend the authorization granted pursuant to W.S.A. 125.06 to sell fermented malt beverages in any public park for not less than 10 days nor more 90 days if the location accumulates demerit points totaling 150-199 within a 12 month period.
6. The Park and Recreation Committee shall revoke the authorization granted pursuant to W.S.A. 125.06 to sell fermented malt beverages in any public park

for at least 12 months if the location accumulates demerit points totaling 200 or more within an 18 month period.

Waiting List

1. If the City has met its quota on the issuance of "Class B" Beer/Liquor License a waiting list of those persons wishing to obtain a license will be established. The names will be added to the list in the order that they are received.
2. Every year at license renewal time, this list shall be updated. It shall be the requirement of the requestor to submit a written request no later than July 1 to the Office of the City Clerk indicating their name, company or corporation, and the proposed address, if known, indicating their desire to remain on the list. A letter confirming their placement will be sent after July 1.
3. If a license becomes available, the first person on the list will be notified and given 30 days to respond. If they do not respond within the 30 days, the next person on the list shall be notified.

Inactive (Abandoned) Licenses

1. Any licensee issued a license to sell alcohol beverages that abandons such business shall forfeit any right or preference the licensee may have to the holding of or renewal of such license.
2. Abandonment shall be sufficient grounds for revocation or non-renewal of any alcohol beverage license.
3. The Appleton Police Department will notify the City Clerk, in writing, of any establishment that has abandoned their license. An Inactive license will meet the definition of abandonment or non-use under Section 9-52(9) of the Appleton Municipal Code.
4. Upon receipt of this notification, the City Clerk will send a Certified letter to the owner(s) and/or Agent as indicated on the original application for the sale of intoxicating liquors. The date of letter will be the defining date for determining a one year period.
5. An extension may be granted for good cause. Any extension of the one year period shall be reviewed and approved by the Safety and Licensing Committee and Common Council prior to the expiration of the one year deadline.
6. If after one year, the establishment is still deemed as Inactive, a revocation or non-renewal hearing shall be held.

Convenience Store Beer License Regulations

The Safety and Licensing Committee and the Common Council of the City of Appleton issue Class A licenses to convenience stores with the provision that only Class "A" beer licenses will be issued to convenience stores also selling gasoline.

Certain limits will be placed on the issuance of those licenses:

1. The City of Appleton shall issue no more than one license for every 1500 persons residing in the City, to be reviewed every 5 years, with the next review to be done in the year 2011.
2. The establishment be limited to twenty (20) percent the amount of floor area used relating to the sale of alcoholic beverages.
3. The hours of operation for all Class "A" beverage sales will be 8:00 a.m. to 12:00 midnight.
4. If the applicant has previously held a license and has required an inordinate number of police calls to maintain order and public presence as a good neighbor, those facts may be considered as ground for denial of the license.

Reserve "Class B" Economic Development Grant

In December 1997 the State of Wisconsin passed a law which requires municipalities to charge a fee of \$10,000.00 for all "Class B" Beer/Liquor Licenses. This fee is in addition to the regular fees set by the municipality for this type of license.

The City of Appleton in February 1998 approved action to develop a grant program to refund all or part of the \$10,000.00 fee. This action states:

"That this grant be made available to any successful applicant who has paid the full \$10,500.00 application and processing fees for said license and can demonstrate that they have improved the property involved in an amount equal to or greater than the amount of the grant as long as state law requires the \$10,000 fee."

We find that businesses such as restaurants, hotels and taverns make important contributions to the City's economy. These establishments serve important public purposes including increasing the City's property tax base, providing employment opportunities, attracting tourists and generally enhancing the economic and cultural climate of the community.

The grant application can be submitted to the Office of the City Clerk after the license is issued for all or any portion of the \$10,000.00 fee. The application is sent to various departments for their review and is then submitted to the Safety and Licensing and Common Council for approval. After the final Common Council approval, the Finance

Committee will take action to approve the budget appropriation prior to the refunding of the grant dollars. This process may take 6 to 8 weeks to complete.

Special Class “B” Beer, “Class B” Wine Licenses

Special Class “B” Beer and Special “Class B” Wine Licenses may be issued by the City Clerk after approval is granted by the Safety and Licensing Committee and all necessary department recommendations are satisfied.

All applications for Special Class “B” Beer Licenses must be on file in the Office of the City Clerk for at least ten (10) working days. All applications for Special “Class B” Wine licenses must be on file in the Office of the City Clerk for at least 15 days.

Should the Safety and Licensing Committee deny approval of any Special Class “B” Beer or “Class B” Wine License, such denial shall be considered as a recommendation to the Common Council. Said request is forwarded to the Common Council for its approval or denial.

Open Concept - Special Class “B” Beer License

The Safety and Licensing Committee may recommend approval of the OPEN STREET CONCEPT when granting a Special Class “B” Beer License and forward to the Common Council for final approval.

To develop a consistent procedure regarding licensure of Special Class “B” Fermented Malt Beverage sales at all events occurring within the City where the organizers are requesting open concept sales and provide for an environment that promotes public health and safety regarding alcohol consumption at these events, the Safety and Licensing Committee may require additional restrictions when considering requests for Special Class “B” Beer licenses involving open concept sales. “Open Concept” refers to the sale and consumption of beverages which are allowable with a Special Class “B” Beer license within a geographically defined area that is not secured or enclosed by fences or other physical barriers.

The Safety and Licensing Committee may require the organizers of such events to comply with beverage sale restrictions, or any other restrictions the Committee or the Common Council may deem appropriate.

In addition, the Safety and Licensing Committee reserves the right to limit the number of open concept events held within the City each license year.

OPEN CONCEPT - BEVERAGE SALE RESTRICTIONS

1. Fermented malt beverages should be served in single portion containers, not to exceed 16 oz.
2. Sale of fermented malt beverages should halt at least ½ hour prior to the end of the scheduled activities or entertainment.
3. Comparable non-alcoholic beverages (e.g., soda) should be made available in at least the same number of service sites as alcoholic beverages.
4. There must be at least one person per dispensing site on premises at all times who is licensed under Section 9-71 of the Municipal Code to supervise the service of beverages.
5. The sponsoring organization will:
 - provide and implement a plan and mechanism of identification to insure that persons under the legal drinking age are not served alcoholic beverages.
 - provide and implement a plan for event security.
 - promote designated driver programs which could include free non-alcoholic beverages, a contract with taxi or bus company for free rides, or other means to promote incentive for responsible choices.
 - provide and implement promotional advertising campaigns that incorporate messages of abstinence or responsible use, such as printed ads and radio/television spots that encourage such messages in conjunction with the event's promotional information.
 - provide and implement an onsite advertising campaign devoted to messages of abstinence, responsible use, and the health risks associated with alcohol consumption, such as posters, banners, etc.

Updated and approved by Council
October 19, 2011

-APPLETON POLICE DEPARTMENT POLICY	TITLE: Licensed Premises Inspections		
ISSUE DATE: 04-19-95	REVIEW DATE: 06-18-13	REVISED DATE: 06-18-13	SECTION: Operational
POLICY SOURCE: Lt. Assigned to Safety & Licensing Committee			TOTAL PAGES: 3
SPECIAL INSTRUCTIONS: Amends: Licensed Premises Inspections 06-09-11			

I. PURPOSE

The purpose of this policy is to establish guidelines for coordinating licensed premises inspections and controlled alcohol transactions. Primary functions of the licensed premises inspection teams are also covered in this document.

II. POLICY

It is the responsibility of the Appleton Police Department (APD) to ensure that liquor license holders are in full compliance with all Wisconsin State Statutes and Municipal Ordinances that regulate the selling, procuring, dispensing, and storage of alcoholic beverages.

To ensure compliance from liquor license holders and their employees, the APD will routinely conduct inspections and controlled alcohol transactions in licensed establishments.

III. DISCUSSION

The challenge of reducing the availability and opportunity for purchasing, procuring, and consuming alcoholic beverages by legally prohibited consumers is one the APD takes seriously. To adequately address this growing social problem, the Department strives to work with alcohol license holders and servers of alcoholic beverages to increase their awareness of the problem and to reduce underage drinking in Appleton.

IV. DEFINITIONS

- A. Controlled Alcohol Transaction: An attempt to purchase alcoholic beverages by an agent of the APD who is not otherwise lawfully permitted to purchase, or consume alcoholic beverages, or loiter in licensed establishments.
- B. Liquor License Year: The start of a liquor license year is July 1 and ends June 30 the following year.

V. PROCEDURE

A. Licensed Premises Inspections

1. APD officers will periodically visit premises with liquor licenses to ensure that:
 - a. All licenses and permits are current;
 - b. Bartenders are properly licensed;
 - c. There are no lawfully prohibited patrons on the licensed premises;
 - d. Business operations are conducted lawfully;
2. Inspections reinforce the need to take necessary precautions for obtaining age verification from patrons, thereby ensuring that they are selling only to persons of lawful age.
3. After conducting these inspections, the Department will provide feedback to the licensee, owner, and bartenders involved, identifying any existing violations and problems observed.

B. Licensed Premises Inspections Team

1. An appointed coordinator will form a licensed premises inspection team.
2. This Coordinator will provide the respective district commanders with a schedule of on-going inspections of all licensed establishments for the licensing year.
3. All licensed premises within the city of Appleton will be subject to a routine inspection a minimum of two times every year. The licensed premises inspections team will arrange these inspections.
4. Controlled alcohol transactions will be conducted twice per year at all licensed premises to ensure compliance with appropriate procedures and practices in the sale, dispensing, and procurement of alcoholic beverages. Repeated violations will result in more intensive enforcement.
5. The APD will continue to work with license holders to identify areas of concern, improve efficiencies and expand communication.

C. Controlled Alcohol Transaction

1. In addition to licensed premises inspections, the department will conduct controlled alcohol transactions in licensed establishments.

2. The Licensed Premises Inspections Team will coordinate controlled alcohol transactions and forward the results of the activity to the Lieutenant assigned to the Safety and Licensing Committee for appropriate action.
3. The following guidelines apply to agents used for controlled alcohol transactions:
 - a. The agent should be of an appropriate age for the type of operation, though not looking older than his/her age. The agent should not be chosen with intent to deceive the person(s) operating the licensed premises.
 - b. Whenever possible, the agent should be an employee of the APD.
 - c. The agent must conduct himself/herself in a straightforward manner, without a deliberate attempt to deceive, trick, or misrepresent.
 - d. The agent must not consume any alcoholic product purchased during the operation.

D. Enforcement

1. Any violation observed by an officer while conducting a licensed premises inspection should be addressed at that time with all involved parties.
2. Any violation observed by an officer while conducting a controlled alcohol transaction should be addressed at that time with an arrest of all involved parties.
3. The arresting officer will notify the respective licensed premises agent through the issuance of a written warning (in person or by mail).

06-26-2013

Peter J. Helein
Chief of Police

Date

Appleton Police Dept.
222 S. Walnut St.
Appleton, WI 54911-4799
920-832-5500
FAX: 920-832-5553

Appleton, WI 54911

RE: Demerit Point Assessment

Dear License Holder:

The purpose of this letter is to inform you of the status of your Class license for located at , in the City of Appleton.

Your establishment recently had a violation for which resulted in a conviction on . Pursuant to Appleton City Ordinance 9-54, the violation carries an assessment of demerit points. At this time, your license for this establishment has a total of demerit points within the last 12 months and demerit points within the last 18 months.

Please remember that if any beer/liquor license accumulates 150-199 demerit points within a 12 month period the license will be suspended for not less than 10 days nor more than 90 days. If any beer/liquor license accumulates 200 or more demerit points within an 18 month time period, the license will be revoked. A copy of the ordinance was provided to you at the time you received your license. You can also view all City of Appleton Ordinances at www.appleton.org.

The City of Appleton Police Department offers free training to help ensure your establishment is operating in a manner that is safe and legal. If you have any questions regarding this recent violation and/or are interested in taking advantage of this free training, please contact me at 832-5524.

Sincerely,

Lt. Steve Elliott #9159