

<b>CITY OF APPLETON POLICY</b>		<b>TITLE: GENERAL POLICY STATEMENT ON ALCOHOL LICENSING</b>	
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## **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 an alcohol 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.

## **II. POLICY**

All licenses granted and issued for the sale of alcohol 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 interested parties may be given an opportunity to be heard, at the discretion of the chair. 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 meeting.

In performing its review and preparing its recommendation for approval or denial of a retail license, the Safety and Licensing Committee shall take into consideration the type of operation in relation to the following concerns for the public health, safety, and welfare of the community:

- Adverse impact on traffic;
- Adverse impact on the peace, quiet and cleanliness of the neighborhood where the establishment is located;

- Insufficient parking for patrons;
- Proximity to other licensed establishments, residential areas, schools, churches, or hospitals;
- Ability or inability of the police to provide law enforcement services to the new establishment and the impact of the new establishment on the ability of the police to provide law enforcement services to the balance of the community at all times.

Operator licenses should only be denied for failure to meet statutory qualifications.

### **III. DISCUSSION**

Where required, no corporation, partnership or individual will be issued an alcohol license for the premises until a Special Use Permit application has been submitted. This would allow for the Community and Economic Development Department to review and determine whether the applicant must apply for and receive approval of a Special Use Permit pursuant to the current Zoning Code.

### **IV. DEFINITIONS**

Abandonment or non-use – A continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the license was issued by the city 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 fermented malt beverages 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 A” (Cider Only) License – A license to sell cider to consumers for off-premises consumption.

Class “B” License – A license to sell fermented malt beverages 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.

Combination Retail License – A license that includes both the sale of fermented malt beverages and intoxicating liquor, or a license that includes both the sale of fermented malt beverages and wine. Intoxicating liquor licenses may not be issued without an accompanying fermented malt beverage license (e.g. Class “A” Fermented Malt Beverage

& “Class A” Intoxicating Liquor License, Class “B” Fermented Malt Beverage & “Class B” Intoxicating Liquor License).

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

Reserve “Class B” License – A license that is not granted or issued by a municipality on December 1, 1997. The license comes with a \$10,600 initial fee and is not transferable to another premises.

Quota – The number of licenses which a municipality may grant or issue.

Issuance – Completion of the licensing process by distributing the license to the licensee after department approvals are met and proof of payment of the license fee has been received by the appropriate municipal official.

Temporary Class “B” or Temporary “Class B” license – A license to sell fermented malt beverages or wine at a picnic or similar gathering of limited duration. Such license may be issued only to a bona fide club, state, local, or county fair associations, agricultural societies, churches, lodges or societies that have been in existence for at least six months prior to the date of application, posts of veterans organizations, or chambers of commerce or similar civic or trade organizations organized under Chapter 181, Wis. Stats.

Reserve “Class B” license – A liquor license available under the quota system existing before December 1, 1997 that were not granted or issued by the municipality as of December 1, 1997. The number of Reserve “Class B” licenses authorized to be issued shall be determined pursuant to Wis. Stat. 125.51(4)(br).

Provisional Retail license – A license issued to a person who has applied for a Class “A”, Class “B”, or “Class C” license for a period of 60 days or when the actual 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 new application shall include respective Supplemental Questionnaire for each member of the legal entity, Schedule for Appointment of Agent, proof of responsible beverage server’s course (if applicable), Federal TaxID Number, copy of State Seller’s permit, and a copy of proof of control of the premises (i.e., lease or purchase agreement). 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, including outstanding obligations to the city, must be paid or subject to an agreed-upon payment arrangement 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 following

departments: Community & Economic Development, Inspections, Health, Police, Fire , and Finance for information and review. The purpose of the review shall be to assemble information regarding applications for alcohol 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 alcohol 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.

### **“Class B” License Quota**

Pursuant to Wis Stat. 125.51(4) there is a quota on the number of “Class B” and Reserve “Class B” alcohol licenses. All “Class B” licenses will be issued prior to the issuance of Reserve “Class B” licenses. When all Reserve “Class B” licenses are issued, applications will be processed on a first come first served basis. The first applicant to satisfy all of the conditions for issuance of the license will receive the license.

If an applicant applies for a Reserve “Class B” license that is not yet available, and one does not come available within the license year, the applicant will need to re-apply for the license for the next year in order to continue to be considered on a first come first served basis.

### **Staff Inspection Procedures**

All approving departments shall investigate and 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 alcohol license in the city or in the State or is involved in multiple ownership circumstances.
6. 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 and Economic Development Department Investigation:**

1. Ensure that all requirements of the Special Use Permit have been met. Review and determine whether the applicant must apply for and receive approval of a Special Use Permit pursuant to the current Zoning Ordinance.
2. Ensure 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. Anticipated changes to traffic, 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.

### **License Renewals**

1. License renewal paperwork will be sent to current license holders by February 15<sup>th</sup> of each year.
2. Class A and Class B combination license holders may receive a discount of \$100 on their renewal application if the completed application is received by March 15<sup>th</sup>.
3. Renewal applications must be received 15 days prior to the 3<sup>rd</sup> Wednesday in June in order to be considered a renewal application. After this date, no renewal applications will be accepted, and a new alcohol license application will need to be submitted.

### **Related Procedures for License Recommendations**

1. The Police, Fire, and Health departments should make a minimum of one inspection during each license year. The most recent inspection shall be used to make recommendations on granting the renewal of the license.
2. The Inspection Division shall inspect the licensed premises when a new application is received, a change of ownership is requested, when changes are being made to the premises, upon the request of another City department, or when a complaint against the property is received. The most recent inspection shall be used to make recommendations on granting the renewal of the license.
3. With regard to the license renewal period, all compliance requirements shall be completed before issuance. All applicants who do not apply for renewal by March 15<sup>th</sup> will not receive the reduced renewal fee.
4. Throughout the license year, the Police and Health Departments shall notify the City Clerk of any convictions which result in the assessment of demerit points against any licensee. The City Clerk shall notify the Safety & Licensing Committee of the current and total demerit points assessed against any licensee.
  - a. Accumulation of demerit points may be grounds for recommending non-renewal, revocation, suspension, or denial of the transfer of the license.
  - b. If a complaint is filed initiating proceedings to revoke or suspend a license, 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. 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 Common Council, the City Clerk will provide that licensee with a sign that must be posted in a conspicuous location on the premises. The sign shall be in substantially the following form:

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

Common Council authorizes 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 Controlled Alcohol Transaction (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 or more than 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.

### **Abandonment or Non-use of 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. A license deemed abandoned will meet the definition of abandonment or non-use under Section 9-52(9) of the Appleton Municipal Code.
4. Upon knowledge of abandonment or non-use of the alcohol license, 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 alcohol. The date of abandonment indicated in the letter will be the defining date for determining a one-year period.
5. The license holder may request an extension of the one-year period. An extension may be granted for good cause. Any extension of the one-year period shall be reviewed 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 abandoned or not used, a revocation or non-renewal hearing shall be held, unless the applicant chooses to not apply for renewal of said license.

## **Temporary Class “B” Beer, “Class B” Wine Licenses**

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

**Only two (2) Temporary “Class B” Wine licenses may be issued to a single organization within a one-year period.**

Should the Safety and Licensing Committee deny any Temporary 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 action.

## **Sidewalk Café**

An on-premises consumption alcohol license holder may serve alcoholic beverages in the sidewalk café area, also known as the amenity strip, as long as a Special Use Permit has been granted for the sidewalk café and the license has been amended to include the parameters of the sidewalk café through a premises amendment application. In addition, pursuant to Section 9-262 of the Municipal Code, the licensee must comply with all regulations pertaining to sidewalk cafes.