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Memorandum

To: Ordinance and License Committee
From: Brian Running
Re: Revisions to Municipal Code Chapter 9

You'll recall that when revisions to Mun. Code §9.115 were proposed earlier this year, regarding delivery of alcohol beverages to cars in parking lots, there was some sentiment expressed for doing a complete re-vamp of Chapter 9, and not just §9.115. It was decided that in the interest of allowing carry-out delivery to cars quickly, to help out businesses that are affected by COVID, that only §9.115 would be revised, but that a complete revision of Chapter 9 would be done. That revision has now been completed, and this memo is a section-by-section explanation of the changes that were made. This revision is sponsored by Council Member Cassie Rodriguez.

Note: This memo and the attached code sections reflect the changes recommended by the Committee on November 8. Only the code sections changed on November 8 are attached.

Redline versions of all of the revised code sections are attached to this memo for your reference.

9.01

No revisions to this section, which adopts and incorporates Wisconsin Statutes Chapter 125 into our Municipal Code. This makes a violation of any state alcohol law a violation of our code, so it can be prosecuted in our Municipal Court.

9.02

Sub. (1) raises Class "A" license fee to \$300 per year. This change brings the code up-to-date with the current fee being charged.

Sub. (9) is deleted, because the requirement for a dancing permit is deleted later in the chapter.

Other changes are just clean-up.

9.03

Repealed in 2016. This was the former \$10,000 grant to refund the \$10,000 fee for a "Class B" license, which was made illegal by the state.

9.04

No change, alcohol licenses still can't be issued to dwellings.

9.05

No change in substance, it's all clean-up of obsolete references and language.

9.06

Also no change in substance, just clean-up of language.

9.07

Section 9.07 is changed substantially. In subsection (1), incorrect use of quotation marks for "Class A," Class "A," etc. is corrected. Here's how the nomenclature works, note the locations of the quotation marks:

- Class "A" – license for the sale of fermented malt beverages (i.e., beer) to be consumed away from the premises. For example, gas stations and convenience stores that sell beer but not liquor.
- "Class A" – license for the sale of fermented malt beverages and intoxicating liquors to be consumed away from the premises. For example, a full liquor store – Discount Liquor, Meijer, Pick N Save. Note that wine and hard ciders are intoxicating liquors.
- Class "B" – license for the sale of fermented malt beverages for consumption on the premises. In other words, a bar or restaurant that serves beer only, no wine or liquor.
- "Class B" – license for the sale of fermented malt beverages and intoxicating liquors for consumption on the premises. In other words, a bar or restaurant that serves beer, wine and liquor.
- "Class C" – license for the sale of wine only, in restaurants, for consumption on the premises.

Sub. (1) currently requires notification to the Police Chief, Health Officer, Fire Chief, and Building Inspector when a license application is received. They are then supposed to do an inspection of the premises and report on the fitness of the premises for licensing. The revised version deletes the Health Officer, because we have none. The Police Chief is also deleted, because there is no point in having the PD inspect the premises for fitness. The revised version has the Fire Prevention Bureau conduct the inspection of the premises, because most of the issues we are concerned about with bars and restaurants are fire-safety related – capacity, fire-suppression equipment, etc. The Chief Building Inspector is notified also, and verifies that the premises has a current, valid certificate of occupancy. If it does, then it is code-compliant. If it does not, then it will have to be made code-compliant before a certificate of occupancy will be issued. Fire inspectors will notify building code inspectors of anything they spot, so a follow-up inspection by the building inspector will take place if necessary. This procedure was discussed

very thoroughly by PD representatives, the Chief Building Inspector, and the Fire Marshal, and they are all in agreement.

Sub. (1) also clarifies that applications for licenses can be submitted while a premises is under construction or is being remodeled, but the license can't be issued until it's completed and a certificate of occupancy has been issued.

Sub. (2) is deleted. Its provisions are moved to §9.08, which deals with operator's licenses. It requires the PD to do a background check on operator license applicants, which is the current procedure.

Sub. (3) is deleted, because it's now incorporated into a new sub. (2). It requires the same inspection procedure for renewals as with original applications.

New sub. (2) sets the standards for issuance of licenses to applicants. Sub (a) allows the Clerk-Treasurer to reject the application right away if the application isn't complete, the fee hasn't been paid, the Fire Prevention Bureau failed the premises, the Chief Building Inspector says there's no certificate of occupancy, or if the applicant is delinquent in any taxes or assessments.

Sub. (b) says that if the Clerk-Treasurer doesn't reject the application, then it goes on for review by the O&L Committee and Council, just as it does now. If the applicant has met the requirements of sub. (b), then the license shall be issued.

Sub. (5) is deleted. It currently applies to premises that are under construction. Because one of the requirements for a license is a valid certificate of occupancy, licenses can't be issued while the premises are under construction. This simply makes the applicant wait until the premises are ready to be inspected, which is not a significant time delay. Sub. (1) allows the application to be submitted before completion, to cut down on the delay.

- ❖ *O&L at November 8 meeting added to new subsection (5) that any conditions placed on licenses have to be stated on the record and put into writing. The conditions will be put on the license itself.*

9.08

This section is heavily revised. Sub. (1) takes the language that was formerly in §9.07 requiring police background check of applicants for operator's licenses and puts it in the section dealing with operator's licenses.

Sub. (2) is language that was just added to §9.08 last year, allowing the Clerk-Treasurer to issue licenses without further approval if there have been no significant violations since the last issuance or renewal. Other than some minor clean-up of language and moving it from the end of §9.08 to the top, it remains the same as was approved last year.

Sub. (3) prohibits the issuance of an operator's license if the applicant is delinquent in paying taxes or assessments. This is added to make it the same as §9.07 regarding retail licenses. This prohibition also appears in §8.26, so it is not something new.

Former subs. (1) and (2) are deleted because they re-state state law, and are redundant. Former sub. (3) is deleted because it requires the applicant's sex to be noted on the application, for reasons we can't even begin to fathom. The last sentence of sub. (3), requiring licenses to be on the person when working, was moved to §9.11 because it makes more sense for it to be in the general rules and regulations.

Sub. (4) is changed slightly. Currently, it allows a provisional license to be issued while any application for an operator's license is pending. The revised version allows a provisional license only if the applicant holds a valid operator's license from another municipality in Wisconsin at the time of application. This way, we know the applicant has at least met the license requirements in another Wisconsin city, so we have some assurance while the application is pending.

9.09

Sub. (1) deletes the reference to Wis. Stat. §125.28, which only applies to wholesaler's permits and is not applicable in the city. The remainder requires agents to reside in Waukesha County, which is unchanged from current law.

Sub. (2) was deleted because it simply restates state law and is redundant. Copying state law into the city code can be a problem, because when state law changes, we have to amend our code. Section 9.01 adopts the entire state alcohol code, so it's not necessary to repeat it in our code.

Sub. (3) is deleted because it now appears in two other code sections.

Sub. (4) is the provision that prohibits the sale of intoxicating liquor in premises "where another business is conducted in connection with the premises." State law prohibits Class "B" (beer bar) premises to have another business going on there, with some exceptions. Our §9.09(4) extended this to "Class A" licenses, too. This has been a contentious issue with grocery stores that want to sell liquor and wine, having in the past forced them to construct separate rooms for their liquor stores. All staff, including the PD, agrees that this archaic provision serves no useful purpose and causes more trouble than it's worth.

Sub. (5) currently requires all licensed premises to be at street level only. No staff, including the PD, can see a justification for this. We assume the intent was to keep the premises easily visible from the street. The PD is not concerned about this.

Former sub. (6), new sub. (2), prohibits retail licenses on public property, with exceptions for certain parks. The substance is not changed, the language is just cleaned up.

Former sub. (7), not numbered in this draft but will be in the final, limits the number of city alcohol licenses that can be held by an individual to two. This section is debatable – because we have a limited quota of licenses available, we don't want anyone taking an unfair share of them. On the other hand, reserve "Class B" licenses now cost \$10,000 each, so it's less likely that anyone will try to monopolize them.

❖ *O&L at November 8 meeting increased limit to 4 licenses.*

Former sub. (8), sub. (3) in this draft, is the Class C wine license provision that was developed in 2018 to address requests from art studios to serve wine to their customers. It is unchanged.

9.10

This section is unchanged in substance, the language has just been cleaned up. Sub. (1) might be worth discussing, however, because it sets our “Class B” quota at a flat 101. This varies from state law, which would allow more. State law adjusts the quota as the population of a city increases, with December 1, 1997 as the baseline. Using the state formula, we currently could have an additional 18 reserve licenses for a total of 42. However, we have never come close to issuing all of our 24 reserve licenses, and now that they’re \$10,000 a pop, it’s unlikely we will ever get close to our quota limit. Amending the code to follow state law is something that could be discussed, however.

- ❖ *O&L at November 8 meeting recommends changing to the state quota. Draft is amended to adopt the formula in Wis. Stat. §125.51(4).*

9.11

The changes in §9.11 include a lot of language clean-up, and the following substantive changes:

- Current sub. (4) requires a clear view of the interior of every licensed premises from the exterior. This was intended to allow police to see if people are in a premises during closing hours. The PD does not find this necessary.
- Former sub. (5) was deleted in 2015 to conform with amended state law.
- New sub. (4) was moved from §9.08(3).
- Sub. (11) is in conflict with state law and must be repealed. Sub. (11) prohibits license holders from employing anyone under 21 without an operator’s license. However, state law allows anyone 18 or over to tend bar with or without a license.
- Sub. (12) placed restrictions on beer sales in clubs, which is an archaic provision that’s no longer relevant.
- Sub. (14) prohibits gambling in licensed premises, and also prohibits the presence of gambling machines. Gambling machines, such as video slot machines, are not illegal under state law as long as they are not used for actual gambling with a pay-out to winners. This suggested revision removes the prohibition of having the machines on-premises, but retains the prohibition of gambling.
- Sub. (15) prohibits dancing without a dance permit, and is deleted. There is no reason for this prohibition to exist, and enforcement is impossible in any event.
- Sub. (16) prohibits the sale of intoxicating liquors at gas stations, with the exception of hard cider, an exception that was added in 2015. There is no logical reason why the sale of liquor should be prohibited at gas stations. Beer and malt liquor are currently allowed

to be sold at gas stations. There's no reason to think that liquor bought at a gas station is any more likely to be consumed in a car than liquor bought at a liquor store. The PD agrees that this provision should be deleted.

- Sub. (14), former sub. (18), brings the city code in line with state law concerning the carry-out of mixed drinks provided they are in a tamper-proof sealed container.
- Sub. (19) was deleted because it's already dealt with in §9.09 and does not need to be repeated.

9.112 (Sober Server) and 9.115 (Licensed Premises)

Both are relatively new sections, they are unchanged.

9.12

Revisions in this section are mainly just clean-up of language. Numerous provisions are moved to put them in a more logical place. The main substantive change is to delete the requirement that the police be notified if janitors are present in a licensed premises after closing time. The reference to premises holding a dance license is deleted, too.

- ❖ *O&L at November 8 meeting recommended clarifying that no sales can take place during "Closing Hours," not just when the premises are closed. Some places will be closed to the public for private events, outside of Closing Hours. Draft has been edited.*

9.13

No substantive changes, just clean-up of language. This section requires that licenses be actively used, and any that go dormant for 60 days or more become void and can be re-issued by the Clerk. This is because we have a quota, reserve licenses are extremely expensive, and these valuable licenses should not be allowed to go unused when someone else could be making use of them.

- ❖ *O&L at November 8 meeting recommends allowing longer than 60 days for circumstances beyond the licensee's control.*

9.14

No substantive changes, only language clean-up.

9.15

This is the "Footloose" provision, deleted entirely.

9.16

No substantive changes, only language clean-up.

9.17

This is an odd provision that allows underage persons in licensed premises with the permission of the Police Chief. PD feels this serves no useful purpose and should be deleted.

9.18

No substantive changes, only language clean-up.

9.07 Investigation of Applicants Processing of Applications; Standards for Issuance of Retail Licenses

- ~~(1) **Class “A” Liquor and Class “B” Liquor and Beer Retail Licenses.** Upon receipt of an application for a new or renewal Class “A” or Class “B” intoxicating liquor license, or a Class “B” fermented malt beverage Class A, B, or C fermented malt, intoxicating liquor, or wine retail license, the City Clerk-Treasurer shall notify forward a copy of the application to the Chief of Police, Health Officer, Fire Chief and Fire Prevention Bureau and the Chief Building Inspector. The Fire Prevention Bureau and these officers shall inspect the proposed licensed premises and make such investigation as is necessary to determine whether the proposed licensed premises sought to be licensed comply with all regulations, ordinances and laws applicable thereto comply with all requirements of Chapter 21 of the Municipal Code, and shall report findings to the Clerk-Treasurer. The Chief Building Inspector shall report to the Clerk-Treasurer whether the proposed licensed premises are subject to a current, valid certificate of occupancy.~~
- ~~(2) **Other Licenses.** Application for all other licenses shall be referred to the Chief of Police who shall make such investigation as shall be necessary to determine the fitness and qualifications of applicants.~~
- ~~(3) **Renewals.** No license shall be renewed without a reinspection of the premises and report as originally required.~~

(2) Standards for Issuance and Renewal of Retail Licenses Action on Investigations.-

- (a) **Determination by Clerk-Treasurer.** An application shall be rejected by the Clerk-Treasurer if any of the following occur, otherwise, the application and police report shall be forwarded to the Ordinance and License Committee for recommendation to the Common Council:

 - (i) The application is incomplete or not accompanied by the required fee.
 - (ii) The Fire Prevention Bureau reports that the proposed licensed premises are not in compliance with Chapter 21 of the Municipal Code.
 - (iii) The Chief Building Inspector reports that the proposed licensed premises are not subject to a valid certificate of occupancy.
 - (iv) The Clerk-Treasurer determines that the applicant is delinquent in payment of any City taxes or assessments, or that City taxes or assessments with respect to the proposed licensed premises are delinquent and unpaid. Refer to Municipal Code §8.26.
- (b) **Determination by Common Council.** The Common Council may approve applications for licenses if all of the following occur:

 - (i) The Clerk-Treasurer reports that the applicant’s application is complete and accompanied by the required fee, the Fire Prevention Bureau has reported that the proposed licensed premises is in compliance with Municipal Code Chapter

21, the Chief Building Inspector has reported that the proposed licensed premises is subject to a valid certificate of occupancy, and the applicant is not delinquent in payment of any City taxes or assessments and that no City taxes or assessments with respect to the proposed licensed premises are delinquent and unpaid.

(ii) The Ordinance and License Committee reports that the applicant for a Class A, B, or C retail license meets the applicable requirements of Wis. Stat. §§125.25, 125.26, 125.51 and Municipal Code Chapter 9.

(iii) The Common Council determines that the applicant has satisfied all other relevant and lawful criteria for the issuance of a retail license under this Chapter 9 and Wisconsin Statutes Chapter 125.

(3) **Appeal of Denial of Renewal.** All denials of applications for renewal of licenses under this Chapter, including denials by the Clerk-Treasurer under subsection (2)(a), are subject to the appeal provisions of Wis. Stat. §125.12(3).

~~(4) Each official required to inspect the premises proposed to be licensed, or to investigate the applicant, shall report in writing to the City Clerk the results of his investigation, together with his recommendation as to whether a license should be granted. The City Clerk shall refer such report to the next meeting of the Council. In determining the suitability of any applicant, consideration shall be given to the moral character and financial responsibility of the applicant, the appropriateness of the location and premises proposed and generally the applicant's fitness for the trust to be reposed.~~

(4) **Conditional Issuance for Premises Undergoing Construction or Remodeling.** If the only basis for the denial of an application for a retail license under this section is that the premises do not have a valid certificate of occupancy because the premises are under construction or undergoing remodeling, the application may be approved by the Common Council under subsection (2)(b) with a condition that the license does not become effective until a certificate of occupancy for the premises is issued by the City. If an application made for a proposed premises at a proposed location which, by reason of construction or remodeling cannot be fully inspected and approved as required herein, the Common Council may, if it is satisfied that the applicant is a proper recipient for a license, consider the appropriateness of the proposed location and premises proposed, and may authorize the issuance of the license to the applicant at such time as the premises comply with the regulations, ordinances and laws applicable thereto.

(5) **Conditions on New-Issue Licenses.** The Common Council may impose conditions on any new-issue retail license consistent with the provisions of this Chapter 9 and the laws of the State of Wisconsin, and the violation of any such condition shall be a violation of this Chapter and be grounds for suspension or revocation of the license. Any such conditions imposed by the Common Council shall be stated on the record and put into writing.

9.09 Restrictions on Granting Licenses

- (1) **Residency Restrictions.** (Am. #57-86) (Am. #12-09) ~~Except as permitted under section 125.28(1)(b), Wis. Stats., n~~ No alcohol beverage license shall be issued by the City to a person or agent for a corporation unless such that person or agent resides within the Waukesha County of Waukesha.
- ~~(2) **Prohibited Locations.** (Am. #23-76) (Am. #63-02) No Class A or Class B license or permit may be issued for a premises the main entrance of which is less than 300 feet from the main entrance of any public or parochial school, hospital or church except that this prohibition may be waived by a majority vote of the Common Council. The distance shall be measured by the shortest route along the highway from the main entrance of the school, church or hospital to the main entrance of the premises covered by the license or permit. The prohibition in this subsection does not apply to any of the following:~~
- ~~(a) A premises covered by a license or permit on June 30, 1947;~~
 - ~~(b) Premises covered by a license or permit prior to occupation of real property within 300 thereof by any school, hospital or church building;~~
 - ~~(c) A restaurant located within 300 feet of a church or school. This paragraph applies only to restaurants in which the sale of alcoholic beverages accounts for less than 50% of their gross receipts.~~
- ~~(3) **Delinquent Taxes and Charges.** (Am. #51-86) No license shall be granted for any premises upon which taxes or assessments payable to the City are delinquent and unpaid. Any applicant or licensee who wishes to contest the Clerk's determination that all local taxes and assessments have not been paid may request a hearing before the Common Council as provided for in §8.26 of this Municipal Code.~~
- ~~(4) **Restrictions to Class A Premises.** (Rep. #19-92, Recr. #57-94) (Am. #14-05) No Class A Intoxicating liquor license may be granted for any premises where another business is conducted in connection with the premises. This restriction does not apply if intoxicating liquor is displayed and sold in a room separate from the remainder of the premises where the other business is conducted. All checkouts and purchases shall be made in the room in which the intoxicating liquor is displayed. The restrictions and requirements of this subsection do not apply to the display and sale of wine.~~
- ~~(5) **Street Level Only.** Except for bona fide clubs or hotels, no license shall be issued for premises which are not at street level.~~
- (6)(2) License for Sales on Public Property Prohibited; Exceptions.** (Am. #11-88) (Am. #18-01) No license shall be issued for the sale of intoxicating liquor or fermented malt beverages in public parks or any other City-owned property, except:
- ~~(a) Exceptions.~~

~~1.(a)~~ A Class “B” fermented malt beverage license may be issued for the concession in Saratoga Park. The licensed premises in Saratoga Park shall be limited to the seating areas and the walkways immediately adjacent to the seating areas and concession stand. No intoxicating liquor or fermented malt beverage shall be brought or carried into Saratoga Park after having purchased it outside of Saratoga Park. Rules and regulations concerning the sale of fermented malt beverages in Saratoga Park ~~are shall~~ be established by resolution of the Parks, Recreation and Forestry Board.

~~2.(b)~~ (Am. #37-93) A Class “B” license for the sale of fermented malt beverage licenses may be issued for use in Frame Park and another license may be issued for use in Lowell Park on an annual basis, each for the duration of the Waukesha Winter Janboree, which shall be held on a date specified by the Waukesha Winter Janboree Committee. The licensed premises in those parks shall be limited only to those areas in which Janboree events take place, as specified in the license. No intoxicating liquors or fermented malt beverages shall be brought or carried into Lowell Park or Frame Parks during the Waukesha Winter Janboree, except by those individuals authorized by the City to sell and dispense beverages, at Lowell Park or Frame Park, during the Waukesha Winter Janboree the holders of licenses issued under this subsection.

~~3.(c)~~ (Am. #17-90) (Am. #31-96) (Am. #39-02) Temporary Class “B” A licenses for the sale of fermented malt beverages under Wis. Stat. §125.26(6) and temporary “Class B” licenses for the sale of wine only under Wis. Stat. §125.51(10) may be issued for public special events for use in Frame Park and Cutler Park upon application and review approval by the Parks, Recreation & Forestry Board, Ordinance and License Committee, and Common Council approval. No intoxicating liquor or fermented malt beverage shall be brought or carried into Frame Park or Cutler Park after having purchased it outside of Frame Park or Cutler Park, except by those individuals authorized by the City to sell and dispense beverages at Frame Park and Cutler Park the holders of licenses issued under this subsection.

~~(b)(d)~~ (Cr. #39-02) Hours for sales by holders of licenses issued under this subsection shall be as prescribed by rules issued by, or as otherwise approved by, the Parks, Recreation and Forestry Board, consumption and possession of fermented malt beverages and wine must adhere to permitted hours as stated in sec. 11.27(4)(b). Only bona fide non-profit community based public special events that qualify for a temporary license under secs. 125.26(6) or 125.51(10), Wis. Stats., may request for a variance of permitted hours upon application and review by the Parks, Recreation & Forestry Board, Ordinance & License Committee and Common Council approval.

~~(7)~~ **Limited Interests.** (Cr. #15-71) Holders of retail alcohol beverage licenses issued by the City may hold a maximum of four such licenses. For purposes of this subsection, “holder” includes individuals or entities that have an indirect interest in a retail alcohol beverage license as a member, partner, shareholder, or beneficial interest owner in any limited-liability company, partnership, corporation or other entity holding a retail alcohol beverage license issued by the City. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be granted to any person who has a direct or indirect interest in more

~~than one other Class A or Class B intoxicating liquor or fermented malt beverage license issued by the City.~~

- ~~(a) Direct interest means that the person is the licensee.~~
- ~~(b) Indirect interest means any interest either as a partner or stockholder in any corporation that is the licensee irrespective of how minor the interest may be.~~
- ~~(c) Any false statement made on any application for a license relative to the interest of the applicant in other Class A or Class B intoxicating liquor or fermented malt beverage licenses shall be sufficient reason for revocation of any license granted to any person making a false statement.~~
- ~~(d) If a licensee holding a current license acquires an interest in an additional Class A or Class B license, contrary to the provisions of this section, the current license may be revoked forthwith by the Common Council.~~

(8)(3) Restrictions on the Issuance of Class C Licenses (Cr. #4-18)

- (a) Class C Retail Wine licenses may be issued only to retail businesses that prepare food for their customers, serve food to their customers, or sell food to their customers. For purposes of this subsection, “food” means any product intended for consumption by humans, but does not include soft drinks, ice cream, milk, milk drinks, ices, candy, or confections, and cannot consist solely of snack foods such as potato chips, tortilla chips, corn chips, nuts, pretzels, popcorn, cheese, crackers, or any items that are served solely through vending machines.
- (b) Regardless of subsection (a), Class C Retail Wine licenses may not be issued to the following entities:
 1. Taverns that serve free lunches consisting of popcorn, cheese, crackers, pretzels, cold sausage, cured fish, or bread and butter.
 2. Churches, religious, fraternal, youth or patriotic organizations, service clubs, and civic organizations that occasionally prepare, serve, or sell meals to transients or the general public.
 3. Any public or private school lunchroom at which food service is directly provided by the school, or a private individual selling food from a movable or temporary stand at a public farm sale.
 4. Any bed and breakfast establishment, as defined in Wis. Stats. §97.01(1g), that serves breakfasts only to its lodgers.
 5. Any college campus as defined in Wis. Stats. §36.05(6m), institution as defined in Wis. Stats. §36.51(1)(b), or technical college, that serves meals only to the students enrolled in the college campus, institution, or technical college or to authorized elderly persons under Wis. Stats. §36.51 or §38.36.

6. A concession stand at a locally-sponsored sporting event, such as a little league game.
7. A potluck event, as defined in Wis. Stats. §97.01(13g).

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9.10 License Quotas

- (1) **“Class B” Intoxicating Liquor Licenses.** (Am. #5-88) (Am. #8-98) The number of “Class B” intoxicating liquor licenses ~~which shall be issued by the City~~ shall be limited to the number determined according to Wis. Stat. §125.51(4). The number of “Class B” licenses in force on December 1, 1997 is 77.
- ~~(a) Seventy-seven Class B Intoxicating Liquor licenses granted or issued by the City as of December 1, 1997.~~
- ~~(b)(a) _____ Twenty-four Reserve Class B licenses.~~
- (2) **“Class A” Intoxicating Liquor Licenses.** (Am. #16-71) No more than one “Class A” intoxicating liquor license shall be issued for each 2,200 of the City’s population or fraction thereof. Population means the number of inhabitants as determined by the last decennial federal census.
- (3) **Annexations.** Annexations of territory containing licensed premises increases the quota if necessary ~~to for~~ the re-licensing of all existing licensed premises in the City after ~~such the~~ annexations.
- (4) **Surrender of License.** When a “Class A” or “Class B” license is surrendered, ~~for the reasons endorsed thereon and signed by the licensee named therein,~~ or, when a “Class A” or “Class B” license is revoked by any authorized law enforcement official, no ~~further additional~~ “Class A” or “Class B” licenses shall be issued ~~to any other person~~ unless the remaining number of licenses in force at that time is below the respective maximum quotas.

9.12 Closing Hours and Sales Restrictions

(Am. #23-88)

- (1) Closing Hours, Class B Premises. ~~No p~~Except as otherwise provided in this section, Premises for which a Class “B” or “Class B” license or permit is has been issued may not remain be open and must be locked to the public between the hours of 2 a.m. and 6 a.m. Monday through Friday, and between the hours of 2:30 a.m. and 6 a.m. on Saturday and Sunday, referred to herein as Closing Hours. On January 1, premises operating under a “Class B” license or permit are not required to close, except as provided in this section. No sale or consumption of alcohol beverages may take place on or in the licensed premises during Closing Hours.
- ~~(2) On Saturday and Sunday the closing hours shall be between 2:30 a.m. and 6 a.m. On January 1, premises operating under a Class B license or permit are not required to close.~~
- ~~(3)~~(2) (Am. #5-12) Between midnight and 6 a.m., no person may sell fermented malt beverages in a Class “B” or “Class B” licensed premises in original unopened package, container or bottle for consumption away from the premises.
- ~~(4)~~(3) (Am. #5-12) Between 9 p.m. and 6 a.m., no person may sell intoxicating liquor ~~of in a~~ Class “B” or “Class B” licensed premises in an original unopened package, container or bottle for consumption away from the premises.
- ~~(5)~~(4) Closing Hours, Class A Premises. (Am. #5-12) ~~No Class A premises~~Premises for which a Class “A” or “Class A” license has been issued may remain not conduct open for the sale of fermented malt beverages ~~and or~~ intoxicating liquor during Closing Hours between the ~~hours of~~ 9 p.m. and 6 a.m.
- ~~(6)~~(5) Exceptions for Certain Businesses. ~~“Class B” Licensees licensees who that~~ are hotels ~~and or~~ restaurants, ~~the principal business of which is the furnishing of food or lodging to patrons,~~ bowling alleys, indoor horseshoe pitching facilities, curling clubs, golf courses and golf clubhouses may remain open for the conduct of their regular business, but may not sell fermented malt beverages or intoxicating liquor during the ~~closing~~Closing hours ~~Hours~~ set forth in this ~~chapter~~section. During ~~closing~~Closing hours ~~Hours~~ ~~means that~~ all alcohol beverage sales ~~shall have ceased~~must cease, the area in which sales take place must be shall have been secured and cleared of all persons, ~~and there shall be no evidence of the accessibility of alcohol beverages and~~ no one in the ~~area~~premises shall may be in possession of an alcoholic beverage. ~~In areas of the establishment’s regular business, all alcohol beverages shall have been removed.~~ (Am. MSC ‘90)
- ~~(7)~~(6) Exceptions for Certain Persons. ~~Closing hours as used in this chapter refers to those hours during which the sale of fermented malt beverages and intoxicating liquor are prohibited. Such premises shall be cleared of all persons and locked.~~
- (a) (Am. #13-08) ~~Exception. The permittee, licensee~~Licenses and their, employees, ~~salespersons,~~ employees of wholesalers licensed under Wis. Stat. ~~Sees. §§~~ 125.28(1) or 125.54(1), ~~or service and maintenance or janitorial service providers~~personnel may be

present during ~~hours when the premises are not open for business~~ Closing Hours if those persons are performing only their employment~~job~~-related activities. Entertainers, musicians, and their sound and lighting personnel may remain in licensed premises during Closing Hours as necessary to take down and load out instruments and equipment. ~~All other employees not performing job-related activities and patrons shall vacate the premises~~ No other persons may be present in the licensed premises during Closing Hours.

(b) (Am. #13-08) **Notification.** The Police Department shall be notified at least one-half hour before closing time in the event repairs are to be made to the licensed premises during eClosing hHours. The Police Department shall be advised who will be on the premises, the purposes for which they are there and the expected time of departure.

~~1. The Police Department shall be notified at least one-half hour before closing time in the event repairs are to be made to the licensed premises during closing hours. The Police Department shall be advised who will be on the premises, the purposes for which they are there and the expected time of departure.~~

~~2. A licensed premises which has regularly scheduled janitorial services which are to be performed during the closing hours shall monthly notify the Chief of Police of the hours such services shall be performed, the names of the persons or firm which shall be on the premises and the hours involved.~~

~~3. A licensed premises which also holds a dance license as set forth in §9.15 of this chapter, and provides live music, providing they have ceased playing music at the required time and upon determination that removal of equipment cannot be accomplished by closing time, shall notify the Police Department at least one-half hour before closing time. The licensee shall inform the Police Department of the identity of the persons who shall be on the premises for the additional time which shall include the identity of the licensee representative who shall remain on the premises until secured, exclusive of any janitorial personnel and the time the premises shall be secured.~~

~~(c) A licensed premises which has regularly scheduled janitorial services which are to be performed during the closing hours shall monthly notify the Chief of Police of the hours such services shall be performed, the names of the persons or firm which shall be on the premises and the hours involved.~~

~~(d) A licensed premises which also holds a dance license as set forth in §9.15 of this chapter, and provides live music, providing they have ceased playing music at the required time and upon determination that removal of equipment cannot be accomplished by closing time, shall notify the Police Department at least one-half hour before closing time. The licensee shall inform the Police Department of the identity of the persons who shall be on the premises for the additional time which shall include the identity of the licensee representative who shall remain on the premises until secured, exclusive of any janitorial personnel and the time the premises shall be secured.~~

~~(8)(7) (Am. #13-08) No person shall sell or offer for sale any alcohol beverages on any licensed premises during the hours that sales or consumption are prohibited as set forth in this chapter. Any persons authorized to be on the premises during the time sales are prohibited who has in his possession an alcohol beverage is in violation of the closing requirements of this chapter.~~

9.13 License to ~~be~~Be Used

Except for temporary Class “B” licenses issued under Wis. Stat. §125.26(6) and temporary “Class B” licenses issued under Wis. Stat. §125.51(10) picnic licenses, holders of all retail alcohol beverage licenses issued by the City hereunder shall be actively engage in the sale of the beverages for which the licenses were issued used during the holders’ regular operating hours on the licensed premises. If a holder does not actively engage in the sale of the beverages for which the license was issued for substantial use is not made of a license throughout any 60-60-day period, the license shall become void and shall be available for reissue by the Common Council; unless the failure to engage actively is due to unforeseeable circumstances beyond the licensee’s control, provided the licensee takes prompt action in good faith to address the circumstances and resume active engagement. Periodic or sporadic use of the licenses during the 60-60-day period shall not be considered substantial use active engagement.

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