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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 is a proposed draft, presented for discussion purposes only. This is not being recommended as a final version. It is for consideration by the Committee, and the Committee is free to make its own recommendation to the Council.

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Repealed in 2016.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.

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.

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.

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.

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.

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.

9.02 License Fees. (Am. #25-89) The following fees shall be charged for licenses issued by the ~~Common Council~~City for the sale of intoxicating liquors and fermented malt beverages ~~within the City~~:

- (1) **Class “A” Fermented Malt Beverage.** (Am. #9-17) ~~\$200-300~~ per year or fractional part thereof.
- (2) **Class “B” Fermented Malt Beverage.** \$100 per year or fractional part thereof.
- (3) **Temporary Class “B” Fermented Malt Beverage** (Wis. Stat. §125.26(6)). (Am. #9-17) ~~See §125.26(6), Wis. Stats.~~ \$10.
- (4) **Retail Class C License.** (Am. #36-01) \$100 per year or fractional part thereof.
- (5) **Operator** (Bartender). (Am. #39-88) (Am. #15-97) (Am. #9-17) \$82 for a ~~two~~two-year license.
- (6) **“Class A” Intoxicating Liquor.** (Am. #41-93) (Am. #55-98) \$450 per year or ~~fractional~~any part thereof.
- (7) **“Class B” Intoxicating Liquor.** (Am. #15-97) (Am. #41-93) \$500 per year or ~~fractional~~any part thereof.
- (8) **Temporary “Class B” Intoxicating Liquor (Wine Only)** (Wis. Stat. §125.51(10)). (Cr. #20-87) (Am. #43-02) (Am. #9-17) ~~See §125.51(10), Wis. Stats.~~ \$10. If an applicant applies for a license under this subsection and a Temporary Class “B” Fermented Malt Beverage License under sub. (3) for the same event, no fee shall be assessed under this subsection.
- ~~(9) **Dancing.** (Ren. MSC ‘88) \$50 per year or fractional part thereof.~~
- ~~(10)~~(9) **Reserve “Class B” Intoxicating Liquor License.** (Cr. #8-98) \$10,000 for the initial issuance thereof.
- ~~(11)~~(10) **Wholesale Fermented Malt Beverage License.** Repealed. (Cr. #12-09) (Rep. #9-17)

9.05 Application

(Am. #7-81) Written applications for alcohol beverage licenses shall be filed with the City Clerk-Treasurer upon forms furnished by the ~~State Beverage and Cigarette Tax Division~~Wisconsin Department of Revenue. ~~Each applicant for a Class "A" beer license only when not filed in conjunction with a Class "A" liquor license shall at the time of application deposit with the City Treasurer the full amount of the license fee.~~ The City Clerk-Treasurer shall keep a record of all applications for alcohol beverage licenses and ~~shall issue all licenses granted by the Common Council.~~

9.06 ~~Duties of Treasurer, Treasurer to Issue Receipts~~ Collection and Refund of Fees

The ~~City Clerk~~-Treasurer shall ~~accept these deposits~~ collect all application fees and, issue receipts therefor, and ~~maintain~~ cause records to be kept thereof. ~~When a license is granted by the Common Council the City Treasurer shall apply such deposit in payment of license fee upon receipt of certification thereof by the City Clerk. The deposit on all applications denied by the Common Council shall be refunded by the City Treasurer upon the surrender of the deposit receipt certified by the City Clerk~~ All fees collected in connection with applications that are denied shall be refunded to the applicant.

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. Applications can be accepted and held by the Clerk-Treasurer before all standards for issuance are met, but licenses cannot be issued until all standards for issuance are met.~~
- ~~(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 shall grant 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.

~~(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.~~

~~(5) **Premises Undergoing Construction or Remodeling.** 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.~~

9.08 Operator's Licenses

(Am. #30-72)

- (1) Investigation by Police Department. Upon receipt of an application for a new or renewal operator's license, the Clerk-Treasurer shall forward a copy of the application to the Chief of Police, who shall investigate the applicant and report to the Clerk-Treasurer information sufficient to evaluate the applicant's fitness for a license under Wis. Stat. §125.04 and applicable provisions of this Municipal Code Chapter 9.
- (2) Clerk-Treasurer Authorized to Issue Certain Operator's Licenses. (Cr. #2020-8) As authorized by Wis. Stat. §125.17(1), the Clerk-Treasurer or designee may issue operator's licenses to applicants meeting the qualifications set forth in Wis. Stat. §125.04(5), if according to the information available to the Clerk the applicant has no Significant Violations, defined below. The Clerk-Treasurer or designee may issue renewal operator's licenses to applicants meeting the qualifications set forth under Wis. Stat. §125.04(5) if the renewal applicant has no new Significant Violations, defined below, since the previous operator's license was granted. All other applications for operator's licenses shall be reviewed for approval by the Ordinance and License Committee and Common Council. For purposes of this subsection, "Significant Violations" means pending charges or convictions for any felony; and pending charges or convictions for any misdemeanor or municipal forfeiture the circumstances of which substantially relate to the circumstances of the licensed activity, including, but not limited to, operating a motor vehicle under the influence of an intoxicant, theft, fraud or disorderly conduct.
- (3) Applicants Delinquent in Taxes or Assessments. Operator's licenses shall not be issued to applicants who are delinquent in the payment of City taxes or assessments.
- ~~(1) OPERATORS IN A CLASS B INTOXICATING LIQUOR OR FERMENTED MALT BEVERAGE LICENSED ESTABLISHMENT. (Am. #30-73)~~

 - ~~(a) An operator's license entitles the holder thereof to be an operator in any Class B licensed establishment in the City.~~
 - ~~(b) The Class B licensee or adult member of the immediate family of the licensee, or a holder of a current operator's license, shall be on duty at all times during which a premises operating under a Class B intoxicating liquor or fermented malt beverage license is open.~~
 - ~~(c) The violation of the provisions of this section may result in the Common Council revoking the Class B intoxicating liquor and fermented malt beverage license issued to the licensee for the premises.~~
- ~~(2) OPERATORS IN A CLASS A INTOXICATING LIQUOR OR FERMENTED MALT BEVERAGE LICENSED ESTABLISHMENT. (Am. #30-73) An operator's license entitles the holder thereof to be an operator in the specified place, operating under a Class A licensed establishment as indicated in the application for the operator's license.~~

- ~~(3) **OPERATOR'S ADDITIONAL REQUIREMENTS.** (Am. #12-89) Each applicant for an operator's license in reference to either an establishment operating under a Class B or A license shall, in addition to other information furnished on the written application, designate the applicant's sex, and such designation shall be conclusive evidence of the sex of the applicant and any proceeding brought in any court relative to the enforcement or violation of this section or any section of this Municipal Code or the State Statutes adopted pursuant thereto. The holder of an operator's license shall have his license in his immediate possession at all times when working as an operator on any Class A or B licensed premise and shall display the same on demand from any law enforcement officer.~~
- (4) ~~**PROVISIONAL LICENSE.**~~ **Provisional Licenses.** (Cr. #14-85)
- (a) The City Clerk ~~Treasurer shall be~~ is authorized to issue a provisional operator's licenses pursuant to Wis. Stat. §125.17(5) to any applicant for an operator's license, who ~~has made proper application for an operator's license,~~ has not been previously denied an operator's license under this chapter by the City, and has filed with the Clerk-Treasurer a certified copy of a valid operator's license issued by another municipality in Wisconsin who has made proper application for an operator's license.
- (b) A provisional license shall be valid for ~~a 60-day period~~ 60 days from its issuance, or until the issuance to the applicant of a regular operator's license, whichever occurs first, ~~such time commencing with the date of issuance of the provisional license; this license shall also expire upon the issuance of a regular operator's license as provided in this chapter or any other ordinance, resolution or motion adopted by the Common Council of the City.~~
- (c) A provisional license may be revoked by the ~~City Clerk-Treasurer~~ upon discovery of false statements by applicant on his or her application.
- (d) ~~The F~~ Forms for the application for a provisional license and the provisional such license shall be ~~adopted-prescribed~~ adopted-prescribed by the ~~City Clerk-Treasurer~~ with approval of the ~~License and Ordinance Committee of the Common Council.~~
- (5) ~~**City Clerk Authorized to Issue Certain Operator's Licenses.** (Cr. #2020-8) As authorized by Wis. Stat. §125.17(1), the City Clerk or the Clerk's designee may issue Operator's Licenses to applicants meeting the qualifications set forth under Wis. Stat. §125.04(5), if according to the information available to the Clerk the applicant has no Significant Violations. The City Clerk or the Clerk's designee may issue Operator's Licenses to applicants meeting the qualifications set forth under Wis. Stat. §125.04(5) who apply to renew a license if the applicant has no new Significant Violations since the previous Operator's License was granted. All other applications for Operator's Licenses shall be reviewed and approved by the Ordinance and License Committee and Common Council. For purposes of this subsection, "Significant Violations" means pending charges or convictions for any felony; and pending charges or convictions for any misdemeanor or municipal forfeiture the circumstances of which substantially relate to the circumstances of the licensed activity, including operating a motor vehicle under the influence of an intoxicant, theft, fraud or disorderly conduct.~~

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 two 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).

WAUKESHA MUNICIPAL CODE 08/21/18

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 total of:
 - (a) Seventy-seven “Class B” Intoxicating Liquor licenses ~~granted or issued by the City in~~ force as of December 1, 1997-; and
 - (b) 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.

9.11 ~~Restrictions on Operation~~ General Rules and Regulations

- (1) **Report of Changes Required.** Whenever anything occurs to change any fact set out in ~~the~~ an application for a license under this Chapter, licensee or applicant shall file with the City Clerk a notice in writing of such change within 10 days of that occurrence.
- (2) **Posting of License.** No person shall post any license issued hereunder upon any premises other than those listed in the application and no person shall knowingly deface or destroy such license.
- (3) **Consent to Inspection.** Every applicant procuring a liquor license thereby consents to the entry of police or other duly authorized representatives of the City without warrant at all reasonable hours for the purposes of inspection and search, and consent to the removal from such premises of all things and articles there had in violation of City ordinances or State laws, and the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
- ~~(4) **Clear View of Interior Required.** No premises licensed for the sale of fermented malt beverages or intoxicating liquor at retail shall, during the days they are required to close or during the hours in which the sale of liquor is prohibited, obstruct by the use of curtains, binds, screens or in any other manner a full and complete view of the interior from the outside. During the hours in which the sale of intoxicating liquor is permitted, a full and complete view of the interior from the outside shall be afforded either through an entrance door or a window and during such hours the premises shall be properly and adequately lighted.~~
- ~~(5) **Operators Only to Tend Bar.** (Am. #26-74) (Rep. #15-15)~~
- ~~(4) **Operator's Licenseholders to Have License in Possession.** The holder of an operator's license shall have his or her license in his or her immediate possession at all times when working as an operator on any Class A or B licensed premises and shall display the license on demand by any law enforcement officer.~~
- ~~(6)~~(5) **Credit Sales Prohibited.** No retail Class "A" or "B" licensee shall sell or offer to sell any person on credit fermented malt beverages or intoxicating liquor or receive from any person any goods, wares, merchandise, or other articles in exchange therefor where such fermented malt beverages or intoxicating liquor is to be consumed on the premises so licensed, except the prohibition on extension of credit shall not apply to credit extended by a hotel to a resident guest or a club to a bona fide member.
- ~~(7)~~(6) **Music.** All music in all licensed premises shall cease 1/2 hour before legal closing time except by special permit from the Chief of Police.
- ~~(8)~~(7) **Diluting-Dilution of Liquor.** No person shall dilute or add to any fermented malt beverage or intoxicating liquor for the purpose of selling or offering the same for sale from or in an original container. Possession of any original container containing any fermented malt beverage or intoxicating liquor so diluted or added to shall be prima facie proof that the possessor thereof intended to violate the provisions of this section.

~~(9)~~**(8) Evasion of Requirements.** The giving away of fermented malt beverages or intoxicating liquors or other shift or device to evade the provisions of this chapter relating to the sale of such beverages or liquors shall be deemed to be unlawful selling.

~~(10)~~**(9) Beer in Restaurants.** (Am. #50-72) A Class B fermented malt beverage license only (not in combination with a Class B intoxicating liquor license) may be issued to a person that operates a properly licensed, bona fide restaurant as defined in §125.02(18), Wis. Stats., provided the sale of food and nonintoxicating beverages at retail shall constitute at least 65% of the gross sales of the establishment, based upon an annual computation, or as hereinafter provided:

- (a) The applicant, if a City license has not been previously issued shall, at the time of application, furnish to the Ordinance and License Committee such information as is required by that committee to establish that in the prior year's operation, or such period of time as determined by the Ordinance and License Committee, the sale of food and nonintoxicating beverage constitute 65% or more of the gross sales, or
- (b) The licensee seeking renewal of the license shall furnish to the Ordinance and License Committee of the Council between March 1 and April 15 of each year a report, compilation or records satisfactory to the Committee as to form and clarity supplying the information required for the purpose of establishing the gross sales of the licensee for the prior year.
- (c) If the Ordinance and License Committee establishes that less than 65% of the gross sales for the past calendar year (or part thereof) comprised sale of food and nonintoxicating beverage, the Committee shall recommend to the Council that the Class B fermented malt beverage license be not issued or renewed for the next ensuing year commencing the following July 1.
- (d) If the applicant or licensee refuses or neglects to furnish the information relative to the gross sales as required to the Ordinance and License Committee within the time indicated, the Committee shall recommend to the Council that the Class B fermented malt beverage license be not issued or renewed for the next ensuing year commencing the following July 1.

~~(11) Employment of Underage Persons.~~ (Am. MSC '88) ~~No licensee shall employ any underage person who does not have a valid operator's license to serve, sell, dispense or give away any alcohol beverage.~~

~~(12) Sales in Clubs.~~ ~~No club shall sell fermented malt beverages or intoxicating liquors except to members and guests invited by members.~~

~~(13)~~**(10) Orderly Operation Required.** (Am. #41-02) Each licensed premises shall at all times be ~~conducted~~operated in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed at any time on or about any licensed premises.

~~(14)~~**(11) Gambling Prohibited.** (Am. MSC '90) Except as ~~provided~~allowed by State law, no gambling of any sort shall be permitted in any form upon the licensed premises. ~~Slot~~

~~machines or any similar devices of chance are prohibited and shall not be kept on the premises. No license holder or any employee thereof shall participate in any dice game which is not considered gambling.~~

~~(15) **Dancing Restricted.** (Am. #11-84) No dancing shall be permitted by patrons or entertainers on premises licensed for the sale of alcoholic beverages unless such licensee has secured a dance license, as provided for under this chapter.~~

~~(16) **Sales of Intoxicating Liquors at Motor Vehicle Fueling Stations Prohibited; Exception.** (Cr. #31-76) (Am. 21-90) (Rep. #25-08) (Recr. #24-09) (Rep. & recr. #19-15) No "Class A" intoxicating liquor license shall be issued to any establishment at which gasoline, diesel fuel, E85, or any other fuel for motor vehicles is offered for sale to the public; except a "Class A" intoxicating liquor license for the sale of eider only.~~

~~(17)~~**(12) Package Sales in Restaurants.** (Cr. #5-77) The sale of fermented malt beverages in restaurants operating under a Class "B" fermented malt beverage license shall be ~~by the bottle or glass~~ for consumption on the licensed premises only. Sales for consumption off the licensed premises ~~is~~ shall be prohibited.

~~(18)~~**(13) Retail "Class B" Carry-Out Sales.** (Cr. #19-79) ~~The provisions of §125.51(3), Wis. Stats., are adopted by the City. The holder of a retail "Class B" liquor license shall be permitted to sell, deal and traffic in intoxicating liquors to be consumed by the glass only on the premises and in the original packages or containers in multiples not to exceed 4 liters at any one time and to be consumed off the licensed premises. The City elects to come under the provisions of Wis. Stat. §125.51(3)(b). A "Class B" intoxicating liquor license authorizes the sale of intoxicating liquor to be consumed either by the glass on the premises where sold or off the premises if the licensee seals the container of intoxicating liquor with a tamper-evident seal before the intoxicating liquor is removed from the premises. The "Class B" intoxicating liquor license also authorizes the sale of intoxicating liquor in the original package or container, in any quantity, to be consumed off the premises where sold. Off premises Carry-out sales shall cease at 9 p.m. of each day.~~

~~(19) **Beer – Saratoga Park.** (Cr. #13-82) A Class B fermented malt beverage license may be issued for use in Saratoga Park.~~

~~(14) **Drug Activity Presence of Controlled Substances.** (Cr. #38-99)-~~

~~(20)~~**(a)** ~~(a)~~ The manufacture, distribution or delivery of a controlled substance or a controlled substance analog under ~~see Wis. Stat. § 961.41(1), Wis. Stats., and of for the possession possessing~~ with intent to manufacture, distribute or deliver a controlled substance or controlled substance analog under ~~see Wis. Stat. § 961.41, Wis. Stats.,~~ by a person on the premises for which ~~the an alcohol beverage~~ license is issued ~~by the City under this chapter and chapter 125, Wis. Stats., shall be~~ is prohibited.

~~(21)~~**(b)** ~~(b)~~ No licensee, agent thereof, or employee ~~thereof~~ shall fail to take action to prevent the activities ~~set forth described in subsection in~~ (a) ~~above~~ after receiving written notice from the Waukesha Police Department ~~which that~~ has been served pursuant to ~~see Wis. Stat. § 800.01(2)(a), Wis. Stats.,~~ informing the licensee that such

acts have taken place on the licensed premises.

~~(22)~~**(15)** **Unreasonable Noise.** (Cr. #5-02) (Am. #41-02) Unreasonably loud noise or other conduct which tends to cause a public disturbance or unreasonably interferes with the quiet enjoyment of the surrounding neighborhood is prohibited on or about ~~the a~~ licensed premises.

~~(23)~~**(16)** **Code Compliance.** (Cr. #41-02) Premises licensed for the sale of alcoholic beverages shall comply be in compliance at all times with all applicable provisions of the City's Building and Fire Codes ~~of the City of Waukesha.~~

WAUKESHA MUNICIPAL CODE 09/17/15

9.12 Closing Hours and Sales Restrictions

(Am. #23-88)

(1) Closing Hours, Class B Premises. ~~No p~~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, except as otherwise provided in this section. 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 when it is closed.

~~(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 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 hours set forth in this ~~chapter~~section. During closing 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~~ Licensees 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 licensed premises are not open for business if those

persons are performing only their employment job-related activities. Entertainers, musicians, and their sound and lighting personnel may remain in licensed premises after closing 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 those 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 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.

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. Periodic or sporadic use of the licenses during the 60-60-day period shall not be considered substantial use ~~active engagement~~.

WAUKESHA MUNICIPAL CODE 01/14/99

9.14 Revocation, Suspension, or Refusals to Renew Licenses

~~(Am. #21-90) (Am. #51-99) (1)~~ Hearings. Hearings on suspensions, revocations and refusals to renew shall be held before the Ordinance & License Committee in accordance with and in the manner provided by ~~see Wis. Stat. §- 125.12(2) and (3), Wis. Stats. (Am. #21-90) (Am. #51-99)~~

(2) Violations Are Imputed to Licensee. Unless otherwise provided for in ~~Wis. Stat. ch.~~ Wis. Stat. Ch. 125, Wis. Stats., a violation of this chapter by an authorized agent or employee of a licensee shall constitute a violation by the licensee.

(3) Issuance Of of New License After after Revocation. When a license is revoked, at least 60 days shall elapse before another license ~~shall~~ may be issued for the same premises and ~~no license may be granted within at least 12 months shall elapse before another license may be issued of the date of revocation to the a~~ person whose license was is revoked.

WAUKESHA MUNICIPAL CODE 04/26/00

9.15 Dancing on Licensed Premises

- ~~(1) **Purpose.** The purpose of this section is to permit dancing on premises licensed hereunder on the conditions as set forth herein.~~
- ~~(2) **Application.** Written application for a license shall be filed with the City Clerk. Only the licensee of the premises sought to be licensed may make such application for a license. Application shall be made to the City Clerk. The City Clerk shall keep a record of all applications and shall issue all licenses granted by the Common Council under the provisions of this chapter upon payment of the license fee. The applicant for a dancing license shall describe in detail the premises for which he is making application.~~
- ~~(3) **Floor Area; Capacity.** The premises for which a license is desired must have a minimum of 1,200 sq. ft. of interior floor area available excluding kitchen, restroom and entrance areas and an additional minimum of 300 sq. ft. of floor area available for dance space. Such dance space shall be contiguous and unobstructed and shall not include any part of the area within 6' of the front edge of any bar, counter or kitchen area or any part of the area within 3' of any door or exit passageway. The dance space so provided shall be designated as such and no dancing shall be allowed in any other part of the premises. The dance space shall be limited in capacity to 10 sq. ft. per person.~~
- ~~(4) **Investigation of Premises before Granting or Renewing License.** Whenever an applicant shall have complied with all conditions and regulations relative to the filing of his application, the City Clerk shall forward such application to the Council at the next regular or special meeting. The City Clerk shall notify the Chief of Police, Health Officer, Chief of the Fire Department and Building Inspector of each application and these officers shall inspect the premises and make such investigation as is necessary to determine whether the premises sought to be licensed comply with all regulations, ordinances and laws applicable thereto. These officials shall each furnish to the Council in writing the information derived from such investigation together with their recommendations as to whether a license should be granted or refused. No license shall be renewed without a reinspection of the premises and report as originally required. In determining the suitability of the premises, consideration shall be given to the appropriateness of the location and premises proposed.~~
- ~~(5) **License Required.** (Am. #25-89) No dance or dancing shall be permitted upon premises licensed under this chapter by patrons or entertainers, unless the annual dancing license shall have been obtained from the City Clerk. The term of such license shall be from July 1 through June 30.~~
- ~~(6) **Hours And Music.** Dancing and music shall be allowed in a licensed premises until 1/2 hr. before legal closing time when all dancing and music shall cease. Dancing and music shall cease at 12:30 a.m. if it is not within the confines of the building on the premises.~~
- ~~(7) **Transferability.** A separate license shall be required for each place of business and the license shall not be transferable from licensee to licensee nor from premises to premises.~~

~~(8) **Report of Changes.** Whenever anything occurs to change any fact set out in the application, the licensee shall file a notice in writing of the change with the City Clerk within 10 days.~~

~~(9) **Revocation.** Any license granted under this section shall be subject to revocation by the Council for violation of any provision of this chapter or for any other cause specified by the Wisconsin Statutes upon which the City is empowered to act. When a license is revoked, it shall be entered on the record by the Clerk and no dancing license shall be granted to such person within 12 months of the date of revocation, nor shall any part of the money paid for the license so revoked be refunded.~~

WAUKESHA MUNICIPAL CODE 01/14/99

9.16 Alcohol Beverages; Restrictions Relating to Underage Persons

- (1) No person may procure, force, sell, dispense or give away any alcohol beverages to any underage person who is not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age. (Am. MSC '84) (Am. #51-99)
- (2) No licensee or permittee may sell, vend, deal or traffic in alcoholic beverages to or with any underage person who is not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This restriction does not apply to alcoholic beverages used exclusively as part of a religious service.
- (4) No adult may intentionally encourage or contribute to a violation of Wis. Stat. §see- 125.07(4)(a) ~~and-or~~ (b), Wis. Stats.
- (5) Any person who commits a violation of this section is subject to a forfeiture of ~~not more than~~ \$500 if the person has not committed a previous violation within 30 months of the violation. For purposes of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation. Note: If a person commits a violation of this section and has committed a previous violation within 30 months, it is a crime and is subject to prosecution by the district attorney.

9.17 Underage Persons; Presence in Class B Premises; Exception

~~Notwithstanding the restrictions and exceptions applicable to underage persons on licensed premises as set forth in Ch. 125, Wis. Stats., and as adopted by §9.01 of this chapter, an underage person may enter or remain in a room on a Class B licensed premises, separate from any room where alcohol beverages are sold or served if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present, provided the Police Department issues to the Class B licensee written authorization permitting underage persons to be present under the terms of this section on the date specified in the authorization. Before issuing the authorization, the Police Department shall make a determination that the presence of underage persons on the licensed premises would not endanger their health, welfare or safety or that of the other members of the community. The licensee shall obtain a separate authorization for each day on which underage persons will be present on the premises. (Cr. #24-87)~~

WAUKESHA MUNICIPAL CODE 01/14/99 _____

9.18 Penalties

~~Violations of this chapter shall subject the violator to the penalties provided in Municipal Code §25.05, unless provided otherwise in this chapter or in Chapter 125 of the Wisconsin Statutes. Any person who himself or by his agent or employee shall violate any of the provisions of this chapter for which a specific penalty is not provided, or who having had his license revoked shall continue to operate, shall, upon conviction thereof, be subject to a penalty as provided in §25.05 of this Municipal Code. (Ren. #24-87)~~

WAUKESHA MUNICIPAL CODE 01/14/99