

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on **Tuesday, May 29, 2018** immediately following the City Council meeting which begins at **6:15** p.m. in the Ashland City Hall Council Chambers.

The following items will be considered:

1. Roll Call
2. Council President's Report
3. City Administrator's Report
4. Approval of the Agenda
5. Approve an Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation (*Clerk*)
6. Discussion and Possible Action Regarding Fluorine in the City Drinking Water (*Councilor George*)
7. Discussion and Possible Action Regarding the Use of Tablets by Council Members (*Mayor*)
8. Discussion and Possible Action Regarding Possibly Reducing the Number of Members Seated on the City of Ashland Common Council (*City Clerk*)
9. Adjournment

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048



AGENDA BILL

Ref: 111

COMMITTEE AGENDA: 5 (05-29-2018)
COUNCIL AGENDA:

SUBJECT: Approve an Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation

RECOMMENDATION: As Council Desires

DEPARTMENT OF ORIGIN: City Clerk

DATE SUBMITTED: May 16, 2018

CLEARANCES: City Attorney

EXHIBITS:
A-Chapter 922 (1488), Ashland City Ordinance
B-Proposed Changes to Chapter 922, Ashland City Ordinances
C-Types of Alcohol Licenses
D-Excerpt of City Council Meeting Minutes, May 31, 2016
E-Excerpt of City Council Meeting Minutes, September 26, 2017

EXPENDITURES REQUIRED: NA

COMPLIANCE WITH ORDINANCE 51: NA

SUMMARY STATEMENT:

The City Clerk’s office has received an application by a newly founded organization for an alcohol beverage license. There are a few discrepancies in the current City Ordinance 922 pertaining to Alcohol licensing that need to be clarified by the Council prior to the Clerk’s ability to process the application.

On May 31, 2016, the Ashland City Council voted to approve the following: Restrictions Related to Other Uses. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be issued for any premise which is used as a laundromat; or for any premise which is not used primarily for the sale of gasoline, groceries and/or bait, as a restaurant, or for the sale of intoxicating liquor and fermented malt beverages. This waives the more stringent previous restrictions in light of the incoming Kwik Trip convenience stores. At this meeting, the quota for Class “A” Fermented Malt Beverage licenses was removed from the ordinance. Currently, there are only quotas for “Class B” Intoxicating Liquor licenses and “Class A” Intoxicating Liquor licenses.

In September, 2017, the City Council voted to gradually lower the quota for “Class B” Intoxicating Liquor licenses from its then current 26 to 16, in order to better reflect the decreasing population of the City of Ashland.

Chapter 922.40 Local Options.

The State of Wisconsin imposes several restrictions on the alcohol beverage licenses that are allowed to be permitted by municipalities. State Statutes allow municipalities to impose more stringent restrictions in some cases related to the number of licenses allowed and the types of businesses and venues that can be licensed.

The proposed changes to Ordinance 922 are contained in red in the attached Exhibit to this Agenda bill. They are described and the reasoning explained below as follows.

1/ In 922.30(b) Class "B" Fermented Malt Beverage there are exceptions listed for holding licenses for: bona fide clubs, fair associations, agricultural societies, lodges or societies that have been in existence for more than six months. The reference to "922.03(c)(1)" in this paragraph is a typographical error which needs correcting as it does not exist in the Ordinance. Additionally, as a result of the Council action taken in 2016, the reasoning listed for holding a Class "B" fermented malt beverage license is obsolete due to the fact that the Council previously determined to remove the quota for a Class "B" Fermented Malt Beverage licenses, regardless of the organization's status of being a club. It is recommended to remove this paragraph in its entirety for clarity.

2/ Para. 922.40 (g) Failure to do Business discusses the need for businesses granted a Class A or Class B intoxicating liquor or fermented malt beverage license, to be open for business for a designated length of time. If the business is unable to comply, the license will be subject to revocation. Within the last sentence of this paragraph, exceptions are outlined:

"This subsection shall not apply to the licenses held for the Bay Area Civic Center premises or by the Ashland Women's Softball Association for Hodgkin's Park."

Since the adoption of this section, there are two licenses which have been held for the purpose of these distinct organizations. The Ashland Women's Softball Association has not requested re-issuance for an alcohol license for a number of years, and it can be safely assumed at this point that the license is no longer required or desired. Also, the sentence does not designate the type of license that is being held aside for either organization. It is recommended that this sentence be rewritten as follows, to eliminate the Ashland Women's Softball Association, and clarify the type of license being held for the Bay Area Civic Center:

"This subsection shall not apply to the "Class B" Intoxicating Liquor/Class "B" Fermented Malt Beverage license held for the Bay Area Civic Center premises."

Effect of Changes

A current applicant is requesting to obtain a "Class B" Intoxicating Liquor/Class "B" Fermented Malt Beverage license for a newly organized club. With the above housekeeping changes, the Council needs to determine the next steps in granting alcohol beverage licenses. Of the long time quota of 26 "Class B" Combination licenses, 24 are currently occupied and one is held for the Depot, which leaves the 26th license potentially available.

Some options to consider include the following:

Option A: The Council voted by Ordinance 2017-1898 in September, 2017 to gradually lower the quota for “Class B” Intoxicating Liquor licenses from its current 26 to 16 in order to better reflect the decreasing population of the City of Ashland. In keeping with the decision by the previous Council, it is the Council’s prerogative to retire the 26th available “Class B” license and reduce the total number to 25.

Option B: Without retiring the 26th newly available “Class B” Combination license, Council could potentially keep this license active and available to applicants.

Option C: Council could determine to use the recently “found” “Class B” Combination license to be set aside as it has for other certain instances, and designate as it has in the past, for bona fide clubs, state, county, or local fair associations, or agricultural societies, lodges, or societies that have been in existence for not less than six months prior to the date of application. Stipulations, as in the past, can be placed on such license specifically for bona fide clubs, such as an effective term of six months, and possibly the hours of operation, such as less than 20 hours per week, if Council desires.

Option D: Allow clubs to purchase a Class “B” Fermented Malt Beverage license at the rate of \$100 annually, or purchase a special six-month Class “B” Fermented Malt Beverage license for one-half, or \$50, or require the club to purchase a Reserve “Class B” Combination license for the amount of \$10,000 as outlined in the ordinance.

CHAPTER 922. ALCOHOLIC BEVERAGES REGULATION.

922.10. Adoption of state statutes. The provisions of Chapter 125 of the Wisconsin Statutes and all acts amending or supplementing the above cited statutes are adopted, so far as applicable, except as otherwise provided by this ordinance. Any conflict between the provisions of this chapter and Chapter 125 of the Wisconsin Statutes shall be resolved in favor of the statutory provision and the remainder of this chapter shall not be affected thereby.

922.20 License fees.

- (a) Class "A" Fermented Malt Beverage. The fee for a Class "A" fermented malt beverage license shall be one hundred (\$100) dollars per year.
- (b) "Class A" Cider. There is no fee for a "Class A" Cider license.
- (c) "Class A" Intoxicating Liquor. The fee for a "Class A" intoxicating liquor license shall be five hundred (\$500) dollars per year.
- (d) Class "B" Fermented Malt Beverage. The fee for a Class "B" fermented malt beverage license shall be one hundred (\$100) dollars per year.
- (e) "Class B" Intoxicating Liquor. The fee for a "Class B" intoxicating liquor license shall be five hundred (\$500) dollars per year.
- (f) Reserve "Class B" Intoxicating Liquor. The initial issuance fee for a Reserve "Class B" intoxicating liquor license shall be ten thousand (\$10,000) dollars, plus the annual "Class B" intoxicating liquor license fee. The \$10,000 fee is a one-time fee, however, a reissuance of a Reserve Class B intoxicating liquor license to a new licensee shall be subject to the ten thousand (\$10,000) issuance fee. Bona fide clubs and lodges situated and incorporated in the state for at least six years that apply for Reserve "Class B" licenses are exempt from paying the minimum \$10,000 initial issuance fee.
- (g) "Class C" Wine. The fee for a "Class C" wine license shall be one hundred (\$100) dollars per year.
- (h) Wholesaler's Licenses for Fermented Malt Beverages. Effective July 1, 2011, the City of Ashland will no longer issue wholesale fermented malt beverage (FMB) licenses. The Wisconsin Department of Revenue will issue wholesale permits as established by 2011 Wisconsin Act 32.
- (i) Special Six-month Licenses. The fee for a Special Six-Month "Class A" intoxicating liquor, "Class B" intoxicating liquor, or Class "B" fermented malt beverage license shall be one-half the annual fee set for said license.

(j) Provisional Licenses. Individuals who apply for the following licenses may be issued a provisional retail license by the Clerk's office: provisional Class "A" fermented malt beverage, "Class A" Cider license, "Class A" intoxicating liquor, Class "B" fermented malt beverage, "Class B" intoxicating liquor license or "Class C" wine license. The application will be reviewed and approved by the Police Department. The fee for a provisional license shall be \$15.00 each with the exception of no fee for a "Class A" Cider license. The provisional license will expire 60 days after its issuance or when the applicant receives a regular license, whichever is first. The Clerk's office may revoke the provisional license if the Clerk discovers the holder made a false statement on the application. The City of Ashland will not issue a provisional license for a "Class B" liquor license if the quota has been met. The City of Ashland will not issue a provisional license for a "Class A" cider license if the applicant does not have a Class "A" fermented malt license for the same location. No person may hold more than one provisional retail license for each type of license applied for by the holder each year.

(k) Temporary Licenses. The fee for a Temporary Class "B" fermented malt beverage (picnic) license shall be ten (\$10) dollars per day. The fee for a Temporary "Class B" wine license shall be ten (\$10) dollars per day. If both a temporary Class "B" fermented malt beverage license and a temporary "Class B" wine license are obtained for the same event, only one ten (\$10) dollar fee shall be charged.

(l) Operator's Licenses. Applicants for an operator's license shall have the option of applying for a one-year license or a two-year license. The fee shall be established in the City of Ashland Comprehensive Fee Schedule. Licenses shall be issued for the fiscal year beginning July 1 and ending June 30 of each year.

(m) Provisional Operator's License. Individuals who apply for an operator's license may be issued a provisional operator's license by the Clerk's office pending action from the Common Council and pending completion of State-mandated training requirements. The application must be reviewed and approved by the Police Department. The provisional license shall expire sixty (60) days after its issuance or when the applicant receives a regular operator's license, whichever is first. There shall be no additional fee for a provisional Operator's License.

(n) Temporary Operator's License. A temporary operator's license to serve at a special event may be issued to an individual employed by, or donating their services to, a nonprofit organization. The license shall be valid for any one period from one day to fourteen days. No person may hold more than one temporary license per year. The fee for a temporary license shall be five (\$5) dollars.

922.30. Quotas.

(a) "Class A" Intoxicating Liquor. The quota for "Class A" intoxicating liquor licenses in the City shall be three (3) licenses.

(b) Class "B" Fermented Malt Beverage. Class "B" fermented malt beverage licenses held in conjunction with "Class B" intoxicating liquor licenses shall be limited in number in the same

manner and to the same extent as are "Class B" intoxicating liquor licenses and reserve "Class B" intoxicating liquor licenses.

(1) In addition to the above, Class "B" fermented malt beverage licenses may be issued in the City for restaurant premises which do not have said license in conjunction with a "Class B" intoxicating liquor license.

(2) It is specifically provided that one of the licenses described in Subsection 922.03(c) (1) shall be reserved for granting to bona fide clubs, state, county, or local fair associations, or agricultural societies, lodges, or societies that have been in existence for not less than six months prior to the date of application. The license issued under this paragraph shall not be effective for more than six months and only shall permit the sale of fermented malt beverages at the specific activities or events and specific location described in said license.

(c) "Class B" Intoxicating Liquor/Reserve "Class B" Intoxicating Liquor. The quota for "Class B" intoxicating liquor licenses shall be determined by the provisions of Sec. 125.51(4), Wis. Stats., which created a quota of twenty-six (26) regular "Class B" intoxicating liquor licenses and twelve (12) Reserve "Class B" intoxicating liquor licenses. Under the provisions of State Statute 125.51(4)(br)2., one additional Reserve "Class B" intoxicating liquor license may be created for each increase of 500 population or fraction thereof to the population total of 8,797 (eight thousand, seven hundred ninety-seven).

(d) Unissued Licenses. If any "Class B" intoxicating liquor license within the above-stated quotas is allowed to expire without an accepted request by the licensee that it be re-issued to another licensee for the same premises, it shall be retired and shall reduce the quota for regular "Class B" intoxicating liquor licenses by one. The Council may continue to retire licenses until the number of 16 licenses available is reached to equal that of one for every 500 persons, corresponding to a population of 8000. The initial issuance of a Reserve "Class B" intoxicating liquor license shall require an affirmative vote of two-thirds (2/3) of the entire membership of the City Council.

(1) Exceptions: The Council may vote to issue extra licenses if circumstances are such that the applicant:

- (a) Is a full service restaurant with a seating capacity of 300 or more, or;
- (b) Is a hotel with 50 or more rooms and a restaurant with a seating capacity of 150 or more, or;
- (c) Is a banquet hall with a seating capacity of 400 or more.

922.40. Local options.

(a) Adoption of Off-Sale Provisions for "Class B" Intoxicating Liquor Licenses. The City of Ashland elects to come under Sec. 125.51(3)(b), Wis. Stats., and provides that a retail "Class B" license authorizes the sale of intoxicating liquor to be consumed by the glass only on the

premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed four (4) liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.

(b) Licenses for Non-Intoxicating and Soda Water Beverages. Class "B" fermented malt beverage licensees may also sell beverages containing less than one-half of one per centum alcohol by volume without obtaining a special license to sell such beverages pursuant to Section 66.053(1) of the Wisconsin State Statutes.

(c) Restrictions Related to Other Uses. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be issued for any premise which is used as a laundromat; or for any premise which is not used primarily for the sale of gasoline, groceries and/or bait, as a restaurant, or for the sale of intoxicating liquor and fermented malt beverages.

(d) Excessive Number of Licenses Not Permitted. No more alcohol-related licenses than are legally necessary to conduct the alcohol-related business shall be issued for a single, contiguous premise.

(e) Delinquent Taxes and Fees. No license shall be granted or renewed for the operation of any premises upon which real estate taxes, personal property taxes, assessments, or other financial claims or forfeitures are delinquent or unpaid.

(f) Temporary Expansion of Premises Description. The Chief of Police, or the Chief's designee, shall be given authority to grant a temporary change to the licensed premise description to accommodate special events.

(g) Failure to do Business. Within one hundred eighty (180) days from the initial issuance of a Class A or Class B intoxicating liquor or fermented malt beverage license, a licensee shall be open for business with adequate stock and equipment or the license shall be revoked by the Common Council following a revocation hearing. If any Class A or Class B intoxicating liquor or fermented malt beverage licensee shall suspend or cease doing business for a period of 180 days, the license shall be revoked by the Common Council following a revocation hearing. For the purposes of this subsection, the licensed premises must be open for business a minimum of twenty (20) hours per week or the license will be subject to the failure to do business provisions. The 180 days shall not necessarily need to be successive to impose the provisions of this subsection. This subsection shall not apply to the licenses held for the Bay Area Civic Center premises or by the Ashland Women's Softball Association for Hodgkin's Park.

922.41. Drinking in Public Places

Except as provided in Sections 922.42 and 501.06(e), it shall be unlawful for any person or persons to sell, serve, or consume, or possess an open container containing any type of intoxicating liquor or fermented malt beverage on any public street or sidewalk or public parking area within the City.

922.42. Licensed Premises may include public rights-of-way.

(a) An applicant for a license under this Chapter who is qualified to obtain a permit under Sec. 508.41(c) may include in the description of the “premises” to be licensed a portion of public right-of-way as described in Sec. 501.06(e).

(b) No licensee may sell, serve, or allow the consumption of any intoxicating liquor or fermented malt beverage on any public-right-of-way without a permit under Sec. 501.06(e). The issuance of license under this chapter for premises including a public right-of-way does not grant any right to the issuance, renewal, or non-revocation of a permit under Sec. 501.06(e).

(c) Any licensee who sells, serves, or allows the consumption of any intoxicating liquor or fermented malt beverage on any public-right-of-way under a permit issued pursuant to Sec. 501.06(e), shall clearly demarcate for its customers the limits of the licensed premises, by means such as but not limited to appropriate signage, stanchions or planters, as approved by the Department of Planning and Development under the licensee’s permit issued pursuant to Sec. 501.06(e).

922.50. Revocation of licenses. Licenses issued under the provisions of this chapter may be revoked by the Council of the City of Ashland after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for license;
- (b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his/her business;
- (c) Any violation of this ordinance;
- (d) Conviction of any crime or misdemeanor.

922.51. Notice of hearing. Notice of the hearing for revocation of a license shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepared to the licensee at his/her last known address at least 72 hours prior to the date set for hearing, or shall be delivered by a Police Officer in the same manner as a court summons.

922.60. Penalty for violation of ordinance. Any person, firm, or corporation that shall violate any of the provisions of this ordinance shall forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, plus the cost of prosecution. Each day’s violation of the provisions of this ordinance shall constitute a separate offense.

922.611 Severance Clause

The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

922.612 Effective Date

This ordinance shall be effective upon its passage and publication.

ADOPTED: 922 (1488) 1/25/2000

AMENDMENTS: 922 (1516) 6/26/2001; 922 (1644) 12/12/2006; 922 (1688) 9/30/2008;
922 (1780) 3/13/2012; 922 (1784) 4/17/2012;
922 (2015-1850) 8/25/2015; 922 (2015-1857) 9/29/2015;
922 (2016-1870) 5/31/2016; 922 (2017-1898) 9/26/2017;

CHAPTER 922. ALCOHOLIC BEVERAGES REGULATION.

922.10. Adoption of state statutes. The provisions of Chapter 125 of the Wisconsin Statutes and all acts amending or supplementing the above cited statutes are adopted, so far as applicable, except as otherwise provided by this ordinance. Any conflict between the provisions of this chapter and Chapter 125 of the Wisconsin Statutes shall be resolved in favor of the statutory provision and the remainder of this chapter shall not be affected thereby.

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- (b) "Class A" Cider. There is no fee for a "Class A" Cider license.
- (c) "Class A" Intoxicating Liquor. The fee for a "Class A" intoxicating liquor license shall be five hundred (\$500) dollars per year.
- (d) Class "B" Fermented Malt Beverage. The fee for a Class "B" fermented malt beverage license shall be one hundred (\$100) dollars per year.
- (e) "Class B" Intoxicating Liquor. The fee for a "Class B" intoxicating liquor license shall be five hundred (\$500) dollars per year.
- (f) Reserve "Class B" Intoxicating Liquor. The initial issuance fee for a Reserve "Class B" intoxicating liquor license shall be ten thousand (\$10,000) dollars, plus the annual "Class B" intoxicating liquor license fee. The \$10,000 fee is a one-time fee, however, a reissuance of a Reserve Class B intoxicating liquor license to a new licensee shall be subject to the ten thousand (\$10,000) issuance fee. Bona fide clubs and lodges situated and incorporated in the state for at least six years that apply for Reserve "Class B" licenses are exempt from paying the minimum \$10,000 initial issuance fee.
- (g) "Class C" Wine. The fee for a "Class C" wine license shall be one hundred (\$100) dollars per year.
- (h) Wholesaler's Licenses for Fermented Malt Beverages. Effective July 1, 2011, the City of Ashland will no longer issue wholesale fermented malt beverage (FMB) licenses. The Wisconsin Department of Revenue will issue wholesale permits as established by 2011 Wisconsin Act 32.
- (i) Special Six-month Licenses. The fee for a Special Six-Month "Class A" intoxicating liquor, "Class B" intoxicating liquor, or Class "B" fermented malt beverage license shall be one-half the annual fee set for said license.

(j) Provisional Licenses. Individuals who apply for the following licenses may be issued a provisional retail license by the Clerk's office: provisional Class "A" fermented malt beverage, "Class A" Cider license, "Class A" intoxicating liquor, Class "B" fermented malt beverage, "Class B" intoxicating liquor license or "Class C" wine license. The application will be reviewed and approved by the Police Department. The fee for a provisional license shall be \$15.00 each with the exception of no fee for a "Class A" Cider license. The provisional license will expire 60 days after its issuance or when the applicant receives a regular license, whichever is first. The Clerk's office may revoke the provisional license if the Clerk discovers the holder made a false statement on the application. The City of Ashland will not issue a provisional license for a "Class B" liquor license if the quota has been met. The City of Ashland will not issue a provisional license for a "Class A" cider license if the applicant does not have a Class "A" fermented malt license for the same location. No person may hold more than one provisional retail license for each type of license applied for by the holder each year.

(k) Temporary Licenses. The fee for a Temporary Class "B" fermented malt beverage (picnic) license shall be ten (\$10) dollars per day. The fee for a Temporary "Class B" wine license shall be ten (\$10) dollars per day. If both a temporary Class "B" fermented malt beverage license and a temporary "Class B" wine license are obtained for the same event, only one ten (\$10) dollar fee shall be charged.

(l) Operator's Licenses. Applicants for an operator's license shall have the option of applying for a one-year license or a two-year license. The fee shall be established in the City of Ashland Comprehensive Fee Schedule. Licenses shall be issued for the fiscal year beginning July 1 and ending June 30 of each year.

(m) Provisional Operator's License. Individuals who apply for an operator's license may be issued a provisional operator's license by the Clerk's office pending action from the Common Council and pending completion of State-mandated training requirements. The application must be reviewed and approved by the Police Department. The provisional license shall expire sixty (60) days after its issuance or when the applicant receives a regular operator's license, whichever is first. There shall be no additional fee for a provisional Operator's License.

(n) Temporary Operator's License. A temporary operator's license to serve at a special event may be issued to an individual employed by, or donating their services to, a nonprofit organization. The license shall be valid for any one period from one day to fourteen days. No person may hold more than one temporary license per year. The fee for a temporary license shall be five (\$5) dollars.

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manner and to the same extent as are “Class B” intoxicating liquor licenses and reserve “Class B” intoxicating liquor licenses.

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(e)(b) “Class B” Intoxicating Liquor/Reserve “Class B” Intoxicating Liquor. The quota for “Class B” intoxicating liquor licenses shall be determined by the provisions of Sec. 125.51(4), Wis. Stats., which created a quota of twenty-six (26) regular “Class B” intoxicating liquor licenses and twelve (12) Reserve “Class B” intoxicating liquor licenses. Under the provisions of State Statute 125.51(4)(br)2., one additional Reserve “Class B” intoxicating liquor license may be created for each increase of 500 population or fraction thereof to the population total of 8,797 (eight thousand, seven hundred ninety-seven).

(d)(c) Unissued Licenses. If any “Class B” intoxicating liquor license within the above-stated quotas is allowed to expire without an accepted request by the licensee that it be re-issued to another licensee for the same premises, it shall be retired and shall reduce the quota for regular “Class B” intoxicating liquor licenses by one. The Council may continue to retire licenses until the number of 16 licenses available is reached to equal that of one for every 500 persons, corresponding to a population of 8000. The initial issuance of a Reserve “Class B” intoxicating liquor license shall require an affirmative vote of two-thirds (2/3) of the entire membership of the City Council.

(1) Exceptions: The Council may vote to issue extra licenses if circumstances are such that the applicant:

- (a) Is a full service restaurant with a seating capacity of 300 or more, or;
- (b) Is a hotel with 50 or more rooms and a restaurant with a seating capacity of 150 or more, or;
- (c) Is a banquet hall with a seating capacity of 400 or more.

922.40. Local options.

(a) Adoption of Off-Sale Provisions for “Class B” Intoxicating Liquor Licenses. The City of Ashland elects to come under Sec. 125.51(3)(b), Wis. Stats., and provides that a retail “Class B” license authorizes the sale of intoxicating liquor to be consumed by the glass only on the

premises where sold and also authorizes the sale of intoxicating liquor in the original package or container, in multiples not to exceed four (4) liters at any one time, and to be consumed off the premises where sold. Wine, however, may be sold for consumption off the premises in the original package or otherwise in any quantity.

(b) Licenses for Non-Intoxicating and Soda Water Beverages. Class "B" fermented malt beverage licensees may also sell beverages containing less than one-half of one per centum alcohol by volume without obtaining a special license to sell such beverages pursuant to Section 66.053(1) of the Wisconsin State Statutes.

(c) Restrictions Related to Other Uses. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be issued for any premise which is used as a laundromat; or for any premise which is not used primarily for the sale of gasoline, groceries and/or bait, as a restaurant, or for the sale of intoxicating liquor and fermented malt beverages.

(d) Excessive Number of Licenses Not Permitted. No more alcohol-related licenses than are legally necessary to conduct the alcohol-related business shall be issued for a single, contiguous premise.

(e) Delinquent Taxes and Fees. No license shall be granted or renewed for the operation of any premises upon which real estate taxes, personal property taxes, assessments, or other financial claims or forfeitures are delinquent or unpaid.

(f) Temporary Expansion of Premises Description. The Chief of Police, or the Chief's designee, shall be given authority to grant a temporary change to the licensed premise description to accommodate special events.

(g) Failure to do Business. Within one hundred eighty (180) days from the initial issuance of a Class A or Class B intoxicating liquor or fermented malt beverage license, a licensee shall be open for business with adequate stock and equipment or the license shall be revoked by the Common Council following a revocation hearing. If any Class A or Class B intoxicating liquor or fermented malt beverage licensee shall suspend or cease doing business for a period of 180 days, the license shall be revoked by the Common Council following a revocation hearing. For the purposes of this subsection, the licensed premises must be open for business a minimum of twenty (20) hours per week or the license will be subject to the failure to do business provisions. The 180 days shall not necessarily need to be successive to impose the provisions of this subsection. This subsection shall not apply to the licenses held for the Bay Area Civic Center premises ~~or by the Ashland Women's Softball Association for Hodgkin's Park.~~

922.41. Drinking in Public Places

Except as provided in Sections 922.42 and 501.06(e), it shall be unlawful for any person or persons to sell, serve, or consume, or possess an open container containing any type of intoxicating liquor or fermented malt beverage on any public street or sidewalk or public parking area within the City.

922.42. Licensed Premises may include public rights-of-way.

(a) An applicant for a license under this Chapter who is qualified to obtain a permit under Sec. 508.41(c) may include in the description of the “premises” to be licensed a portion of public right-of-way as described in Sec. 501.06(e).

(b) No licensee may sell, serve, or allow the consumption of any intoxicating liquor or fermented malt beverage on any public-right-of-way without a permit under Sec. 501.06(e). The issuance of license under this chapter for premises including a public right-of-way does not grant any right to the issuance, renewal, or non-revocation of a permit under Sec. 501.06(e).

(c) Any licensee who sells, serves, or allows the consumption of any intoxicating liquor or fermented malt beverage on any public-right-of-way under a permit issued pursuant to Sec. 501.06(e), shall clearly demarcate for its customers the limits of the licensed premises, by means such as but not limited to appropriate signage, stanchions or planters, as approved by the Department of Planning and Development under the licensee’s permit issued pursuant to Sec. 501.06(e).

922.50. Revocation of licenses. Licenses issued under the provisions of this chapter may be revoked by the Council of the City of Ashland after notice and hearing for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for license;

(b) Fraud, misrepresentation, or incorrect statement made in the course of carrying on his/her business;

(c) Any violation of this ordinance;

(d) Conviction of any crime or misdemeanor.

922.51. Notice of hearing. Notice of the hearing for revocation of a license shall be given by the City Clerk in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepared to the licensee at his/her last known address at least 72 hours prior to the date set for hearing, or shall be delivered by a Police Officer in the same manner as a court summons.

922.60. Penalty for violation of ordinance. Any person, firm, or corporation that shall violate any of the provisions of this ordinance shall forfeit not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense, plus the cost of prosecution. Each day’s violation of the provisions of this ordinance shall constitute a separate offense.

922.611 Severance Clause

The provisions of this ordinance are declared to be severable and if any section, sentence, clause, or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance, but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

922.612 Effective Date

This ordinance shall be effective upon its passage and publication.

ADOPTED: 922 (1488) 1/25/2000

AMENDMENTS: 922 (1516) 6/26/2001; 922 (1644) 12/12/2006; 922 (1688) 9/30/2008;
922 (1780) 3/13/2012; 922 (1784) 4/17/2012;
922 (2015-1850) 8/25/2015; 922 (2015-1857) 9/29/2015;
922 (2016-1870) 5/31/2016; 922 (2017-1898) 9/26/2017;

Types of Alcohol Licenses

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A description follows on the types and classes of licenses

What types of alcohol beverage licenses are there?

- Class "A" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption off the premises. Examples: grocery or convenience stores. = \$100/year
- "Class A" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption off the premises. Examples: liquor stores or grocery stores with full liquor sales sections. = \$500/year
- "Class A" (cider only) licenses allow retail sale of cider (any alcohol beverage made from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7% alcohol by volume) for consumption off the premises. Class "A" licensees applying for a "Class A" (cider only) license shall be issued the "Class A" (cider only) license. The municipality may not charge an initial issuance fee or annual fee for the "Class A" (cider only) license, but may charge a fee for newspaper publication of the alcohol beverage license application.
- Class "B" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption on or off the premises. Examples: restaurants, "beer bars." = \$100/year
- "Class B" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption on the premises, and wine in original sealed containers for consumption off the premises. If the community elects to, it may also permit sale of not more than four liters of intoxicating liquor (there are no limits on wine), in the original sealed container, for consumption off the premises. Check local ordinances for the allowance. State law also allows carryout of a single, opened (resealed) bottle of wine if sold with a meal. Examples: taverns and restaurants with full alcohol service. = \$500/year
- "Class C" wine licenses allow the sale of wine for consumption only on the premises and allow the carryout of a single opened (resealed) bottle if sold with a meal. = \$100/year
- Temporary Class B licenses (often called picnic licenses) allow retail beer and/or wine sales, at temporary events like fairs and festivals. Only certain organizations qualify for such a license. They must be bona-fide clubs, county or local fair associations, churches, lodges, or societies that have been in existence for at least six months, and may not operate for pecuniary gain, selling alcohol beverages only incidental to their operation. = \$10
- Temporary Operator's License allows an individual employed by, or donating their services to, a nonprofit organization to serve at a special event. This license is valid for any one period from one day to fourteen days, and is allowed only once per year. = \$5

Discussion and Action on Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation, to Permit the Sale of Fermented Malt Beverages for Premises Which Sell Gasoline (Planning Director)

The Alcoholic Beverages Regulation Ordinance (Chapter 922) restricts any premise which sells gasoline from being able to obtain a fermented malt beverage license. Chapter 922.40(c) currently states:

“Restrictions Related to Other Uses. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be issued for any premise which sells gasoline; or for any premise which is used as a laundromat or car wash or for any premise which is not used primarily for the sale of groceries and/or bait, as a restaurant, or for the sale of intoxicating liquor and fermented malt beverages.”

A recommended ordinance amendment has been provided that will allow for the sale of fermented malt beverages at gas stations.

Background

Recently, the City of Ashland has received offers to purchase real estate from Kwik Trip, Inc. Kwik Trip has requested the ability to sell beer and wine from their proposed convenience store locations, as they currently do in 300 other stores of theirs in Wisconsin. In addition, other gasoline/convenience stores have requested the City to allow them the ability to sell beer/wine in past years. The practice of selling beer/wine from convenience stores is commonplace throughout the state of Wisconsin, and has not proven to be a cause for concern.

Rhineland, WI Example

The City of Rhineland, Wisconsin (pop 7,700), amended their alcoholic beverage ordinance in recent years after having an ordinance similar to that of Ashland's which did not allow for the sale of beer/wine from premises that sold gasoline. Ashland staff spoke with the City of Rhineland Administrator, Mayor, Attorney, and Police Chief recently to discuss their experience and outcomes. The following summarizes the discussion:

- 2009: A local gasoline station requested the ability to sell beer/wine from their station and it was considered by City Council, however the City did not change the ordinance.
- January, 2013: Kwik Trip requested the ability to sell beer/wine and the ordinance change was considered by City Council and was amended.
- Within 2 weeks, local stations were obtaining licenses to sell beer/wine.
- Kwik Trip opened a store including the sale of beer/wine in September, 2013.
- Police Chief reported the following:
 - They have not experienced any negatives.
 - No increase in underage drinking.
 - OWI incidences have not increased, and actually have gone down for first time offenses.
 - Domestic violence has not increased.
 - No vagrants.

- Rhinelander has 8 or 9 gas stations, all but one which now sells beer/wine.
- Rhinelander has 2 liquor stores which are still thriving since Kwik Trip arrived.
- Walmart and Trigs (grocery) also sell beer/wine.
- Rhinelander is a community that also is concerned about addressing alcohol abuse.
- The addition of Kwik Trip to the community has greatly helped the tax base, provides for good jobs that pay well above minimum wage and have benefits, and has spurred other development activity.

Economic Impacts – TIF Impact, Tax Base, and Jobs

Kwik Trip is proposing to purchase two sites from the City of Ashland. Both of these properties are located within TIF districts, and Kwik Trip is not asking for any development incentives to construct in these locations. The sale price of the properties alone will result in \$900,000, with \$750,000 of that going to TIF 9, one of the City’s distressed TIFs. Both properties also have environmental concerns that need to be addressed, that Kwik Trip is not asking the City to participate in. In addition to the up-front land sale costs, the addition of these stores will provide for increased tax base that will benefit the City, County, School District and WITC once the TIF districts are able to close. Economic impacts include the following:

- Initial cash investment by Kwik Trip of \$900,000 for the purchase of City owned property;
- Estimated tax revenue increase per year for all taxing jurisdictions, \$180,000 if all three proposed locations are developed ;
- Seed money for future development on the Timeless Timber Site including clean-up of the site.

In addition to the two properties Kwik Trip desires to purchase from the City, there is a third site that they are planning to purchase from private parties. Among the three locations, Kwik Trip would be making an investment into the community of approximately \$12-15 million dollars, and as a result would be creating 75-85 jobs in Ashland. These jobs include a mix of full and part-time positions, all of which pay well. Kwik Trip, which is a Wisconsin-based company from La Crosse, was recently recognized by Forbes in March of 2016 as one of Americas Best Employers 2016, ranking at number 30 of the 500 businesses on the list.

Alcohol Licenses

The State of Wisconsin imposes several restrictions on the Alcohol licenses that are allowed to be permitted by municipalities. State Statutes also allow municipalities to impose more stringent restrictions in some cases related to the number of licenses allowed and the types of businesses that can be licensed. The City of Ashland has chosen to self-impose restrictions on the number of licenses that can be issued for Class “A” fermented beverages. Class “A” licenses allow for the retail sale of fermented malt beverages for consumption off premises (grocery or convenience stores). The City has further restricted Class “A” fermented beverage licenses by requiring that the license be issued in combination with a Class “A” intoxicating liquor license and wholesaler’s license for fermented malt beverages. In addition, the City of Ashland imposed a restriction that does not allow for the sale of fermented malt beverages for any premise that sells gasoline, any premise that is used for a laundromat or car wash, or for any premise which is not used for the sale

of groceries. A description follows on the types and classes of licenses that the State of Wisconsin allows:

What types of alcohol beverage licenses are there?

- Class "A" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption off the premises. Examples: grocery or convenience stores.
- "Class A" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption off the premises. Examples: liquor stores or grocery stores with full liquor sales sections.
- "Class A" (cider only) licenses allow retail sale of cider (any alcohol beverage made from the fermentation of the juice of apples or pears and that contains not less than 0.5% alcohol by volume and not more than 7% alcohol by volume) for consumption off the premises. Class "A" licensees applying for a "Class A" (cider only) license shall be issued the "Class A" (cider only) license. The municipality may not charge an initial issuance fee or annual fee for the "Class A" (cider only) license, but may charge a fee for newspaper publication of the alcohol beverage license application.
- Class "B" fermented malt beverage licenses allow retail sale of fermented malt beverages (beer) for consumption on or off the premises. Examples: restaurants, "beer bars."
- "Class B" liquor licenses allow retail sale of intoxicating liquor (including wine) for consumption on the premises, and wine in original sealed containers for consumption off the premises. If the community elects to, it may also permit sale of not more than four liters of intoxicating liquor (there are no limits on wine), in the original sealed container, for consumption off the premises. Check local ordinances for the allowance. State law also allows carryout of a single, opened (resealed) bottle of wine if sold with a meal. Examples: taverns and restaurants with full alcohol service.
- "Class C" wine licenses allow the sale of wine for consumption only on the premises and allow the carryout of a single opened (resealed) bottle if sold with a meal.
- Temporary Class B licenses (often called picnic licenses) allow retail beer and/or wine sales, at temporary events like fairs and festivals. Only certain organizations qualify for such a license. They must be bona-fide clubs, county or local fair associations, churches, lodges, or societies that have been in existence for at least six months, and may not operate for pecuniary gain, selling alcohol beverages only incidental to their operation.

More details related to the types and classes of licenses and the restrictions related to those licenses that the City imposes can be found in Ordinance 922, Alcohol Beverages Regulation.

2010 Referendum

On November 2, 2010, the City of Ashland had a referendum vote asking the public for input on two questions:

- Do you want convenience stores/gas stations to sell beer? Yes or No
 - Yes 1143 No 1789

- Do you want businesses that sell at least 33 ½% groceries to sell beer? Yes or No
 - Yes 1253 No 1649

Information was provided by Attorney David Siegler related to the 2010 referendum. Additional details are also provided in the minutes from Council discussions in 2010.

Summary

In summary, the Council must consider whether it is appropriate at this time to allow gas stations to sell fermented malt beverages for off premise consumption. The information presented is meant to provide for well documented and factual information that is unbiased in nature and assists the Council in making an informed decision.

George moved, Teague seconded a motion to approve the amendment of Chapter 922, Alcoholic Beverage Regulation as proposed with the elimination of the words “or car wash” in Section 922.40(c). On a roll call vote, the motion carried with George, Teague, Langholz, Mettillie, Pufall and Moore in favor. Opposed were Ketring, Doersch, Kinney, Dowd, and Williamson.
(File #17271)

**PROPOSED ORDINANCE CHANGES
FOR
CHAPTER 922 (1488), ASHLAND CITY ORDINANCES, ALCOHOLIC BEVERAGES REGULATION**

SECTION I:

Amend Sec. 922.30 by deleting subsection 922.30(a), and re-designating remaining subsections as (a) through (d) as follows:

922.30. Quotas.

~~(a)~~ Class "A" Fermented Malt Beverage. ~~The quota for Class "A" fermented malt beverage licenses in the City shall be nine (9) licenses. This quota shall include those licenses held in conjunction with a "Class A" intoxicating liquor license and those held in conjunction with a wholesaler's license for fermented malt beverages.~~

~~(b)~~ (a) "Class A" Intoxicating Liquor. The quota for "Class A" intoxicating liquor licenses in the City shall be three (3) licenses.

~~(e)~~ (b) Class "B" Fermented Malt Beverage. Class "B" fermented malt beverage licenses held in conjunction with "Class B" intoxicating liquor licenses shall be limited in number in the same manner and to the same extent as are "Class B" intoxicating liquor licenses and reserve "Class B" intoxicating liquor licenses.

(1) In addition to the above, Class "B" fermented malt beverage licenses may be issued in the City for restaurant premises which do not have said license in conjunction with a "Class B" intoxicating liquor license.

(2) It is specifically provided that one of the licenses described in Subsection 922.03(c) (1) shall be reserved for granting to bona fide clubs, state, county, or local fair associations, or agricultural societies, lodges, or societies that have been in existence for not less than six months prior to the date of application. The license issued under this paragraph shall not be effective for more than six months and only shall permit the sale of fermented malt beverages at the specific activities or events and specific location described in said license.

~~(d)~~ (c) "Class B" Intoxicating Liquor/Reserve "Class B" Intoxicating Liquor. The quota for "Class B" intoxicating liquor licenses shall be determined by the provisions of Sec. 125.51(4), Wis. Stats., which created a quota of twenty-six (26) regular "Class B" intoxicating liquor licenses and twelve (12) Reserve "Class B" intoxicating liquor licenses. Under the provisions of State Statute 125.51(4)(br)2., one additional Reserve "Class B" intoxicating liquor license may be created for each increase of 500 population or fraction thereof to the population total of 8,797 (eight thousand, seven hundred ninety-seven).

~~(e)~~ (d) Unissued Licenses. If any license within the above-stated quotas is unissued, it shall be placed in a dormant file. A license may only be issued from the dormant file upon approval by a

two-thirds (2/3) vote of the entire membership of the Common Council. This extraordinary vote provision shall also apply to the issuance of Reserve "Class B" intoxicating liquor licenses.

SECTION II:

Amend Sec. 922.40 (c) as follows:

922.40. Local options.

(c) Restrictions Related to Other Uses. No Class A or Class B intoxicating liquor or fermented malt beverage license shall be issued ~~for any premise which sells gasoline;~~ or for any premise which is used as a laundromat or car wash; or for any premise which is not used primarily for the sale of gasoline, groceries and/or bait, as a restaurant, or for the sale of intoxicating liquor and fermented malt beverages.

SECTION III:

This ordinance shall take effect upon passage and publication.

Approve Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation (Clerk)

Currently there is a quota of 26 regular “Class B” Alcohol Beverage licenses in the City of Ashland. Of the 26 in the quota, zero (0) are currently available. There are 11 Reserve “Class B” Alcohol Beverage licenses currently available.

At the August 29, 2017, Committee of the Whole meeting, the Council asked for an ordinance amendment that would have the effect of reducing “Class B” Alcohol Beverage licenses as bars close and the licensees are unable to or do not wish to pass on their license to new owners. The ordinance provided would have that effect. Council requested that the City Attorney outline options to help with the decision.

At the September 12, 2017 Committee of the Whole meeting, Council voted 7-4 to reduce the quota of “Class B” Alcohol beverage licenses in the City of Ashland to a better representation of the City’s population, by retiring a license that is dormant for a time period of six months consecutively, until the maximum quota, set by Council, is reached. At that time, only a Reserve license at the cost of \$10,000 would be available until the quota of 12 maximum Reserve licenses is reached.

As stated in the memo from City Attorney David Siegler, if the City’s issued licenses equals its quota, it may only issue extra licenses under these exceptions:

- A. Is a full service restaurant with a seating capacity of 300 or more;
- B. Is a hotel with 50 or more rooms and a restaurant with a seating capacity of 150 or more; or
- C. Is a banquet hall with a seating capacity of 400 or more.

The Council continues to reserve the right to deny the issuance of any new license.

Williamson moved, Ketring seconded a motion to approve the Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation.

Kinney offered a friendly amendment that Council may retire licenses (as determined above) until the number of 16 is reached to equal a quota that corresponds with the City of Ashland population ($8000/500=16$). Williamson approved, seconded by Ketring to accept the amendment. The motion to approve the Ordinance to Amend Chapter 922 (1488), Ashland City Ordinances, Alcoholic Beverages Regulation with the amendment to include the Council may retire licenses until the number of 16 is reached to equal a quota that corresponds with the City’s population passed 8-2 by roll call vote; Mettille and Moore opposed. **(File #17389)**



AGENDA BILL

Ref: 079

COMMITTEE AGENDA: 5 (04-17-2018)
6 (05-29-2018)

COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Regarding Fluorine in the City Drinking Water

RECOMMENDATION: Discussion

DEPARTMENT OF ORIGIN: Councilor George

DATE SUBMITTED: March 31, 2018

CLEARANCES: Council President

EXHIBITS: Chapter 702, Ashland City Ordinances

RECOMMENDED MOTION: NA

SUMMARY STATEMENT:

Councilor George has requested a discussion regarding the City’s policy of adding fluorine to the drinking water. The City currently adds fluorine to the drinking water. If the Council desires to take action, an agenda bill will need to be written at a later date with the proposed action.

An online search regarding the benefits and risks of fluorination of water will produce numerous results that range from supporting the fluorination of water to opposing fluorination.

The American Dental Association (ADA) supports fluorination. The paragraph below is from the ADA. (https://www.ada.org/en/public-programs/advocating-for-the-public/fluoride-and-fluoridation?gclid=EA1aIQobChMI9O7RkrHz2QIVSJF-Ch3zzQaYEAAYASAAEgIPC_D_BwE)

Fluoride in Water is Safe and It Works

More than 70 years of scientific research has consistently shown that an optimal level of fluoride in community water is safe and effective in preventing tooth decay by at least 25% in both children and adults. Simply by drinking water, Americans can benefit from fluoride's cavity protection whether they are at home, work or school. The Centers for Disease Control and Prevention named community water fluoridation one of 10 great public health achievements of the 20th century.

The International Academy of Oral Medicine and Toxicology opposes fluorination of drinking water. <https://iaomt.org/top-ten-reasons-oppose-water-fluoridation/>

The International Academy of Oral Medicine and Toxicology (IAOMT) is a global network of dentists,

health professionals, and scientists who research the biocompatibility of dental products, including the risks of mercury fillings, fluoride, root canals, and jawbone osteonecrosis. We are a non-profit organization and have been dedicated to our mission of protecting public health and the environment since we were founded in 1984.

Top Ten Reasons to Oppose Water Fluoridation

There are many reasons to oppose water fluoridation, including safety concerns and health risks.

Reason #1 to Oppose Water Fluoridation: Fluoridation is a violation of the individual’s right to informed consent to medication. Within a community water supply, fluoride is being added to the water of everyone, even if some people do not want it and still others do not even know about the fluoride being added to the water or about its health risks. Informed consumer consent is needed for water fluoridation, especially because of the alarming lack of safety for this chemical and its health risks.

Reason #2 to Oppose Water Fluoridation: Fluoride is not an essential nutrient. Fluoride is not a required component for human growth and development. In fact, fluoride has been recognized as one of 12 industrial chemicals known to cause developmental neurotoxicity in human beings. Researchers have repeatedly challenged the alleged safety and effectiveness of fluoride.

Reason #3 to Oppose Water Fluoridation: Hundreds of research articles published over the past several decades have demonstrated potential harm to humans from fluoride at various levels of exposure, including levels currently deemed as safe. Fluoride is known to impact the cardiovascular, central nervous, digestive, endocrine, immune, integumentary, renal, respiratory, and skeletal systems, and exposure to fluoride has been linked to Alzheimer’s disease, cancer, diabetes, heart disease, infertility, and many other adverse health outcomes, including fluoride toxicity.

Reason #4 to Oppose Water Fluoridation: People are now exposed to fluoride from an array of sources. Since water fluoridation began in 1940s, an array of products containing fluoride have been introduced to the average consumer including water, dental products, pesticides, fluoride supplements, other prescription drugs, and many other sources. There is no current accurate estimate of just how much fluoride people are taking in from all of these sources. However, dental fluorosis is recognized as the first visible sign of fluoride toxicity. It is likewise a warning signal of the human health risks associated with fluoride exposure. According to 2010 data from the Centers for Disease Control and Prevention (CDC), 23% of Americans aged 6-49 and 41% of children aged 12-15 exhibit fluorosis to some degree

Reason #5 to Oppose Water Fluoridation: A “one dose fits all” level is unacceptable. Susceptible populations with low body weights, such as infants and children, and individuals who consume increased amounts of water, such as athletes, military personnel, outdoor laborers, and those with diabetes or kidney dysfunction, can be more intensely effected by fluoride. Additionally, fluoride is also known to impact each individual differently based on allergies, nutrient deficiencies, genetic factors, and other variables. Notably, a bottle-fed baby in a fluoridated area gets up to 200 times more fluoride than a breast-fed baby, resulting in an increased risk of dental fluorosis and other adverse effects.

Reason #6 to Oppose Water Fluoridation: There is not a wide-spread understanding about how fluoride interacts with other chemicals. This issue is crucial to understanding risks of artificial water fluoridation, as the multiple chemicals to which we are exposed to can produce distinct reactions and interactions. For example, the fluoride added to many water supplies attracts lead, which can be found in certain plumbing pipes. Likely because of this affinity for lead, fluoride has been linked to higher blood lead levels in children.

Reason #7 to Oppose Water Fluoridation: Does it even work to prevent tooth decay? The trend of decreased decayed, missing, and filled teeth over the past several decades has occurred both in countries with and without the systemic application of fluoridated water. This suggests that increased access to preventative hygiene services and more awareness of the detrimental effects of sugar are responsible for these improvements in dental health. Research has also documented decreases of tooth decay in communities that have discontinued water fluoridation. Even proponents of fluoride have suggested that fluoride primarily works to reduce tooth decay topically (i.e. scrubbing it directly onto to teeth with a toothbrush), as opposed to systemically (i.e. drinking or ingesting fluoride through water or other means).

Reason #8 to Oppose Water Fluoridation: Ethical questions have been raised in regard to the use of fluoride, especially because of fluoride's ties to the phosphate fertilizer and dental industries. Furthermore, researchers have reported difficulties with getting articles published that are critical of fluoride, and an urgent need for an appropriate application of the precautionary principle (i.e. first, do no harm) related to fluoride usage has emerged.

Reason #9 to Oppose Water Fluoridation: Fluoridation discriminates against those with low incomes. Research has indicated that fluoride does not aid in preventing pit and fissure decay (which is the most prevalent form of tooth decay in the U.S.) or in preventing baby bottle tooth decay (which is prevalent in poor communities). Also, research has suggested that in malnourished children and individuals of lower socio-economic status, fluoride can actually increase the risk of dental caries due to calcium depletion and other circumstances. Moreover, people on low incomes are least able to afford avoidance measures (reverse osmosis or bottled water) or medical and dental treatment for dental fluorosis and other fluoride-related ailments.

Reason #10 to Oppose Water Fluoridation: It also poses threats to animals (pets and wildlife), as well as the environment at large. Animals are exposed to fluoride in the environment through pollution of air, water, soil, and food. It is important to consider their overall fluoride exposure as a result of each of these sources. Harmful effects of fluoride, including species vulnerability, have been reported in an array of wild animals. Even domestic pets have been subjects of reports raising concerns about fluoride exposure, especially through their water and food.

CHAPTER 702. INTRODUCTION OF FLUORINE INTO THE CITY'S WATER SYSTEM.

702.01. Fluoridation ordered. Upon receiving the consent and approval of the State Board of Health and until further direction of the Council, the Water Department is hereby authorized and directed to provide the means and to proceed with the introduction of approximately one part of fluorine to every million parts of water being distributed in the water supply system of the City of Ashland.

702.02. Use of water facilities. Insofar as the facilities, equipment, plant and employees, subject to the jurisdiction of the Ashland Water Works Commission of the City of Ashland, may be needed and used in connection with this health program, they shall be so used as facilities and agents of and for the City of Ashland as a municipal corporation of the State of Wisconsin.

702.03. Cost. The cost of the materials, equipment and labor for such purpose shall be paid out of the Water Department Fund of the City of Ashland by the proper officers upon the presentation of itemized, verified claims therefor.

702.04. Reporting to Council. The Water Department is hereby directed to make periodic reports to the Council as to the status, cost and progress of such service and to seek the cooperation of educational and scientific institutions to conduct surveys and research as to the beneficial effect of this program on the citizens of this community.

ADOPTED: 702 (512) 7/20/1949



AGENDA BILL

Ref: 114

COMMITTEE AGENDA: 7 (05/29/2018)
COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Regarding the Use of Tablets by Council Members

RECOMMENDATION: Discussion and Consideration

DEPARTMENT OF ORIGIN: Mayor

DATE SUBMITTED: May 22, 2018

CLEARANCES: City Clerk

EXHIBITS: NA

EXPENDITURES REQUIRED: Dependent upon Council Decision

TREASURER'S CERTIFICATE OF COMPLIANCE WITH ORDINANCE 923:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: NA

SUMMARY STATEMENT:

With a new City Council seated, the time is ripe to revisit the sustainability goal of converting to use of electronic tablets for City Council in lieu of paper agendas and exhibits. If successful, we expect to save considerable staff time, expense, and "trees" by reducing paper waste and also improving the ability to provide more timely information to Councilors.

There was a previous attempt made in 2014-2015 to complete this goal but it was unsuccessful at that time.

Discussion topics may include the following:

- Cost/benefit analysis
- Type of tablet for purchase
- Tablet use policy
- Pilot program
- Implementation timeline

Administration is seeking two motivated and technologically knowledgeable volunteers from Council to assist the City Clerk and IT department in making a recommendation to Council in the near future.

Already distributed tablets not currently in use should be returned to the City.

Although some may wish to use or continue to use their personal devices, the City would need to purchase 13 tablets or iPads to supplement the Council and Administration, at a cost of approximately \$400 each. As shown in the table below, the investment could be recovered in savings within two years.

Below is an estimate that the Clerk has prepared of the cost of preparing agenda bills under the current paper system:

(Please keep in mind the number of pages used in the example below represent the finished product/agenda only and do not include drafts and multiple reprints prior to finalizing, which is all done in hard copy)

PAPER ONLY Council Packets (finished product)

Meeting Date	# pgs Council	# pgs COW	X 18 pkts	X \$3/ream (500 pgs)
4-17-2018	259		4662	27.97
3-27-2018	165	3	3045	18.25
3-13-2018	98	28	2268	13.61
2-27-2018	50	4	972	5.83
2-13-2018	107	24	2358	14.15
1-30-2018	130	10	2520	15.12
1-09-2018	120	16	2448	14.69

Total cost year to date (April 2018) for paper: \$109.62
of reams of paper used first four months: 36.5

COPIER COSTS (not including ink and toner cartridges)

# pages (double sided)	B&W @ \$0.0079pp (2/3)	Color @ \$0.0561 pp (1/3)
4662 x 2 = 9324	44.16	174.18
3042 x 2 = 6084	32.01	113.66
2668 x 2 = 5336	28.07	99.68
972 x 2 = 1944	10.29	36.32
2358 x 2 = 4716	24.81	88.10
2520 x 2 = 5040	26.52	94.15
2448 x 2 = 4892	38.65	91.89

Total: \$ 204.51 + \$ 697.98

= \$ 902.49 Copier Only Use Cost January to April, 2018

Costs outlined in the tables *do not* include copier/printer machine maintenance, ink and toner replacement, staff preparation time and use of other departments equipment and postage.



AGENDA BILL

Ref: 119

COMMITTEE AGENDA: 8 (05-29-2018)
COUNCIL AGENDA:

SUBJECT: Discussion and Possible Action Regarding Possibly Reducing the Number of Members Seated on the City of Ashland Common Council

RECOMMENDATION: As Council Desires

DEPARTMENT OF ORIGIN: Councilor Doersch

DATE SUBMITTED: May 21, 2018

CLEARANCES:

EXHIBITS: A-WI State Statute Chapter 62.08
B-Excerpt of Email communication from Wisconsin Elections Commission Legal Counsel, November 28, 2017
C-Redistricting outline, July 12, 2011

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: NA

RECOMMENDED MOTION: NA

SUMMARY STATEMENT: The topic of reducing the number of members on the City Council, and/or creating members-at-large, has been introduced in the past for various reasons. Timing regarding the 2020 National Census has brought the discussion once again to the table.

When introduced in September, 2010, it was suggested to reduce the number of Council members from eleven to seven citing cost savings for training and overhead. Other reasons in support of bringing this proposal forward included: rarely contested Council seats when terms were expiring; fewer members would make for more efficient decision making and government; shorter meetings; ability to elect members-at-large; bringing the number of council seats in line with the decrease in population; align with the best practices of other municipalities; and allow a slight pay raise for the fewer members for better incentive to occupy available positions. The suggested motion at the time of this agenda bill was *“Direct the City Administrator to create a plan that would reduce the size of the Ashland City Council in 2020 (or thereabouts when census data is available) which would include the redrawing of district lines and having at-large members.”*

Discussion resumed again in 2013, after once again, Council seats were uncontested during the election

as only the incumbents ran for office. A motion was made at that time for the City Administrator to meet with the County Administrator to determine the most advantageous time for changing the amount of members, and then have both bodies debate and vote on this issue. This motion passed 6-5 but not without debate amongst the Councilors.

The Mayor, at that time, stated that when he met with other Mayors, most of their cities had seven to nine members, and most were elected at-large. It was his opinion that more candidates would run for office if there were at-large members.

At the June 25, 2013 meeting, Councilors comments included: the possibility for shorter meetings; keep Council as is because there are a lot of people in some wards to represent; give up pay for attending meetings; reduce size at census time; cost savings to City; reduce size of Council because of size of the City; favor at-large Councilors; and if pay is raised, more people could focus on doing a good job in these positions.

As of the 2010 census, the population of the City of Ashland is 8,216, but this number is expected to decline during the 2020 census. Currently, there is an alderperson elected for each of the eleven wards, allowing for Councilors to represent approximately 725 people each. While researching other cities' governments, Ashland is far above the number of Council representatives compared to other Wisconsin cities; the closest comparison viewed was the City of Waterford with a population of approximately 5,340. Their government consists of six alderpersons to represent approximately 890 citizens each. In contrast, cities with the same or closest number of Councilpersons have a population of between more than three to seven times that of Ashland. Other results are shown below:

Wisconsin City	Approximate Population	Number of Councilors/Board Members	Number of Citizens Represented in each Ward/District
Ashland	8,200	11	745
Waterford	5,340	6	890
Delafield	7,160	7	1,020
Rice Lake	8,420	8	1,050
Hudson	8,460	6	1,410
Lisbon	9,360	5	1,870
St. Francis	9,550	6	1,590
Burlington	10,460	8	1,300
Little Chute	10,490	6	1,750
Verona	10,600	8	1,325
Monroe	10,825	9	1,200
Pewaukee	13,800	6	2,300
Superior	27,400	10	2,740
Muskego	24,500	7	3,500
Stevens Point	26,670	11	2,240
Wauwatosa	47,130	16	2,945
West Allis	60,700	10	6,070

Several cities allow half of their Councilors or Board members to be at-large while the other half represent evenly divided districts or wards, while very few have all at-large seats. It is felt that the at-large seats gives the opportunity to contribute while your ward or district is already well represented. On the other hand, there were several cities with unrepresented and vacant wards. There could be several options should Council choose to proceed with restructuring.

OPTIONS TO CONSIDER

In determining the possibility of reducing the number of Council members to serve the City of Ashland, a number of options can be considered.

1. Reduce the number of Council members from eleven to nine or seven. This would require redistricting and/or combining current wards, which would in effect cause Ashland County to do the same for elections purposes, although the number of County Board members may not necessarily need to change or reduce.
2. Change to a mix of representative and at-large members. Again, redistricting may be required within the City. For example, six members are elected and would each represent Wards 1-2, 3-4, 5-6, 7-8, 9-10, and 11-12 respectively, while the remaining five Council members would be elected as at-large. This may or may not affect the Ashland County Board, but would allow for the same number of representatives as is currently.
3. A combination of # 1 and 2.
4. Change to all at-large Council members to represent the City regardless of address or ward district lived in. Redistricting may be required only dependent on the results of the 2020 census, or at the desire of the Council.
5. Continue with eleven Council members, each living within their respective and representing wards.

Effects Beyond the City Council

The Ashland County Board of Supervisors consists of 21 districts to represent the two cities, 13 townships and one village. Of the eleven seats occupied by City of Ashland residents, although one district is currently vacant, these are not necessarily the same individuals who sit on the Ashland City Council. According to Ashland County Administrator Jeff Beirl, changing the number of seats on the Ashland City Council would have no effect on the County Board.

The changes would be felt most, however, by those who run and coordinate the elections. Both the County and City of Ashland consider the wards, or districts, on a parallel, and set up voting wards and ballots conveniently identical in most cases. Currently, if a contest were on the Federal, State or County level, the City's ballots can be ordered along with the County as they would be identical, and the cost for the shared ballots is currently supported by the County. Contests for the City Council and Mayor seats, and for the School District, are set up differently than the County contests and charges for these

different ballots are directed toward the elections budget.

If Council were to choose to draw their wards differently than that of the County, election contests would be set to wards or districts in a different manner for each election. The City would be required to increase election costs for their ballots as this would now fall on the City's elections budget regardless of the contest.

The Census

As the 2020 Census draws nearer, the opportune time to make any changes or decisions would be immediately after the completion of the census when population lines may need to be redrawn depending on the outcome. The three-step redistricting process is outlined in Exhibit B attached. Municipalities adjust their ward boundaries after the County submits a tentative district plan. The last redistricting took place in May of 2011 following the 2010 Census. Redistricting, being affected by the results of the upcoming Census, may be required regardless of the number of members the Council desired to seat.

Wisconsin State Statute 62.08 Alteration of Aldermanic Districts

- (1) Within 60 days after the wards have been readjusted under s. [5.15 \(1\)](#) and [\(2\)](#) the common council of every city, including every 1st class city, shall redistrict the boundaries of its aldermanic districts, by an ordinance introduced at a regular meeting of the council, published as a class 2 notice, under ch. [985](#), and thereafter adopted by a majority vote of all the members of the council, so that all aldermanic districts are as compact in area as possible and contain, as nearly as practicable by combining contiguous whole wards, an equal number of inhabitants according to the most recent decennial federal census of population. Territory within each aldermanic district to be created under the plan shall be contiguous, except that territory within the city that is wholly surrounded by another city or water, or both, may be combined with noncontiguous territory, or island territory, as defined in s. [5.15 \(2\) \(f\) 3.](#), may be combined with noncontiguous territory within the same municipality to form an aldermanic district. The aldermanic district plan shall not include provision for division of any census block unless the block is bisected by a municipal boundary or the division is made as required under s. [5.15 \(2\) \(c\)](#). The populations of the aldermanic districts shall be determined on the basis of the federal decennial census and any official corrections to the census to reflect the correct populations of the municipality and the blocks within the municipality on April 1 of the year of the census, if the corrections are issued prior to division of the municipality into wards under s. [5.15](#). Within 60 days after enactment or adoption of a revised division ordinance or resolution under s. [5.15 \(4\) \(a\)](#), the common council shall amend the aldermanic district plan to reflect any renumbering of the wards specified in the plan.
- (2) If territory becomes a part of any city after April 1 of the year of the federal decennial census, the limitations of s. [5.15](#) relating to population or area do not apply to the creation of new wards in the attached territory, or to the addition of the territory to an existing ward, but no ward line adjustment may cross the boundary of a congressional, assembly, or supervisory district.
- (3) Whenever the boundaries of aldermanic districts are altered, or new aldermanic districts created, every aldermanic district or ward officer residing within the territory of a new or altered aldermanic district shall hold the same respective office therein for the remainder of the officer's term; and all other vacancies shall be filled as provided by law for the filling of such vacancies.
- (4) The common council of any city may, by a two-thirds vote of all its members but not more frequently than once in 2 years, increase or decrease the number of aldermanic districts or the number of members of the city council, and in that case shall redistrict, readjust and change the boundaries of aldermanic districts, so that they are as nearly equal in population according to the most recent city-wide federal census as practicable by combining contiguous whole wards. In redistricting such cities the original numbers of the aldermanic districts in their geographic outlines shall as far as possible be retained, and the aldermanic districts so created and those the boundaries of which are changed shall be in as compact form as possible. This subsection does not apply to changes in aldermanic districts authorized under sub. [\(4m\)](#).
- (4m) If in a city that is solely contained within one county the aldermanic districts are coterminous with the supervisory districts of the county and the county board decreases the number of supervisors in the county after enactment of a redistricting plan under s. [59.10 \(3\) \(cm\)](#), the common council of the city may, by a majority vote of all of the members of the council, no

later than November 15 immediately preceding the expiration of the terms of office of members of the council, decrease the number of aldermanic districts and the corresponding number of members of the council in the city to maintain coterminous boundaries between the aldermanic and supervisory districts and may change the expiration date of the term of any council member to an earlier date than the date provided under the current ordinance if required to implement the redistricting or to maintain classes of members. Any amended aldermanic district plan that is adopted under this subsection is subject to the same procedures and requirements that apply to decennial plans adopted under sub. (1).

- (5) If a city fails to comply with sub. (1), any elector of the city may submit to the circuit court for any county in which the city is located within 14 days from the expiration of the 60-day period under sub. (1) a proposed plan for creation of aldermanic districts in compliance with this section. If the court finds that the existing division of the city into aldermanic districts fails to comply with this section, it shall review the plan submitted by the petitioner and after reasonable notice to the city may promulgate the plan, or any other plan in compliance with this section, as a temporary aldermanic district plan until superseded by a districting plan adopted by the council in compliance with this section.
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Excerpt of Email from WI Elections Commission Legal Counsel, 11-28-2017

It would appear that Wis. Stat. s. 62.08 – Alteration of aldermanic districts - is probably the statutory section that you would want to focus on if the council is considering a reduction in the number of council members. Specifically, it looks like subs. (3) and (4) appear to be the most relevant. The Elections Commission has not issued any guidelines, but it is possible that the league of municipalities has issued guidance in the past to assist its member municipalities. Waiting until redistricting based on the new census seems like a good idea given the work that is required under sub. (1), but I guess that depends on the urgency of the council to reduce the number. The new districts based on the census are usually not in place until a year or two after the census is completed – so you might be looking at 2021 or 2022 (and that is if the districts are not challenged in court). If you have not already, I would suggest bringing your city attorney into the loop on this as well.

One word of caution that we have advised other entities on that look to eliminate or reduce seats, is that you want to make sure the elimination or reduction is clearly communicated and any work is completed in advance of the nomination paper window opening for a seat. Once the nomination paper window opens, individuals could circulate papers and file ballot access documents and could have a legal right to be on the ballot if the work to eliminate the seat has not been completed. Additionally, once a person is elected to a seat for a set term, we have advised that you cannot unilaterally remove them from the seat prior to the expiration of the term that they have been elected to by the people. So when you have staggered terms for members, you must take that into account in any reduction plan.

Hopefully this is helpful. Again, I would consult with your city attorney and potentially the league for additional information or resources they may be able to provide.

Regards,
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REDISTRICTING taken from the July 12, 2011 agenda bill as requested at the June 28, 2011 Committee of the Whole, and to propose a resolution to adopt Plan 2

After each census, local governments are required to redistrict. Redistricting is the process of revising the geographic boundaries within a state from which people elect their representatives to the U.S. House of Representatives, State Legislature, County Board, City Council, and School Board. The process begins with the adjustment of municipal wards, the building blocks used to form election districts. Wisconsin law requires all cities, villages, and towns with populations of 1,000 or more to establish wards.

The only reasons for adjusting ward boundaries are to: 1) comply with the population ranges required by law; 2) reflect changes in municipal boundaries occurring subsequent to the adoption of the previous ward plan; 3) permit the establishment of election district of substantially equal population, and 4) permit the establishment of aldermanic or supervisory districts which enhance the participation of minorities in the political process and their ability to elect representatives of their choice; 5) and aldermanic and supervisory districts should remain compact or contiguous. The intent is that wards will remain permanent and only accommodate changes in population growth patterns or the mathematical requirements of creating election districts of equal population.

The redistricting is outlined in a three-step process: 1) within sixty days of receiving the census data, County boards will submit a tentative County Supervisory District Plan to each municipality in the County; 2) municipalities adjust ward boundaries in line with the proposed County Supervisory District Plans; 3) within sixty days of receiving the municipal ward adjustments, counties are required to adopt a final plan to adopt consisting of whole municipal wards.

The Ashland County Board Redistricting Committee studied several options, but recommended that the County Board stay at 21 county supervisory districts – with the City retaining 11 county supervisory districts. The Ashland County Redistricting Plan, approved by the County Board on May 19, 2011, provides for the following: contiguous ward boundaries, substantially equal representation for all residents of the City, and retains the core of existing districts/wards. The 2011 Ashland County Proposed Supervisory Voting District Plan is attached for reference.

The City's 2010 Census population is 8,216. With 11 districts, the target population is 747 per district. The attached City of Ashland 2011 Ward Redistricting Plan 2, as proposed by the County, does meet the population requirements and is recommended for approval for the following reasons: 1) the plan is consistent with the County proposed plan which will allow for an easier transition; 2) the population between wards is substantially equal; 3) changes in boundaries were kept to a minimum, 4) this plan meets criteria for population deviation; 4) Council members will remain in their respective wards; 5) and the proposed districts respect communities of interest. If Redistricting Plan 2 is not adopted in favor of Redistricting Plan 1 (no boundary changes), the following will be obstacles during implementation and throughout the election seasons: 1) confusion as to where to vote as there may be multiple locations due to City and County boundary differences; 2) increase costs for elections for ballots, programming for election equipment as a result of variances in ballot types/differences; 3) increased cost for advertising to clarify the appropriate voting wards for each election; 4) increased staff time to manage the variances between the County and the City; 5) and more significant variances in the population between wards. Implementation of the proposed plan will be time consuming at first, as the City will need to notify

all affected residents of the Ward changes and possibly increase the amount of poll workers to accommodate residents. However, the plan will be in place for 10 years and will be less time consuming and be more cost effective to implement than the alternative.

The attached City of Ashland 2011 Ward Redistricting Plan 2 outlines the following: 1) the 2001 ward boundaries compared to the proposed boundaries; 2) 2010 Census block participation by Ward; 3) population changes based on the 2000 and 2010 Census information; 4) and polling locations, City Council residences, City boundaries, and population by Ward. There are boundary changes and population changes for the following Wards as illustrated for the following based as illustrated by the Plan 2 map: Ward 1 population has decreased by 71 people and the size has decreased by 453.21 acres; Ward 2 lost 1 resident but the size has increased by 5.44 acres; Ward 3 has lost 33 residents and 6.48 acres; Ward 4 has gained 25 residents and 4.92 acres; Ward 5 has gained 18 residents and 2.34 acres; Ward 6 has gained 26 residents and 1.94 acres; and Ward 7 has gained 36 residents and 445.04 acres. Please note that this comparison is using 2010 census numbers only with a comparison of new boundaries to existing boundaries.

The City is asking that the Committee of the Whole approve the 2011 City of Ashland Ward Redistricting Plan 2 for the aforementioned reasons and forward the Resolution to Council for approval at its July 12, 2011 for approval. The plan must also be approved by the Ashland County Board. The County will take formal action on creation of the County Supervisory districts following adoption of the ward boundaries by the Council. Approval from the County Board is expected if Plan 2 is approved.