I have researched a couple other examples for you.

1. Marshfield has a point system that provides criteria for the city council, at its discretion, to revoke, non-renew or suspend a license on the basis of 100 demerit points within 2 consecutive license terms for "conduct committed by the licensee, or employee or agent thereof, whether or not charged and/or convicted." Service to minors is worth 25 DP for the first offense and 50 for second and subsequent offenses, but may not be considered for points purposes "unless the licensee committed 2 or more violations within one year." However, the council may designate "discretionary demerit points" for other offenses not on the scheduled. Also, the ordinance makes clear that the council may exercise its right to revoke, non-renew, or suspend a license for any reason authorized by the Wisconsin Statutes or Marshfield's alcohol licensing chapter, regardless of points. But, it also provides that the Judiciary, License and Cemetery committee has the discretion to reduce demerit points for a specific violation at a hearing. It does not allow an arrest record based solely on a pending criminal charge (except for certain exempt offenses and violence against a child, as provided by statute) to be used to revoke or suspend a license. I have attached a copy of Marshfield's point system.

I spoke with Marshfield's City Clerk, Jessica Schiferl. They use the point system, and last year the licensing committee did assess points on a couple licensees. This year, they have not done alcohol age compliance checks more than once, so don't yet have enough incidents to allow them to assess points for underage drinking. The Clerk told me that the city has not revoked any licenses for points in the last 4 years. They did have 1 denial due to back taxes, that was later worked out with a tax-paying arrangement and the license approved. Mostly, they see this as a way to emphasize the need for businesses to train their staff. However, Marshfield also uses its points (50 point system, with 25 points for service to minors) for the bartenders, and frequently revokes bartender licenses for point accrual.

2. Waunakee has a point system as part of its section on revocation and suspension, which I have copied for you below. Note that it's purpose is "to identify habitually troublesome license holders who have repeated violated state statutes and village ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses." Also note that it takes 200 points within 12 months to require a revocation or suspension hearing to be called, and offers the options of a 10 – 90 days suspension or a revocation. Finally, it allows points to be counted both based on court-imposed convictions AND based on "reports from the village attorney which, if believed, would result in 200 demerit points in 12 months." I have put in a voice message and email to the Village Clerk, Karla Endres, and will let you know more about how they're being used in practice after I talk with her.

1. Are points regularly assigned for violations? Points are assigned when there is a violation, which happens when the police do random compliance checks. We had 9 last year.
2. Who assigns the points and who keeps track of the points? The points are in our ordinance, and we have a sheet that we keep with their file that shows the points that were assessed. The Clerk's office keeps track of the points based on the guidelines from our ordinance though.
3. When is the last time an alcohol business was called in for a suspension or revocation hearing based on points? Since I haven't been here that long, I asked our Lieutenant. He said he doesn't remember one in the last 10-15 years. How often does this happen? Not often at all by the sounds of it. The employees who have been here a long time don't recall any either.
4. When is the last time an alcohol license was actually suspended or revoked by the Board? Can't recall any in the minutes. How often has this happened? Not often according to the minutes.
5. Does the Village find the point system to be helpful or problematic, and why? We do find it to be beneficial because it keeps the license holders accountable for best practices and following the laws. We are in support of them.

My casual review of a few municipalities with point systems suggests that although most are not being regularly or consistently used, they are well-liked as tools to encourage law-abiding behavior by licensees. While they can be useful tools, they are only effective in preventing underage drinking and overservice if the municipality constructs them in such a way that allows suspensions or revocations under the conditions in which they are permitted by statute, and consistently assigns points and hold licensees accountable according to the provisions of their ordinances. Without consistent application, or with language that is too generous to licensees, they can serve to limit the municipality's ability to enforce the law.

Some thoughts or impressions based on my research:

- Municipalities that assign points like their points systems because they believe that the points system makes licensees aware that they are being held accountable.
- However, just as Matt said, most communities only use their points systems for warnings, not suspensions or revocations.
- A point system is not necessary for a city to suspend, revoke or not renew licenses. It is a convenience that in its best form (consistently applied, enforced, used) gives licensees and the city a clear set of guidelines so that everyone understands the rules. However, in its worst form, it can provide too much leeway for licensees.
- Revocations usually happen only under the most serious circumstances, such as when there are repeated shootings, stabbings, or prostitution at a bar. I have not

spoken with anyone who recalls a license being revoked only because of accumulating a points limit due to service to underage people.

- For a point system to be effective enforcement, points would need to be applied consistently – points applied whenever the listed violation occurs, and consequences applied consistently – such as review by the alcohol committee if points reach a certain threshold.
- It's not a good idea to have a point system that only looks at the points accrued within a single license year or single calendar year, because that effectively limits its use. In reality, points may accrue during a few months that span July or span December. It's probably better to have the points trigger an action after reaching a certain total within any 12 month period. For example, if underage drinking violations are 50 points each, 100 points within 12 months could trigger a suspension hearing. Such a system would only be useful if the city is willing to follow the proper notice requirements, hold the hearing and enforce and uphold the suspension.
- The ordinance should not state a required action if the city is not willing to take that action, or is going to be inconsistent in taking that action. I don't believe in ordinances that are not going to be enforced. For example, if the ordinance requires a suspension or revocation hearing for 100 points in 12 months, but the city only gives a written warning and doesn't hold the hearing, then it's not a good ordinance. The ordinance should either be revised to mirror the desired practice – or the city should be willing to change its practice to follow its ordinances.
- I would not recommend a point system that ties your hands more than the statutes already tie them. For example, I would recommend that the system trigger a suspension hearing at two underage drinking violations within 12 months. But to do that, underage drinking violations would have to be assigned half the total for triggering a suspension hearing. If instead you did something that was more permissive of underage drinking, e.g. Marshfield's system which has 25 points for the first violation and 50 points for the second (so you don't get to 100 points with 2 violations in 12 months), then you would be unable to reach suspensions with semiannual alcohol age compliance checks.

- I would recommend that you considering having an ordinance written in such a way that you hold licensees administratively responsible for the violations of their employees, e.g. assigning points to a licensee when an employee violates the law while on duty.
- I also suggest that you be very careful about when points are assigned – you should have a discussion with your attorney as to whether points require a citation or charge, a conviction, or can be assigned in lieu of a citation. I cannot advise you on that.

The bottom line is that a point system is only a tool. There are two goals to keep in mind:

1. Hold licensees responsible for obeying the law, by suspending their licenses if they serve underage drinkers more than once in a year, and by revoking their licenses if they violate the law regularly or cause other significant problems.
2. Encourage licensees to obey the law (e.g., not serving underage people, not serving intoxicated people) by providing clear guidelines as to what the consequences are for violating the law, and consistent, predictable enforcement.

Neither of these goals require a point system, but if consistently applied and used a well-structured point system can assist in achieving these goals.

Because each municipality has different needs and different perspectives, I can't tell you which of the systems is best – that would and should be a conversation with your police department, city council, and municipal attorney, Matt Dregne.

Sec. 6-47. - Revocation and suspension.

a. **Scope of section.** Whenever the holder of any license issued under this article violates any portion of this chapter or articles IV and V of chapter 74, proceedings for the revocation of such license may be instituted in the manner and under the procedure established by this section and Wis. Stats. § 125.12.

b. **Abandonment of premises.** Any licensee holding a license to sell alcohol beverages who abandons such business shall forfeit any right or preference such licensee may have to the holding or renewal of such license. Abandonment shall be sufficient grounds for revocation of any alcohol beverage license. The closing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the village board. Every person issued a license to sell alcohol beverages in the village for which a quota exists limiting the number of such licenses that may be issued by the village shall cause such business described in such license to be operated on the premises described in such license for at least 150 days during the term of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.

c. **Nonrenewal of license.** The village attorney may, after investigation, commence an action before the special committee to hear evidence and make a recommendation to the village board that a license issued pursuant to this article not be renewed. The chairperson of the committee shall, in writing, notify the licensee of the consideration of nonrenewal. Such notification shall be in the form of and shall serve as the summons and complaint and shall include a statement of the reasons for the consideration of the nonrenewal of the license in the same specificity required for a summons and complaint for revocation or suspension. If the license is recommended for nonrenewal, costs may be assessed against the licensee, and any renewal application fee shall be forfeited. In all other respects, of this subsection shall apply. The commencement of this action shall stay action by the village board on the licensee's application until the committee makes its recommendation.

d. **Other restrictions.** Any license issued pursuant to this article shall be subject to such further regulations and restrictions as may be imposed by the village board by amendment to this section or by the enactment of new ordinances. If any licensee shall fail or neglect to meet the requirements imposed by such new restrictions and regulations, the licensee's license may be revoked in accordance with this section. For revocation of any license or any violation of any section of this chapter in accordance with this section or by the court or for any reasonable cause, except the imposition of new restrictions, no refund shall be made of any part of the license fee.(e)Point values for violations, revocations and suspensions.

1. **Purpose.** The purpose of this subsection is to administratively interpret those portions of this chapter and articles IV and V of chapter 74 relating to establishing an alcohol beverage demerit point system to assist in determining which license holders should be subject to suspension or revocation procedures.

2. **Point schedule.** The scale of demerit points is listed according to the type of alcohol beverage violation. This demerit point system is used to identify habitually troublesome license holders who have repeatedly violated state statutes and village ordinances for the purpose of recommending suspension or revocation of their alcohol beverage licenses.

Type of Violation	**Point Value**
Sale of alcohol beverages without license or permit; sale of controlled substances on licensed premises	100
Sale of alcohol beverages to underage person	50
Sale of alcohol beverages to intoxicated person	50
Underage person on premises	50
Intoxicated bartender; disorderly conduct on premises	50
After-hours consumption	50
Refusal to allow police to search premises or refusal to cooperate with lawful police investigation	50

Licensee, agent or operator not on premises at all times

25

Persons on premises after closing hours

25

Violation of carryout hours

25

Licensee permitting person to leave licensed premises with open alcohol beverage

25

Other violations of this chapter

25

3. **Determination of demerit points.** In determining the accumulated demerit points against a licensee within 12 months, the village shall use the date each violation was committed as the basis for the determination.

4. **Suspension or revocation of license.**

a. The special committee of the village board shall call before it for purposes of a revocation or suspension hearing all licensees who have accumulated 200 points in a 12-month period as a result of court-imposed convictions or who have had referred to it reports from the village attorney which, if believed, would result in 200 demerit points in 12 months.

b. If the demerit point accumulation, calculated from the date of violation, exceeds 200 points in a 12-month period, 250 points in a 24-month period or 300 points in a 36-month period, the suspension shall be for not less than ten days or more than 90. If the license is revoked, no other license shall be granted to such licensee or for such premises for a period of 12 months from the date of revocation.

c. The procedure to be used for suspension or revocation shall be that found in subsection (c) of this section.

(Code 1988, § 7-2-18; Code 1998, § 6-49)

The bottom line is that a point system can be helpful in two ways:

1. as a deterrent and way to modify behavior, such as encouraging better management and training of employees; and
2. as a punishment and way to penalize law-breaking behaviors