

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: October 6, 2014

MEMORANDUM

TO: Madison Common Council Members

FROM: Roger A. Allen, Assistant City Attorney

RE: When is a 21 Plus Alcohol Entertainment License Required?¹

Background

Controversy surrounding an applicant for a 21 Plus Entertainment License has resulted in some misreporting of when such licenses are required. Several recent news articles have mischaracterized the license as only being required when a bar or tavern want to have live amplified music performances on their licensed premise. While such activities would require the 21 Plus Entertainment license, the license is actually required virtually any time an alcohol licensed establishment seeks to provide live entertainment to its drinking age customers.

The Ordinance

The relevant portions of the 21 Plus Entertainment ordinance are secs. 38.06 (11)(a) and (c), MGO:

- (11) 21 + Entertainment License. (Title Am. by ORD-07-00070), 6-26-07)
- (a) Entertainment License Required. No holder of a “Class B” and/or Class “B” intoxicating liquor or fermented malt beverage license **shall offer or allow live entertainment** without first obtaining an Entertainment License from the City Clerk. [Emphasis added]
- . . .
- (c) Live Entertainment Defined. A licensed establishment shall be deemed to offer or allow live entertainment if any of the following activities are offered, permitted or allowed:
1. live music performances;
 2. disc jockeys;
 3. the establishment has a designated dance floor area.

¹ There is also an 18+ Entertainment License that allows for the presence of person age 18 and above during special entertainment events. Both ordinances use identical definitions of the term “entertainment.” The ordinances only differ as to the age of the patrons permitted upon the premise and upon some of the requirements related to ensuring underage persons are not furnished with alcohol.

Live entertainment **does not include non amplified or acoustic music performed by a single artist, or** performances where an uncompensated patron sings along with a machine that plays pre recorded music, commonly known as **“karaoke.”** [Emphasis added].

Discussion

The plain text of these provisions eliminates any confusion over the applicability of the 21 Plus Entertainment License. It is required whenever the holder of a “Class B” or Class “B” alcohol license, whether that license-holder be a restaurant, hotel, bar or tavern, intends to provide live entertainment on its premises.

The ordinance further defines “live entertainment” as any live music performances (whether amplified or not), any use of disc jockeys (which by their nature are amplified) or where the establishment has a designated dance floor. The ordinance specifically does not require a license if the live entertainment consists of a solo acoustic (non-amplified) performance.

RAA

CC: Michael P. May, City Attorney; Patricia A. Lauten, Deputy City Attorney;
Jennifer Zilavy, Assistant City Attorney