

BODY – LEGISTAR 32961 – SUBSTITUTE – VERSION 2

DRAFTER'S ANALYSIS: The zoning code regulates the permitted uses of land by district. Each table below represents a category of zoning districts, such as the mixed-use and commercial districts, the downtown and urban districts, and the employment districts. The row on the top of each table identifies a specific district within that category. For example, "LMX" is the Limited Mixed Use district in the mixed use and commercial district category.

The table has rows for the available uses of land. If there is a "P" where the use row intersects the district column, that use is permitted in that district. If there is a "C" at that location, that use is a conditional use in that district. If there is neither a "P" nor a "C," the use is not allowed in that district. Finally, if there is a "Y" in the "supplemental regulations" column, additional rules might apply to that use, and you should look up the use by name in Sec. 28.151. There you will find what the supplemental regulations are for that use. "P/C" means permitted or conditional, depending on specific requirements in the supplemental regulations. For example, under this new law, a Restaurant-Tavern is a conditional use in the NMX and a permitted use in the TSS. It has supplemental regulations.

This ordinance creates three new uses of land in the zoning code, two principal uses known as "Restaurant-Nightclub" and "Nightclub," and one accessory use known as "Accessory Retail Alcohol Sales". The ordinance incorporates these new uses into the relevant land use tables throughout the ordinance.

The ordinance also creates new supplemental regulations, new definitions, and amends existing definitions. First, the ordinance creates supplemental regulations for Restaurant-Tavern, Tavern, Restaurant-Nightclub, and Nightclub. Second, it creates new definitions for Liquor Store and Accessory Retail Alcohol Sales. Third, it amends the definition of Restaurant-Tavern in order to remove the zoning department's consideration of the percentage of sales comprised of food versus alcohol. Importantly, this does *not* remove this requirement under state alcohol licensing laws. Therefore, in addition to receiving approval from zoning for land use, operators must also be licensed by the Alcohol Licensing Review Committee. This ordinance simply clarifies that the consideration of the percentage of sales comprised of food versus alcohol is one that is required by and properly decided by the Alcohol Licensing Review Committee, not the Zoning Administrator. Fourth, the ordinance clarifies the definition of "Tavern" to specify that Taverns do not contain kitchen facilities. And finally, the ordinance amends the definition of "Theater, Assembly hall" to require fixed or designated seating, and moves "outdoor stage, band shell, or amphitheater" under the definition of "outdoor recreation."

Given that the ordinance creates two new land uses, Nightclub and Restaurant-Nightclub, the ordinance also addresses the use status of those establishments depending on whether they were operating prior to the effective date of this ordinance. For example, an establishment that was operating in the NMX district prior to the effective date of this ordinance and in a manner that would meet the definition of Nightclub or Restaurant-Nightclub contained in this ordinance may continue to operate as a Nightclub or Restaurant-Nightclub as a permitted use. However, any Nightclub or Restaurant-Nightclub established after the effective date of this ordinance must apply for a conditional use permit. This distinction is made clear in the supplemental regulations for each new land use.

The ordinance also establishes an Alcohol Overlay District, within which Taverns, Liquor Stores, and Accessory Retail Alcohol Sales are no longer allowed after the effective date of this ordinance. Taverns, Liquor Stores, and Accessory Retail Alcohol Sales that were established before the effective date of the ordinance may continue nonconforming uses subject to the limitations on nonconforming uses contained in Secs. 28.190-28.195. Within the Alcohol Overlay District, Restaurant-Nightclubs and Nightclubs are treated as described above, and Restaurants and Restaurant-Taverns are permitted uses both before and after the effective date of this ordinance. The land use requirements in the Alcohol Overlay District supercede the land use requirements in all other districts. Brewpubs are defined separately and are a conditional use within the overlay district.

The ordinance also sets out an annual review process that requires City Staff submit an annual report on the impact and effectiveness of this ordinance to the Plan Commission, ALRC, and Common Council. The ordinance is set to become effective on July 1, 2014. It is set to expire on July 1, 2019, unless extended by Common Council.

The Common Council of the City of Madison do hereby ordain as follows:

"Employment Districts"							
	TE	SE	SEC	EC	IL	IG	Supplemental Regulations
Restaurant-tavern	C	C	C	C	C	C	Y
Tavern, brewpub	C	C	C	C	C	C	Y
Accessory Uses and Structures							
Accessory retail alcohol sales	P	P	P	P	P	P	

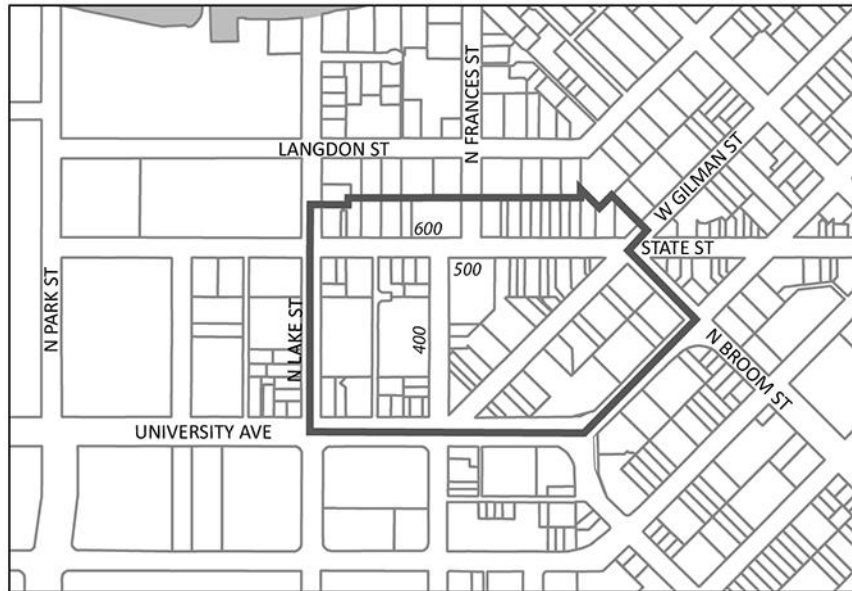
4. The Table 28G-1 of Subsection (1) of Section 28.091 entitled "Special District Uses" of the Madison General Ordinances is amended by amending and creating therein the following:

"Special Districts"						
	A	UA	CN	PR	AP	Supplemental Regulations
Accessory Uses and Structures						
Restaurant				C	P	
Restaurant-tavern				C	P	
Tavern, brewpub					P	
Accessory retail alcohol sales				P	P	
Food and Beverages						
Brewpub					P	Y
Nightclub					P/C	Y
Restaurant				C	P	Y
Restaurant-nightclub					P/C	Y
Restaurant-tavern				C	P	Y
Tavern					P	Y

5. Section 28.127 entitled "Alcohol Overlay District" of the Madison General Ordinances is created to read as follows:

"28.127 ALCOHOL OVERLAY DISTRICT.

- (1) Applicability. The Alcohol Overlay district is depicted on the map below. This ordinance applies to all addresses within the boundaries depicted on the map.
 - (a) Alcohol Overlay District map.



- (2) **Permitted and Conditional Uses.** Table 28H-1 lists permitted and conditional uses in the Alcohol Overlay District which supersede the regulations in the underlying zoning district.
- (a) "P" means permitted in the districts where designated.
 - (b) "C" means allowed as conditional uses in the districts where designated, in compliance with all applicable standards.
 - (c) "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J.
 - (d) "Y" means there are specific requirements in Subchapter 28J associated with a use.

Table 28H-1

	Alcohol Overlay District	Supplemental Regulations
Food and Beverages		
Brewpub	C	Y
Nightclub	P/C	Y
Restaurant	P	
Restaurant-nightclub	P/C	Y
Restaurant-tavern	P	Y
Retail Sales and Services		
Liquor store		
Accessory Uses and Structures		
Accessory retail alcohol sales"		

- (3) **Annual Review.** The effect of this ordinance shall be reviewed every year. A report shall be prepared by the Alcohol Policy Coordinator with assistance from the Zoning Administrator and Madison Police Department. The report shall be shared with the Alcohol License Review Committee, Plan Commission, and Common Council. The report will be due December 1 of each year, with the first report due December 1, 2015. This report should include information regarding:
- (a) The number and types of establishments in each district;
 - (b) The number of nonconforming uses in the Alcohol Overlay District;
 - (c) The number and kind of any conditional uses approved in each district;

- (d) Feedback provided by the public, including business owners, throughout the calendar year;
- (e) Feedback from the Madison Police Department regarding any public safety issues arising from or impacted by this ordinance; and,
- (f) Feedback from the Zoning Administrator regarding any land use issues arising from or impacted by this ordinance.

In addition, the report should include any other information gathered by City staff that may be relevant to the various committees and Common Council regarding the impact of this ordinance across the City and in the new Alcohol Overlay District.

- (4) This section is effective July 1, 2014 and shall expire and be of no legal effect on July 1, 2019, unless extended by the Common Council prior to the expiration date. The Common Council shall be notified of this provision by City staff at least one hundred twenty (120) days prior to this date.”

6. Section 28.151 entitled “Applicability” of the Madison General Ordinances is amended by creating therein the following:

“Brewpub.

- (a) Maximum capacity to be established by the Director of Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- (b) Brewpubs shall not hold an entertainment license under Sec. 38.06(11).

Nightclub.

- (a) A Nightclub is a permitted use if established prior to the effective date of the ordinance, and a conditional use if established after the effective date of the ordinance.
- (b) Capacity may be as high as five (5) square feet per person.
- (c) May hold entertainment license under Sec. 38.06(11), MGO.
- (d) Shall at all times operate consistent with and according to the requirements of a valid liquor license issued by the Alcohol Licensing Review Committee.

Restaurant-Nightclub.

- (a) A Restaurant-Nightclub is a permitted use if established prior to the effective date of the ordinance.
- (b) A Restaurant-Nightclub is a conditional use if established after the effective date of the ordinance and is open between the hours of midnight and 5 a.m.
- (c) Must serve food at all hours it is open.
- (d) Shall hold entertainment license under Sec. 38.06(11).
- (e) Shall at all times operate consistent with and according to the requirements of a valid liquor license issued by the Alcohol License Review Committee.

Restaurant-Tavern.

- (a) Maximum capacity to be established by the Director of the Building Inspection Division, not to exceed the number of available seats, plus staff, plus a reasonable number of people waiting for seats.
- (b) Restaurant-Taverns shall not hold an entertainment license under Sec. 38.06(11).
- (c) Restaurant-Taverns shall at all times operate consistent with and according to the requirements of a valid liquor license issued by the Alcohol License Review Committee.

Tavern.

- (a) Taverns shall not hold an entertainment license under Sec. 38.06(11).”
- (b) Taverns shall at all times operate consistent with and according to the requirements of a valid liquor license issued by the Alcohol License Review Committee.”

7. Section 28.211 entitled “Definitions” of the Madison General Ordinances is amended by creating and amending therein the following:

Accessory Retail Alcohol Sales. The accessory sales of alcohol at a retail establishment that holds a Class A license under Sec. 38.06(11).

Liquor Store. An establishment in which the principal use is the sale of alcohol and which holds a Class A license for liquor or beer.

Nightclub. An establishment in which fermented malt beverages or intoxicating liquors are sold for consumption upon the premises and which holds an entertainment license under Sec. 38.06(11) but does not include kitchen facilities.

Recreation, Outdoor. A facility for outdoor conduct, viewing, or participation in recreational activities, which may include one or more structures. This term includes but is not limited to a golf facility, tennis, basketball or volleyball court, soccer, baseball or football field, sporting club, amusement park, miniature golf course, swimming pool, ~~or~~ water park, an outdoor stage, band shell, or amphitheater.

Restaurant-Nightclub. An establishment in which meals are provided and fermented malt beverages or intoxicating liquors are sold for consumption upon the premises and which holds an entertainment license under Sec. 38.06(11).

Restaurant-Tavern. Any establishment in which meals are provided and fermented malt beverages or intoxicating liquors are sold for consumption upon the premises, ~~where meals account for over fifty percent (50%) of the gross receipts.~~

Tavern. An establishment serving fermented malt beverages or intoxicating liquors primarily for consumption on the premises and where food or packaged alcoholic beverages may be served or sold only as accessory to the primary use, and which does not include kitchen facilities.

Theater, Assembly Hall. A facility for presenting motion pictures or live performances for patrons that provides fixed or designated seating. This term ~~includes an outdoor stage, band shell, or amphitheater but~~ does not include an adult entertainment establishment.”

8. This ordinance is effective July 1, 2014.

9. This ordinance shall have no effect after July 1, 2019. The Common Council shall be notified of this provision by City staff at least 120 days prior to this date.