

LEGISTAR #53221 – 2nd Substitute Body

DRAFTER'S ANALYSIS: This ordinance adds Tasting Room as a use in the food and beverage use category. Tasting rooms are a relatively new use that are becoming more frequently requested in Madison. Tasting Rooms are places that offer beer, wine, or liquor for consumption on the premises that was manufactured or rectified on the premises or at an off-site location associated with the Tasting Room. Under state law, as long as these establishments sell only the beer, wine, or liquor that they manufacture or rectify, they do not require a class A or B liquor license and, therefore, do not have regulatory oversight by the City like other similar alcohol and beverage uses. They are licensed by the Wisconsin Department of Revenue. Accordingly, this ordinance adds Tasting Room as a use and makes it a conditional use in all employment districts and in NMX, MXC, TSS, CC and CC-T. As a conditional use, the city will be able to exercise regulatory oversight similar to that provided to traditional licensed establishments.

This ordinance also amends the supplemental regulations for Restaurant-Nightclub. Under the current ordinance, only restaurant-nightclubs that operate between the house of midnight and 5 a.m. require conditional use approval. This ordinance makes all restaurant-nightclubs a conditional use. It also removes the exception in the supplemental regulation making restaurant night clubs established before the effective date of the ordinance a permitted (as opposed to a nonconforming) use.

This Substitute retains Restaurant-tavern as a Conditional Use in the LMX and NMX Districts.

This 2nd Substitute makes Brewpub a Conditional Use in the LMX and NMX Districts and revises the definition of Brewpub.

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

1. Section 28.211 entitled "Definitions" of the Madison General Ordinances is amended by amending and creating therein the following:

"Brewpub. An establishment which that operates a restaurant and manufactures up to ten thousand (10,000) barrels of fermented malt beverages per calendar year on premises for consumption either on or off premises in hand-capped, machine-capped or sealed containers in quantities up to one-half barrel or 15-1/2 gallons sold directly to the consumer. ~~May include food sales.~~ The establishment shall hold a Class "B" liquor license issued by the state if, in addition to offering for sale fermented malt beverages manufactured on the premises, it also offers for sale fermented malt beverages manufactured by a brewer other than the establishment.

Tasting Room. An establishment which offers fermented malt beverages or intoxicating liquors for consumption on the premises that are manufactured or rectified on the premises or at an off-site location associated with the premises. Tasting Rooms may include food sales."

2. Section 28.151 entitled "Applicability" of Subchapter 28J: Supplemental Regulations of the Madison General Ordinances is amended by amending and creating herein the following:

"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.~~
- ~~(ba) Capacity may be as high as five (5) square feet per person.~~
- ~~(eb) Shall hold entertainment license under Sec. 38.06(11), MGO.~~
- ~~(ec) Shall at all times operate consistent with and according to the requirements of a valid liquor alcohol license issued by the City.~~
- ~~(e) Establishment must offer live entertainment a minimum of two (2) nights per week.~~
- ~~(f) The establishment shall be open for business no more than three (3) hours prior to any event or activity qualifying the establishment as an entertainment venue and shall close its business no more than two (2) hours following such an event or activity.~~

Restaurant-Nightclub.

- (a) A Restaurant-Nightclub is a permitted use if established prior to the effective date of the ordinance 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) ~~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.~~
- (eb) Must serve food at all hours it is open.
- (ec) Shall hold entertainment license under Sec. 38.06(11).
- (ed) Shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.”

3. Table 28D-2 of Section 28.061 entitled “Mixed-Use and Commercial Districts Uses” of the Madison General Ordinances is amended by amending and creating therein the following:

| “Mixed-Use and Commercial Districts | | | | | | | |
|-------------------------------------|-----|-----|-----|-----|------|-----|--------------------------|
| | LMX | NMX | TSS | MXC | CC-T | CC | Supplemental Regulations |
| Food and Beverages | | | | | | | |
| Brewpub | C | C | P | P | P | | |
| Restaurant-nightclub | P/C | P/C | P/C | P/C | P/C | P/C | Y |
| Restaurant-tavern | C | C | P | P | P | P | Y |
| <u>Tasting room</u> | | C | C | C | C | C | |

4. The Table 28E-2 of Subsection (1) of Section 28.072 entitled “Downtown District Uses” of the Madison General Ordinances is amended by amending therein the following:

| “Downtown and Urban Districts | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|--------------------------|
| | DC | UOR | UMX | DR1 | DR2 | Supplemental Regulations |
| Food and Beverages | | | | | | |
| Restaurant-nightclub | P/C | | P/C | | | Y” |

5. Table 28F-1 of Subsection (1) of Section 28.082 entitled “Employment District Uses” of the Madison General Ordinances is amended by amending therein the following:

| "Employment Districts | | | | | | | |
|---------------------------|-----|-----|-----|-----|-----|-----|--------------------------|
| | TE | SE | SEC | EC | IL | IG | Supplemental Regulations |
| Food and Beverages | | | | | | | |
| Restaurant-nightclub | P/C | P/C | P/C | P/C | P/C | P/C | Y |
| Tasting room | C | C | C | C | C | C | |

| "Accessory Uses and Structures | | | | | | | |
|--------------------------------|---|---|---|---|---|----|--|
| | C | C | C | C | C | C" | |
| Tasting room | C | C | C | C | C | C" | |

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

| | A | UA | CN | PR | AP | Supplemental Regulations |
|----------------------------|---|----|----|----|-----|--------------------------|
| "Food and Beverages | | | | | | |
| Nightclub | | | | | P/C | Y |
| Restaurant-nightclub | | | | | P/C | Y" |