

DRAFT (September 20, 2006)

Sections I-VIII provide information relevant to the specific policy detailed on pages 4 and 5.

I. Background Information

The density of alcohol-licensed establishments has been shown to directly affect the volume and severity of alcohol-related problems within a specific area.¹ The following license density plan is principally aimed at decreasing the incidence of alcohol-related problems by gradually reducing both the number of alcohol licenses and the overall capacity of alcohol-licensed establishments within certain areas of Madison.

Additional purposes include: (1) decreasing the strain on public resources caused by alcohol-related problems; (2) providing opportunities in the downtown area for businesses not associated with the sale of alcohol; and (3) establishing a basis for future alcohol license density planning in other areas of the city.

Reductions in both the number of alcohol licenses and the overall capacity of alcohol-licensed establishments will be achieved through three means: (1) restricting the types of license applications that will be entertained by the ALRC and Common Council; (2) voluntary attrition; (3) involuntary attrition. Voluntary attrition involves a license holder surrendering their alcohol license for purposes other than completing the sale of their business. Involuntary attrition involves an alcohol license being revoked or non-renewed by the Common Council.

II. Timeline and Evaluation

¹ See, Gruenewald, P.J., Johnson, F.W., & Treno, A.J. (2002). Outlets, drinking and driving: A multilevel analysis of availability. *Journal of Studies on Alcohol*, 63:460-468; Parker, M. & Rebhun, L. (1995). *Alcohol and Homicide: A Deadly Combination of Two American Traditions*. Albany, NY: State University of New York Press; Lipton, R. & Gruenewald, P. (2002). Spatial dynamics of violence and alcohol outlets. *Journal of Studies on Alcohol*, 63:187-195.

- It is expected that this density plan will remain in effect for a minimum of five years in order to obtain measurable results. Ongoing evaluation and analysis will be conducted by city agencies throughout the implementation of this plan.

III. License Types

- Class A Beer (liquor stores, grocery stores, etc.)
- Class A Liquor (liquor stores, grocery stores, etc.)
- Class B Beer (primarily restaurants)
- Class B Liquor and Beer – “Class B Combination” (restaurants and taverns)
- Class C Wine (primarily restaurants)
- The most common alcohol license type is a Class B Combination. Under state law, the City of Madison has a quota of 396 Class B Combination licenses. As of August 31, 2006, there were 343 issued Class B Combination licenses, leaving 53 available for issuance.

IV. Clarification of “New” Alcohol Licenses

- Under current law, a “new” alcohol license may be issued in the following situations:
 1. Opening of a legitimate “new” business (i.e., not the purchase, transfer, or conveyance of an existing licensed establishment);
 2. Purchase of an existing licensed establishment by a new owner intending to continue the business in its current form; or
 3. Purchase of an existing licensed establishment by a new owner intending to change the name, format, and/or operational plan of the business.

V. Clarification of “Transferring” a License

- Transferring a license has specific meaning under section 38.05(8), MGO.
 1. An existing license holder can apply to transfer their license to a new location in the city.

2. An existing license may be transferred to a person other than the original licensee under the following circumstances:
 - a. death of the original licensee;
 - b. bankruptcy;
 - c. assignment for the benefit of creditors; or
 - d. disability of the original licensee (transferable only to licensee's spouse).
- It is inaccurate to say that selling an alcohol-licensed business constitutes a transfer of the license.

VI. Distinction Between Restaurants and Taverns/Bars

- Restaurants with an alcohol license most commonly hold a Class B Combination license – the same license held by bars. There are not separate license categories for restaurants and bars.
- In order to be considered a restaurant, an establishment with an alcohol license must generate more than 50% of its gross revenues from food sales.²
 - For the purposes of this density plan, these establishments will be called “bona fide restaurants.”
- The food and alcohol percentages are self-reported by license applicants but can be verified at any time by city staff.³
- Licenses issued in violation of Chapter 38, MGO are void.⁴
- False statements on an application, including the self-reported food and alcohol revenue percentages, “automatically nullify any license issued pursuant thereto.”⁵

² Sec. 28.03(2), MGO.

³ Sec. 38.05(10), MGO.

⁴ Sec. 38.05(2), MGO.

⁵ Sec. 38.05(3)(a)11, MGO.

VII. Targeted Area

- Based on information provided by the Madison Police Department related to the allocation and consumption of its resources, this proposal focuses on police sectors 403, 404, 405, and 406 in the Central Policing District.⁶ This area is bordered approximately by Blair Street, Lake Street, Lake Monona, and Lake Mendota.
- As of August 31, 2006, of the 343 Class B Combination licenses in the City of Madison, 100 (29%) are located in the targeted area.⁷ The licensed capacity of the Class B Combination establishments in the targeted area is more than 12,000.

VIII. Targeted License Types and Rationale

- Alcohol licenses associated with liquor stores and taverns are the principal focus of this density plan.
- While regularly-collected statistics are not currently available to measure the quantitative effect of alcohol-related problems on police resources, alcohol has been shown to be a factor in 57% to 67% of all police activity between 10:00 p.m. and 2:00 a.m. here in Madison.⁸ Furthermore, a recent analysis of substantial batteries in the Central District showed that approximately 75% of the victims and perpetrators were intoxicated. Finally, police officers, firefighters and paramedics routinely report that they spend between 50% and, in some cases, 100% of their time responding to alcohol-related incidents after midnight on Thursdays, Fridays, and Saturdays.
- The demand for alcohol, while seasonal, is relatively static when annualized. Increasing supply for a product when the demand remains static necessarily

⁶ Note that there are 106 police sectors in the City of Madison.

⁷ Sector 403 = 43, Sector 404 = 5, Sector 405 = 25, Sector 407 = 27. Note that Sector 408 = 14, Sector 410 = 13, and Sector 113 = 15.

⁸See,

http://www.madison.com/archives/read.php?ref=/madison.com/html/archive_files/wsj/1997/01/14/9701140186.php.

reduces the product's price. Lower prices lead to more consumption, especially in college environments.⁹

- Collectively, bona fide restaurants do not impose as significant a burden on public resources. This is due in part to their focus on food sales and in part to the fact that they generally are not open until the state-permitted bar time.

Alcohol License Density Plan

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1. This policy is to remain in effect until such time as its provisions are deemed unnecessary by the Common Council. In making this determination, the Council will review data and reports regarding the effect of this policy. These data and reports will be provided by various city agencies.
2. The initial targeted area includes police sectors 403, 404, 405, and 406. New police sectors may be added to this policy at any time by the Council.

⁹ See, Chaloupka, F.J., Grossman, M. & Saffer, H. (2002). The effects of price on alcohol consumption and alcohol-related problems. *Alcohol Research & Health*, 26(1): 22-34.

3. The provisions of this policy will be made available electronically through the City Clerk's website. Paper copies of this policy will be available in the City Clerk's Office at the cost of \$.25 per page.
4. This policy does not alter the existing procedures and burdens related to the review of alcohol license applications.
5. Class A Licenses
 - a. Applications for new Class A licenses will be entertained only in the following circumstances:
 - i. The sale of a business that holds a valid Class A license and is operating at the time of the sale;
 - ii. As a result of any of the circumstances provided for in section 38.05(8), MGO; or
 - iii. If the proposed establishment is a full-service grocery store interested in providing a full liquor department.
6. Class B Beer, Class C Wine and Class B Combination Licenses
 - a. Applications for Class B Beer, Class C Wine and Class B Combination licenses will be entertained only in the following circumstances:
 - i. The sale of a business that holds a valid Class B Beer, Class C Wine and/or Class B Combination license and is operating at the time of the sale;
 - ii. As a result of any of the circumstances provided for in section 38.05(8), MGO;
 - iii. If the proposed establishment is a bona fide restaurant.
 1. Being classified as a bona fide restaurant does not guarantee the granting of an alcohol license in the targeted area or elsewhere throughout the city.

2. In determining whether an establishment is a bona fide restaurant, the Alcohol License Review Committee and Common Council will evaluate all of the circumstances relevant to the license, including the self-reported percentages of food and alcohol revenues. Some additional factors to be considered include, but are not limited to: hours of operation; hours of food service; types of food offered; frequency, duration, timing, and magnitude of entertainment; seating arrangement for patrons; use of security staff; server/staffing scheduling; advertisement; and perceptions of patrons, employees, citizens, and enforcement officers; or

iv. If the proposed establishment is a new hotel.

7. Capacity

- a. New licenses granted as part of the sale of an existing and operational business will be eligible for a licensed capacity no higher than the licensed capacity of the former business at the time of the sale.
- b. Requests for an increased capacity for an existing alcohol license in the targeted area will be entertained only if the establishment is a bona fide restaurant.

8. Effect of Surrendering a License and Cancellation by Inactivity

- a. If an existing alcohol license in the targeted area is surrendered for a reason other than the sale of an existing and operational business, a new alcohol license may only be issued for that address if the proposed establishment is a bona fide restaurant.

- b. If an issued alcohol license remains unused for a period of fifteen days, it is eligible for cancellation.¹⁰ Such a license is not considered part of an existing and operational business for the purposes of this policy.

9. Effect of Revocation

- a. If an existing alcohol license in the targeted area is revoked by the Common Council, no other alcohol license will be granted to the licensee or for the premise for a period of twelve months from the date of revocation.¹¹

¹⁰ Sec. 38.10(1)(f), MGO.

¹¹ Sec. 38.10(1)(c), MGO.