

**LEGISTAR FILE NO. 70646 BODY**

DRAFTER’S ANALYSIS: MGO 28.151 Supplemental regulations for the following categories are amended to allow food in nightclubs and taverns: Nightclub; Restaurant-Nightclub; Restaurant-Tavern. MGO 28.211 Definitions for “Nightclub,” “Restaurant-Nightclub,” “Restaurant-Tavern” and “Taverns” are amended for the same goal. Currently, only pre-packaged food is allowed in taverns and nightclubs. Taverns and nightclubs are also not allowed to have kitchens. In addition, the changes distinguish bona-fide restaurants with seating and low capacity from taverns and nightclubs, which allow standing and have a higher capacity. Finally, Table 28D-2 in MGO 28.061 is amended for change Brewpub, Catering, Incidental Alcohol Sales, Restaurant-Tavern and Tavern from conditional use to permitted use in the Neighborhood Mixed Use (“NMX”) District. The use for those five categories does not change in any other mixed-use and commercial district.

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

1. Section 28.151 entitled “Applicability” of Subchapter 28J entitled “Supplemental Regulations” of Chapter 28 entitled “Zoning Code Ordinance” of the Madison General Ordinances is hereby amended as follows:

**28.151 APPLICABILITY.**

Nightclub.

(a) ~~Capacity may be as high as five (5) square feet per person.~~

(~~a~~b) Shall hold entertainment license under Sec. 38.06(11), MGO.

(~~b~~e) Shall at all times operate consistent with and according to the requirements of a valid liquor alcohol license issued by the City.

Restaurant-Nightclub.

(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, as shown on the floor plan consistent with approved capacity.

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, as shown on the floor plan consistent with approved capacity.

(b) Must serve food at all hours it is open.

(~~b~~c) Restaurant-Taverns shall not hold an entertainment license under Sec. 38.06(11).

(~~e~~d) Restaurant-Taverns shall at all times operate consistent with and according to the requirements of a valid alcohol license issued by the City.

2. Section 28.211 entitled “Definitions” of Chapter 28 entitled “Zoning Code Ordinance” of the Madison General Ordinances is hereby amended as follows:

**28.211 DEFINITIONS.**

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) and may serve meals and ~~but does not include~~ kitchen facilities.

Restaurant-Nightclub. An establishment ~~in which~~ where the principal and primary use is serving meals are provided and where 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 where the principal and primary use is serving meals ~~in which meals are provided~~ and where fermented malt beverages or intoxicating liquors are sold for consumption upon the premises.

Tavern. An establishment where the principal and primary use is serving fermented malt beverages or intoxicating liquors 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~~ may serve meals and include kitchen facilities.

3. Table 28D-2 entitled “Mixed-Use and Commercial Districts” of Section 28.061 entitled “Mixed-Use and Commercial Districts Usage” of Chapter 28 entitled “Zoning Code Ordinance” of the Madison General Ordinances is hereby amended as follows:

**“28.061 MIXED-USE AND COMMERCIAL DISTRICTS USES.**

(1) Table 28D-2 lists all permitted and conditional uses in the mixed-use and commercial districts.

**Table 28D-2.**

<b>Mixed-Use and Commercial Districts</b>	
	<b>Z S X</b>
<b>Food and Beverages</b>	
Brewpub	Ⓞ P
Catering	Ⓞ P
Incidental Alcohol Sales	Ⓞ P
Restaurant-tavern	Ⓞ P
Tavern	Ⓞ P”