Legistar File No. 88319 Body

DRAFTER'S ANALYSIS: This proposal impacts restaurant and alcohol-related uses in the zoning code, MGO Chapter 28. There is no change to the role of the Alcohol Licensing Review Board ("ALRC"). The following changes are proposed:

- Currently, Restaurant-Nightclub and Restaurant-Taverns are separate uses from Restaurant depending on if they hold an entertainment license under MGO Sec. 38.06(11) or serve alcohol. Restaurant-Nightclub and Restaurant-Taverns are eliminated and will be absorbed under the term Restaurant.
- The definition of Restaurant is amended so that it may include the sale of fermented malt beverages or intoxicating liquors for consumption upon the premises.
- A supplemental regulation for Restaurant is added so that a maximum occupancy based on the number of seats, plus staff plus a reasonable number of people waiting for seats, is maintained for restaurants that serve alcohol.
- "Nightclub" is eliminated as a separate use category in the zoning-code and absorbed into the existing uses of "tavern" and "concert hall."

In 2014, Nightclubs and Restaurant-Nightclubs were created as uses in order to require that businesses that are required to get entertainment licenses from the ALRC were also required to get conditional use approval from the Plan Commission. The zoning code change will have the effect of removing the duplicative Plan Commission review of conditional uses associated with entertainment licenses. Entertainment licenses will continue to be approved by the ALRC, which may put conditions on the license.

In addition, this proposed change also:

- Updates MGO 16.03(3)(c) to correspond with the removed uses in Chapter 28.
- Edits some alcohol-related use definitions to be more general in their cross-references to other statutes or ordinances.
- Aligns alcohol-related language to state statutory language.
- Two code corrections for Brewpubs; adding a Y in the chart for existing supplemental regulations and adding it as a permitted use in the Commercial Corridor (CC) district.

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

1. Subdivision (c) of Subsection (3) entitled "Applicability" of Section 16.03 entitled "Transportation Demand Management" of the Madison General Ordinances is amended as follows:

"(c) Commercial buildings, uses, or additions including general retail; food and related goods sales; animal boarding facilities, kennels; banks, financial institutions; business sales and services; laundromat, self-service laundromats; liquor stores; package delivery services; payday loan businesses; service businesses with or without showrooms or workshops; small appliance repair; building materials; drive-through sales and services, primary and accessory; dry cleaning, commercial laundries; furniture and household goods sales; garden centers; greenhouses, nurseries, food services; catering; coffee shops, tea houses; restaurants; ~~restaurant-nightclubs; restaurant-taverns;~~ taverns; brewpubs; tasting rooms; recreational and entertainment facilities; health/sports

clubs; indoor recreation centers; lodges, private clubs, reception halls; outdoor recreation facilities; theaters, assembly halls, concert halls; Adult entertainment establishments, and adult entertainment taverns as defined in Sec. 28.211, MGO."

2. Table 28D-2 entitled "Mixed-Use and Commercial Districts" of Subsection (2) of Section 28.061 entitled "Mixed Use and Commercial Districts Uses" of the Madison General Ordinances is amended by amending therein the following:

"**Table 28D-2**

	LMX	**NMX**	**TSS**	**MXC**	**CC-T**	**CC**	**RMX**	**THV**	**Supplemental Regulations Sec. 28.151**
Food and Beverages									
Brewpub	C	P	P	P	P	P	P		Y
~~Nightclub~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~		~~Y~~
Restaurant	C	P	P	P	P	P	P		Y
~~Restaurant-nightclub~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~		~~Y~~
~~Restaurant tavern~~	~~C~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
Tavern		P	P	P	P	P	P		~~Y~~"

3. Table 28E-2 entitled "Downtown and Urban Districts" of Subsection (1) of Section 28.072 entitled "Downtown District Uses" of the Madison General Ordinances is amended by amending therein the following:

"**Table 28E2**

	DC	UOR	UMX	DR1	DR2	Supplemental Regulations Sec 28.151
Food and Beverage						
Brewpub	P		P			Y
~~Nightclub~~	~~C~~		~~C~~			~~Y~~
Restaurant	P		P			Y
~~Restaurant-nightclub~~	~~C~~		~~C~~			~~Y~~
~~Restaurant tavern~~	~~P~~		~~P~~			~~Y~~
Tavern	P		P			~~Y~~"

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

"**Table 28F-1**

Employment Districts							
	TE	**SE**	**SEC**	**EC**	**IL**	**IG**	**Supplemental Regulations Sec. 28.151**
Food and Beverages							
Brewpub	C	C	C	C	C	C	Y
~~Nightclub~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~Y~~
Restaurant	C	C	C	C	C	C	Y
~~Restaurant-nightclub~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~Y~~
~~Restaurant tavern~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~Y~~

Tavern	C	C	C	C	C	C	~~Y~~"

5. 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:

"**Table 28G-1**

	A	**UA**	**CN**	**PR**	**AP**	**MC**	**Supplemental Regulations Sec. 28.151**
Food and Beverages							
Brewpub					P	~~Y~~	Y
~~Nightclub~~					~~C~~		~~Y~~
Restaurant				C	P		Y
~~Restaurant-nightclub~~					~~C~~		~~Y~~
~~Restaurant tavern~~				~~C~~	~~P~~		~~Y~~
Tavern					P		~~Y~~"

6. Table 28H-1 of Subsection (2) entitled "Permitted and Conditional Uses" of Section 28.127 entitled "Alcohol Overlay District" of the Madison General Ordinances is amended by amending therein the following:

"**Table 28H-1**

	Alcohol Overlay District	**Supplemental Regulations Sec. 28.151**
Food and Beverages		
~~Nightclub~~	~~C~~	~~Y~~
Restaurant	P	Y
~~Restaurant-nightclub~~	~~C~~	~~Y~~

~~Restaurant tavern~~	~~P~~	~~Y~~"

7. Table 28I-2 entitled "Districts With No Minimum Automobile Parking Requirements; Exceptions" of Subsection (3) entitled "No Minimum Parking Required" of Section 28.141 entitled "Parking and Loading Standards" of the Madison General Ordinances is amended by amending therein the following:

"**Table 28I-1. Districts With No Minimum Automobile Parking Requirements; Exceptions.**

District/Area	Parking Requirement	Exceptions
Neighborhood Mixed-Use (NMX)	No minimum	1. Buildings, uses, or additions exceeding ten thousand (10,000) square feet floor area. 2. Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.
Traditional Shopping Street (TSS)	No minimum	1. Buildings, uses, or additions exceeding ten thousand (10,000) square feet floor area for an individual establishment or twenty-five thousand (25,000) square feet floor area for a mixed-use or multi-tenant building. 2. Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.
Regional Mixed-Use District (RMX)	No minimum	1. Buildings, uses, or additions exceeding twenty-five thousand (25,000) square feet floor area. 2. Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.
Traditional Employment (TE)	No minimum	1. Buildings, uses, or additions exceeding twenty-five thousand (25,000) square feet floor area. 2. Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.

Commercial Corridor-Transitional (CC-T)	No minimum	Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.
Suburban Employment (SE)	No minimum	Restaurants, ~~restaurant-taverns~~, taverns, ~~restaurant-nightclub, nightclub,~~ and brewpubs if located within three hundred (300) feet of another restaurant, ~~restaurant-tavern,~~ tavern, or brewpub.

8. Section 28.151 entitled "Applicability" of the Madison General Ordinances is amended by amending 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).~~

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

"Lodge, Private Club, Reception Hall. ~~Service~~ May include the service of food and alcohol ~~intoxicating beverages allowed when licensed~~."

"~~Nightclub.~~

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

~~(b) 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.~~

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

~~(c) Shall hold entertainment license under Sec. 38.06(11).~~

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

"Restaurant~~-Tavern~~.

(a) ~~Maximum~~ If the restaurant serves alcohol, 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.

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

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

"~~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 alcohol license issued by the City.~~"

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

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

"Brewpub. An establishment that operates as a restaurant and manufactures ~~up to ten thousand (10,000) barrels of~~ fermented malt beverages ~~per calendar year~~ on ~~premises~~ premise for consumption either on or off ~~premises~~ premise in hand-capped, machine-capped or other sealed containers ~~in quantities up to one-half barrel or 15½ gallons~~ sold directly to the consumer. ~~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.~~"

"Distillery/Winery. A facility that produces, by distillation or fermentation, ~~spirits~~ intoxicating liquors for consumption~~, the sale and distribution of which are regulated by law~~."

"Liquor Store. An establishment in which the principal use is the sale of alcohol for offsite consumption ~~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) and may serve meals and include kitchen facilities.~~"

"Restaurant~~-Tavern~~. ~~An~~ A commercial establishment where the principal and primary use is serving meals and where fermented malt beverages or intoxicating liquors ~~are~~ may be sold for consumption upon the premises."

~~"Restaurant. A commercial establishment open to the public where food and beverages are prepared, served, and consumed and where food sales constitute the majority of gross sales. Does not include sales of fermented malt beverages or intoxicating liquor."~~

~~"Restaurant-Nightclub. An establishment where the principal and primary use is serving meals 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).~~”