

## **Board of the Madison's Central Business Improvement District (BID)**

*June 7, 2007*

### **Final Report and Recommendations on Section 38.05(9)(o) of the Madison General Ordinances to establish an Alcohol Beverage License Density Plan for Police Sectors 403,404,405 and 406.**

Approved by unanimous vote at the June 7, 2007, Board meeting.

The Board of Directors of Madison's Central Business Improvement District (BID) supports the intent of the Alcohol License Density Plan: to decrease the incidence of alcohol-related problems and to foster a business mix that contributes to economic vitality and quality of life in the central downtown.

The BID Board does not support the Alcohol License Density Plan ordinance as an effective way to achieve these goals.

The Board believes the ordinance would not have its intended effects, but instead would have unwanted consequences, such as keeping out new establishments and new responsible business operators that would be assets to downtown and help normalize alcohol behavior. The proposed ordinance does not support property and business owners who are good stewards of their establishments; neither does it address those who are not. While the ordinance states that it would "provide opportunities in the downtown area for businesses that are either not associated with the sale of alcohol or that sell alcohol incidental to their principal business," the plan does not recognize the market challenges for recruiting businesses to locate in downtowns, nor provide any support for downtown property owners in recruiting non-alcohol businesses. The plan will have negative economic impacts for property owners, particularly small/family property owners, reducing options for renting vacant properties and potentially reducing property values.

The BID Board opposes the proposed Alcohol License Density Plan ordinance and recommends that:

1. The Alcohol License Density Plan be tabled to allow enforcement and education efforts—including the Downtown Safety Plan, audits of establishments vis a vis license conditions, and increased training—to take effect.

2. In the area of enforcement, written guidelines be created to support the work of the ALRC in evaluating license applications. The backbone of these guidelines should be the three existing main criteria, applied in order, for evaluating applications:

- a. Place (location)
- b. Establishment (what kind of establishment, what is the business plan)
- c. Person (who is going to run the establishment, what is the track record)

This will better define the process and criteria while retaining flexibility for the ALRC and Council to exercise their discretion to decide whether the proposed establishment will make a positive contribution to the business mix and neighborhood, or cause problems.

3. In the area of education, the BID and downtown stakeholders facilitate business recruitment and retention, helping property owners find good business tenants for downtown and appropriate locations for businesses. A cornerstone of these efforts will be the DMI Downtown Dynamic market analysis study (co-funded by the BID and the City), to be completed this summer. Also in the area of education, continue to support and gauge the effects of safer drinking efforts on the part of the university including ASM student-led efforts.

4. The BID and downtown stakeholders continue to pursue environmental and community measures, i.e.:

- improved transportation options to alleviate bar-time density (make bus stops cab stands);
- continued discussion of changing city policy to allow licensed establishments to hire off-duty police with full arrest powers as security;
- identifying environmental safety improvements (e.g., lighting, video surveillance);

- voluntary “best practices” for downtown establishments (e.g., ratio of security to capacity);
- working with the BID Board, city agencies, and BID license-holders to improve communication and help licensed establishments meet regulations.

5. Two years from the effective date of the proposed ALRC policy, if enforcement and education together with the ALRC guidelines have not been effective, implementation of the Alcohol License Density Plan can be revisited.

6. If the Alcohol License Density Plan is to be implemented at any time, it should be amended as below. The following proposed amendment to Chapter 38 regarding the definition of “ceasing operations” should also be implemented.

**PROPOSED AMENDMENTS** to Alcohol License Density Plan (05739, v. 2)  
(See also attached redlined version of the ordinance.)

1. Section 1 (Purpose). Strike language implying the causal relationship between density and the high volume of alcohol-related problems. The supporting research provided by the city shows correlation, not causation.

2. Section 2 (Density Plan Area) – Amend Density Plan area as indicated in attached redlined version.

3. Section 3 (Definitions).

a - Amend to state that the definition of a bona fide restaurant will be as defined in Sec. 38.02 of the Madison General Ordinances.

b - Amend to state that the definition of ceasing regular operations will be as defined in Sec. 38.10(1)(f) of the Madison General Ordinances.

c – Exceptional Circumstances – Strike language in i-iii that attempts to cover all possible specific instances, and replace with language that gives the ALRC/Council discretion to grant an exception to an establishment that makes a positive contribution to the business mix and neighborhood. It is not possible for policy makers to specify every potential type of establishment that could meet the “exceptional circumstances” standard. Include economic hardship, as determined by the ALRC and Common Council, as an exceptional circumstance.

4. Section 4 a & b (Restrictions) and all following references: Strike language that implies the City Clerk would decide whether or not a license application could be entertained, and replace with language that gives applications due process.

5. Section 4 (a)(v) and 4(b)(vii) (Restrictions) and all following references: Change the “grace period” for filing a new alcohol beverage license application for a location where a previous establishment has ceased operations from 60 days to two years. For leased properties, the grace period should begin only after the property owner regains full control of the property.

In many cases, it can take more than 120 days for the property owner to get control of the property after a tenant has ceased operations, especially if there needs to be eviction proceedings.

Even if extended from 60 to 120 days as recommended by DCC, the grace period does not account for the reality of downtown market conditions, where it takes property owners an average of two years to confirm a lease with a viable tenant with a good business plan and secure financing.

6. Section 5 (b) (Capacity). Add “good track record and demonstrated experience in running a responsible establishment” to the criteria for considering requests to increase capacity.

7. Section (7) (a) (Transfer of Existing Alcohol Beverage Licenses). Add “upon a finding that said transfer is not contrary to the health, safety and welfare of the community” to the criteria for considering requests to transfer licenses.

8. Add a Section 10, Annual review of the ordinance and its impacts by the ALRC, all referring committees (BID, DCC and DMI), and Council.

9. Current Section 10 (proposed 11): Reduce sunset from 7 to 2 years, requiring positive action by elected officials to extend the ordinance.

**PROPOSED AMENDMENT to Chapter 38, definition of “ceasing operations.”**

To promote upgrade of properties, remodeling and redevelopment should be excluded as reasons that an establishment would be considered to have ceased operations.