

1	ALCOHOL LICENSE REVIEW COMMITTEE	02/28/2007	Refer	DOWNTOWN COORDINATING COMMITTEE		04/19/2007	
1	ALCOHOL LICENSE REVIEW COMMITTEE	02/28/2007	Refer	PUBLIC SAFETY REVIEW BOARD		05/08/2007	
1	ALCOHOL LICENSE REVIEW COMMITTEE	02/28/2007	Refer	BID BOARD		06/07/2007	
2	Attorney's Office/Approval Group	04/13/2007	Approved As To Form				
	Notes: <i>Substitute.</i>						
2	Attorney's Office	04/13/2007	Fiscal Note Required / Approval	Comptroller's Office/Approval Group	04/13/2007	04/13/2007	
2	Comptroller's Office/Approval Group	04/13/2007	Approved Fiscal Note By The Comptroller's Office (SUBSTITUTES)	ALCOHOL LICENSE REVIEW COMMITTEE		04/13/2007	
	Notes: <i>Bohrod</i>						
2	DOWNTOWN COORDINATING COMMITTEE	04/19/2007	Return to Lead with the Recommendation for Approval	ALCOHOL LICENSE REVIEW COMMITTEE		06/20/2007	Pass

Verbose Action:

Friendly Amendment #1: Lang Sollinger suggested in item 3A iv to change the wording from "may" to "will".

Friendly Amendment #2: Lang Sollinger suggested adding wording to #10: A) An annual review shall be done by the impacted committees and Joel Plant, subject to final language by sponsors.

Friendly Amendment #3: Lee suggested in items 5A and 6A, the days be changed from 60 days to 120 days.

Friendly Amendment #4: Miller suggested that the sunset provision be changed to four years, instead of seven years.

-Moved by Miller/Lee to offer a substitute motion to defer to the next meeting to allow for a shorter sunset clause, input from Alder Judge, and to establish annual review criteria. Motion failed 5-7. Voting Yes: Miller, Lee, Levin, Levitt-Moy, Thiel. Voting No: Verveer, Lang Sollinger, Zellers, Baneloes, Christianson, McDonnell, Crabb.

Alcohol Density Plan (Joel Plant)

-According to research by the NIAAA, there are six key elements needed in dealing with alcohol within a community:

- 1) Responsible beverage server training.
- 2) Underage serving of alcohol and enforcement.
- 3) Restrict alcohol density.
- 4) Drunk driving laws.
- 5) Increase the price of alcohol.
- 6) Form campus coalitions.

-Alcohol Density Plan was formally introduced on 11-29-07.

-A list of different types of scenarios was submitted and discussed.

-Trying to be very transparent, fact based, and fair.

-Amendments to the alcohol license density plan were distributed, identified, and explained.

Asst. City Attorney Steven Brist spoke on the following:

-Many of the prosecutions are due to alcohol related problems.

-Marginal businesses are tempted to look the other way, bend or break the laws.

-Much better legal basis for denial of a liquor license. There could be a basis of discrimination without an alcohol density plan.

-It is much easier to initially deny a license rather than to take the alcohol license away after it is already issued.

-Politically it is difficult to say no, without the benefit of a plan or criteria.

-Need a legal basis for denial.

-Carbine: Does the document need to be an ordinance? Brist: Yes, it should be, it would have more teeth.

-State statues spell out the definition of a bar and restaurant.

-Miller: Has a license every been denied due to alcohol density? Verveer said yes, and cited a few examples. Kimea was denied by the ALRC, as their request for a capacity increase was denied.

Following comments on the original motion, with 4 amendments:

-Miller: Can not support the Ordinance as it is currently written.

-Zellers: Supports the Alcohol Density Plan and ordinance.

-Lang Sollinger: Supports the Ordinance with a annual review.

-Carbine: Supports the review, but what is the criteria and benchmarks for review?

-Thiel: Map of ordinance has open borders. Establishments could set up just outside of the borders on the map. Sunset of 7 years is to long. Wants a 4 year maximum.

McDonnell: Supports motion as amended. Ordinance will benefit the quality of downtown area. This begins part of the cultural change of downtown and maturation of the downtown. Not an enforcement tool.

-Miller: Said there is a good mix and balance of businesses in the downtown area 33% bars, 33% restaurants, and 34% mixed services.

-Christianson: Does not want referral again.

-Plant: This ordinance does not address problematic establishments. 7 year sunset may be to long and could be amended. Criteria is action based research. Purpose of ordinance is spelled out in the ordinance.

-Levin: Will vote against the motion because ordinance does not address enough of the bad actors.

-Levitt-Moy: Great amendments, loves the downtown, a lot needs to be done prior to the ordinance, the six items from NIAAA that Joel Plant listed are good and great ideas.

Notes: -The original motion, with 4 friendly amendments passed 7-5. Voting Yes: Verveer, Lang Sollinger, Zellers, Baneloes, Crabb, Christianson, McDonnell. Voting No: Miller, Lee, Levin, Levitt-Moy, Thiel.
Moved by Zellers/Baneloes to recommend adoption of the substitute ordinance.

Absent: Amundson
 Excused: Judge
 Aye: Verveer, Christiansen, Banuelos, Sollinger, Crabb, Zellers and McDonnell
 No: Leavitt-Moy, Lee, Levin, Miller and Thiel
 Non Voting: Carbine and Weinstock

2	PUBLIC SAFETY REVIEW BOARD	05/08/2007	Return to Lead with the Following Recommendation(s)	ALCOHOL LICENSE REVIEW COMMITTEE	06/20/2007	Pass
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Verbose Action: After the above public comments and discussion, PSRB members gave input. On the motion to approve, it was with the intention of keeping the sunset provision at 7 years. Judge said that students were afraid of what would happen (eg, increased sexual assaults) if ordinance is passed and then have "unlicensed bars" (house parties); feels that ALRC needs to give licenses on a case-by-case basis; wants a 4-year sunset and feels the density will shift to unsafe house parties. Pasha also would like a 4 year sunset. Scott initially felt he would vote for the measure with all the DCC recommendations but wonders now what the PSRB role is - look at the substance and principles and then this is what would recommend to the Common Council? Endorse as is with a 7-year sunset. Smith was in accord with Scott - need enough time to gather data. Skidmore agreed - felt comfortable moving forward with the knowledge that the Council will hash out details.

Notes: *Keep sunset provision at 7 years.*

Aye: Skidmore, Scott, Moen and Smith
 No: Judge, Pasha and Bell

2	BID BOARD	06/07/2007	Return to Lead with the Following Recommendation(s)	ALCOHOL LICENSE REVIEW COMMITTEE	08/15/2007	
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Notes: *The BID Board voted unanimously (12-0) to approve the attached report "BID_ALDP_FinalReport.pdf" (opposing the ordinance).*

2	ALCOHOL LICENSE REVIEW COMMITTEE	06/20/2007	Refer	ALCOHOL LICENSE REVIEW COMMITTEE	06/20/2007	Pass
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Verbose Action: July 18 meeting.

2	ALCOHOL LICENSE REVIEW COMMITTEE	07/18/2007	Refer	ALCOHOL LICENSE REVIEW COMMITTEE	08/15/2007	Pass
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Verbose Action: future meeting.

2	ALCOHOL LICENSE REVIEW COMMITTEE	08/15/2007	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER			Pass
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Verbose Action: with the following change: Extend the grace period from 120 to 365 days.

Notes: *with the following change: Extend the grace period from 120 to 365 days.*

Text of Legislative File 05739

..Fiscal Note

It is not anticipated that enactment of the Alcohol License Density Plan will significantly affect overall General Fund revenues associated with alcohol licenses.

..Title

SUBSTITUTE - Creating 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.

..Body

DRAFTER'S ANALYSIS: The purpose of this ordinance is to establish a density plan which will maintain or gradually reduce the number of certain types of alcohol beverage licenses in the named police sectors and

maintain or gradually reduce the overall patron capacity of certain types of alcohol beverage licenses in those sectors.

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

Subdivision (o) entitled "Alcohol License Density" of Subsection (9) entitled "Limitation Upon Issuance of Licenses" of Section 38.05 entitled "General Licensing Requirements" of the Madison General Ordinances is created to read as follows:

"(o) Alcohol Beverage License Density Plan.

1. Purpose. Police Sectors 403, 404, 405 and 406 currently contain twenty-seven percent (27%) of all alcohol beverage licenses issued by the City of Madison ("City") and thirty-four percent (34%) of all 'Class B' Combination alcohol beverage licenses issued by the City. Not coincidentally, these Sectors experience a high volume of alcohol-related problems, as detailed in the Madison Police Department's 2005 report, "Alcohol-Related Violence in Downtown Madison." As part of the ongoing comprehensive efforts to decrease the incidence of alcohol-related problems in the downtown area, the City seeks to maintain or gradually reduce the number and capacity of certain types of alcohol beverage licenses in the Sectors identified in this Alcohol License Density Plan. This maintenance and reduction will be achieved through the licensing powers of the Alcohol License Review Committee ("ALRC") and the Common Council. Additionally, the City seeks to decrease the strain on public resources caused by a high density of alcohol-related businesses while simultaneously providing 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.
2. Density Plan Area. Any property located within Police Sectors 403, 404, 405 and 406 in the City of Madison. The Common Council, upon recommendation of the ALRC, may add new Police Sectors to this Plan at any time based upon the criteria and analysis used in the Madison Police Department's 2005 report, "Alcohol-Related Violence in Downtown Madison."
3. Definitions.
 - a. Bona Fide Restaurant means the establishment's principal business is that of a restaurant.
 - i. Principal Business As a Restaurant is determined by the Common Council, upon recommendation of the ALRC, based on an analysis of the following factors:
 - a. The amount of capital, labor, time, attention and floor space devoted to each business activity; and
 - b. The sources of net income and gross income (i.e., revenues generated from food, alcohol, and other items); and
 - c. The name, appearance, and advertising of the establishment, the hours of operation, the frequency, duration, timing and magnitude of entertainment, staff scheduling, and the use of security staff. Less, but not inconsequential, weight is given to these ten factors.
 - ii. An establishment holding a 'Class B' Combination alcohol beverage license is presumed to be a tavern. This presumption may be rebutted by competent evidence. The burden is on the license holder to provide this evidence.
 - iii. Generally, an establishment licensed as a restaurant that generates fifty (50) percent or less of its annual gross revenues from the sale of alcohol is considered a restaurant.
 - iv. Any establishment representing itself as a bona fide restaurant will be required to maintain that status throughout the existence of its alcohol beverage license and may be required to provide evidence substantiating its status as a bona fide restaurant upon request of the City pursuant to Sec. 38.05(10), M.G.O.
 - v. Being classified as a bona fide restaurant does not mean that an establishment is prohibited from operating a bar that serves alcohol beverages to patrons.
 - b. Ceased Regular Operations

- i. An establishment is deemed to have ceased regular operations when any of the following occurs:
 - a. The alcohol beverage license is surrendered to the City Clerk absent the issuance of a newly-granted license; or
 - b. The establishment is no longer open to the public; or
 - c. The establishment is open to the public only intermittently in an attempt to circumvent the provisions of this subsection; or
 - d. The establishment closes its accounts with its distributors; or
 - e. The alcohol beverage license holder fails to submit a renewal application to the City Clerk before the last possible submittal date.
- ii. Decisions regarding whether an establishment has ceased regular operations will be made by the Common Council upon a recommendation by the ALRC.
- c. Exceptional Circumstance
 - i. An establishment is considered an exceptional circumstance if it is not a tavern, restaurant, liquor store, convenience store, full-service grocery store, or hotel.
 - ii. An establishment providing live music in a tavern environment is not considered an exceptional circumstance.
 - iii. Applications relying on classification as an exceptional circumstance must provide evidence therein that no more than twenty-five (25) percent of the establishment's annual gross revenues will come from the sale of alcohol.
 - iv. Any establishment representing itself as an exceptional circumstance will be required to maintain that status throughout the existence of its alcohol beverage license and may be required to provide evidence substantiating its status as an exceptional circumstance upon request of the City pursuant to Sec. 38.05(10), M.G.O.
 - v. Decisions regarding an establishment's status as an exceptional circumstance will be made by the Common Council upon a recommendation by the ALRC.

4. Restrictions.

- a. 'Class A' Alcohol Beverage Licenses. New applications for 'Class A' alcohol beverage licenses to be located in the Density Plan Area will be accepted by the City Clerk and presented to the ALRC and the Common Council only in the following circumstances:
 - i. The sale of an existing business that holds a valid 'Class A' alcohol beverage license and is operating as a 'Class A' licensed establishment at the time of the sale; or
 - ii. Any of the circumstances provided for in Sec. 38.05(8)(b)1, M.G.O. (i.e., death of the original licensee, bankruptcy, assignment for the benefit of creditors, or disability of the original licensee); or
 - iii. The proposed establishment is a full-service grocery store; or
 - iv. The proposed establishment qualifies as an exceptional circumstance; or
 - v. The proposed establishment is intended to replace a former 'Class A' alcohol beverage license that ceased regular operations no more than sixty (60) days prior to the filing date of the new alcohol beverage license application.
- b. Class 'B' Beer, Class 'C' Wine, or 'Class B' Combination Alcohol Beverage Licenses. New applications for Class 'B' Beer, Class 'C' Wine, and/or 'Class B' Combination alcohol beverage licenses to be located in the Density Plan Area will be accepted by the City Clerk and presented to the ALRC and the Common Council only in the following circumstances:
 - i. The sale of an existing business that holds a valid Class 'B' Beer, Class 'C' Wine or 'Class B' combination alcohol beverage license and is operating as a Class 'B' Beer, Class 'C' Wine or 'Class B' combination licensed establishment at the time of sale; or
 - ii. Any of the circumstances provided for in Sec. 38.05(8)(b)1, M.G.O. (i.e., death of the original licensee, bankruptcy, assignment for the

- benefit of creditors, or disability of the original licensee); or
 - iii. The proposed establishment is a bona fide restaurant; or
 - iv. The proposed establishment is a new hotel; or
 - v. The proposed establishment is part of an existing hotel wishing to expand or modify its licensed premises; or
 - vi. The proposed establishment qualifies as an exceptional circumstance; or
 - vii. The proposed establishment is intended to replace a former Class 'B' Beer, Class 'C' Wine, or 'Class B' Combination alcohol beverage license that ceased regular operations no more than sixty (60) days prior to the filing date of the new alcohol beverage license application.
5. Capacity.
- a. Any new licenses granted pursuant to the sale of an existing and operational business or under the sixty- (60) day window described in sections 4(a) and (b) above will be eligible for a licensed capacity no greater than the licensed capacity of the former business at the time that regular operations were ceased.
 - b. Requests for increased capacity for existing alcohol beverage licenses within the Density Plan Area will be accepted by the City Clerk and presented to the ALRC and the Common Council only if the establishment is a hotel or a bona fide restaurant or qualifies as an exceptional circumstance.
6. Surrender Of Existing Alcohol Licenses. If an existing alcohol beverage license for an establishment located within the Density Plan Area is surrendered for a reason other than the sale of an existing and operational business or transfer within the Density Plan Area under Sec. 38.05(8), M.G.O., a new alcohol beverage license application for that location will be accepted by the City Clerk and presented to the ALRC and the Common Council only if the proposed establishment is a bona fide restaurant, qualifies as an exceptional circumstance, or falls within the sixty- (60) day window described in sections 4(a) and (b) above.
7. Transfer Of Existing Alcohol Beverage Licenses.
- a. An application to transfer an existing alcohol beverage license from outside the Density Plan Area to a location within the Density Plan Area will be accepted by the City Clerk and presented to the ALRC and the Common Council only if the proposed establishment is a bona fide restaurant or qualifies as an exceptional circumstance.
 - b. An application to transfer an existing alcohol beverage license from within the Density Plan Area to another location within the Density Plan Area will be accepted by the City Clerk and presented to the ALRC and the Common Council.
8. Pending Prosecutions. This subsection shall not interfere with Sec. 38.06(1), M.G.O. pertaining to restrictions on the issuance of new Class A or Class B alcohol beverage licenses pursuant to the sale or transfer of a business while there is pending against the current licensee any proceedings related to violations of the Madison General Ordinances conviction of which would result in automatic forfeiture of said license.
9. Renewals. This subsection shall not prohibit the renewal of any alcohol beverage license existing within the Density Plan Area.
10. Sunset. This subsection shall expire seven (7) years from the date of enactment unless extended by the Common Council prior to the expiration date."