



## Office of the Mayor

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October 15, 2014

To: Members of the Alcohol License Review Committee

From: Mark Woulf, Food and Alcohol Policy Coordinator

Re: Class A Uniform Conditions and Regulations

You requested an examination of our current regulations and conditions for Class A, or retail, alcohol established and a recommendation on policy that considered the uniformity of license conditions and took into account previous discussions about other potential city-wide Class A regulations. In response, staff held two meetings, one with Aids. Subeck and Bidar, to discuss the issue of uniformity and appropriateness of certain types of retailers to offer certain types of products. Staff also considered the limitations under State of Wisconsin Statutes on municipalities to further define "types" of alcohol licenses, our authority to use zoning regulations, and other capabilities of the Alcohol License Review Committee in determining reasonable direction for the committee and Common Council.

### History

The Alcohol License Review Committee uses license conditions, or provisions that are a condition of issuance of an alcohol license, to place certain parameters on the sale or use of alcohol. The ALRC commonly uses license conditions to negotiate hours of operations (with the consent of the agent), limits on outdoor service, and, in the case of retail establishments, the types of products that can be offered. A violation of a condition of the license is grounds for suspension or revocation of an alcohol license.

The ALRC began consistently placing limitations of certain types of products, especially "single-serve" products, when the City of Madison explored proactive ways to decrease the easy access and availability to cheaper, higher alcohol content products that tend to be popular amongst chronic alcoholics. The City of Madison initially looked at product bans, but ultimately decided that it was more effective to target the individual over the product.

In response, the City of Madison adopted the "Habitually Intoxicated Persons (HIPs) Ordinance" that bans Class A Establishments from selling alcohol to persons with more than six alcohol-related convictions in a six-month time period. During this time, the city also believed that it could help alleviate the problem of easy, cheap access by concentrating on the downtown area, the area where

the majority of police calls-for-service originate from for HIPs, by placing conditions on downtown Class As that limit the “single-serve” products. Today, the vast majority of downtown Class As have conditions on their licenses that do not allow sale of most “single-service” products.

In the years since, the city continues to use the HIP ban list and place conditions on Class A establishments, depending on the area of the license. The result is mostly positive, but the city has strayed from uniform conditions on all Class A licenses. The industry has also trended away from producing “40s” or forty ounce malt beverages or beers at all, once a major concern of the city. The craft beer industry has also vastly gained in popularity and began producing more single-serve products.

Several retailers have also pointed out that the inconsistency across conditions place a burden on competitors in close geographical proximity. The city has a strong interest and legal ability to reasonably limit alcohol sales contrary to the health, safety, and welfare of the community. But, it also has a strong interest and responsibility to apply those regulations equitably.

### **Recommendations**

After discussion and review, staff felt comfortable offering the following options to the ALRC. After discussion and feedback on this document, if directed, staff will draft ordinance(s) and/or policies to fit your appetite.

- 1) **Place conditions on all Class A licenses within a specific geographic area (to be determined) that encompasses the downtown area.**

Conditions should mirror the current status of most licenses:

1. Shall not sell, dispense or give away fermented malt beverages in the original container in amounts less than the amount contained in a six-pack of bottles or cans;
2. Malt based flavored coolers may not be sold, dispensed or given away in the original container in amounts less than a four-pack of bottles or cans;
3. Shall not sell, dispense or give away intoxicating liquor in the original container in amounts of two hundred (200) milliliters or less in volume. 'Intoxicating liquor' shall not include wine in the original container with an alcohol content of 15% or less by volume;
4. Shall not sell, dispense or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two years or more, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.

- 2) **Clarify the definition, within zoning code, of full-service liquor store to include most grocery stores.**

Current definitions:

Liquor Store. An establishment in which the principal use is the sale of alcohol and which holds a Class A license for liquor or beer. (Cr. by ORD-14-00083, Pub. 4-16-14, Eff. 7-1-14)

Accessory Retail Alcohol Sales. The accessory sales of alcohol at a retail establishment that

October 15, 2014

Page 3

holds a Class A license under Sec. 38.06(11). (Cr. by ORD-14-00083, Pub. 4-16-14, Eff. 7-1-14)

- 3) **Adopt an ordinance that bans the sale of all “single-serve” at all establishments that are not defined as full-service liquor stores.**

The policy decision would clarify that the most appropriate place for sale of single-serve products of both liquor and beer are in environments where the expectation of exposure to alcohol is equivalent to the advertising, branding, and security.