

Alcohol License Review Committee

Meeting of March 15, 2017

Agenda #20, Legistar #46245, New License High Noon Saloon, LLC • dba High Noon Saloon

License Conditions

The license to Jackal, Inc., the High Noon Saloon contained 14 conditions. Will these conditions continue should a new license be granted?

Note: the current license as reflected under 'search by business name' on the Clerk's "Search Alcohol Licenses" webpage does not contain all 14 conditions. However, I cannot find a record of the Council having removed these conditions. A list of all 14 conditions can be found on a 2005 Council report. See Item #197 of:

<http://legistar.cityofmadison.com/attachments/1088.pdf>

Percentage of Income

Question #57 states that 94% of revenue will come from alcohol, and 3% from food, not including ticket sales. Ticket sales should be included under the "other" category, otherwise how will the Commission know whether another business is being conducted on the premises? Further, including income such as ticket sales under the "other" category seems to be standard practice.

License applicants, since 2015, with significant business income under "other" include:

The application for Frank Productions Concerts, LLC, the "live music venue" being built at 1 S. Livingston, reflected 26% alcohol and 74% other (ticket sales). Legistar 45187.

The application for the Paint Bar, 1224 Williamson, reflected 25% alcohol, 25% food, 50% other. Legistar 38173.

The application for the Madison Mallards, 2910 N Sherman, reflected 13% alcohol, 27% food, and 40% other. Legistar 46246.

The application For Ho-Chunk Gaming, 4002 Evan Acres, reflected 1% alcohol, 1% food, 98% other. Legistar 42996.

The application for Fired-Up Pottery, 4112 Monona, reflected 5% alcohol, 0% food, 95% other (Art). Legistar 39856.

The application for the Crafty Project, 312 N Third, reflected 5% alcohol, 95% other. Legistar 39565.

The application for Big Top Events, Breese Stevens, reflected 13% alcohol, 47% food, 40% other. Legistar 39463.

The application for the Best Western, 650 Grand Canyon, reflected 1% alcohol, 1% food, 98% other (hotel rooms). Legistar 39099.

The application for Vitense Golfland, 5501 Schroeder, reflected 4% alcohol, 21% food, 75% other. Legistar 37765.

The application for the Harlem Renaissance Museum, 1444 E Washington, reflected <1% alcohol, <1% food, 99% other. Legistar 36984.

Applications for coffee/teas houses have also used "other" to indicate the percentage from beverages.

Helbach's Coffee House (75% other) Legistar 44843.

Macha Tea company (50% other, Legistar 43453)

Froth House (50% other, Legistar 38576)

Interestingly, the Orpheum license application also just listed alcohol (80%) and food (20%). However, the license was issued to DLS Events, LLC, a company that is a theater concessions business. Legistar 42287. (The theater is operated by Live Nation Worldwide Inc. Legistar 42293.)

May a license be issued to a live music venue?

The application, question #26, states that the application is for a "live music venue." Question #27 states that in addition to being a live music venue that the business will include "private events and neighborhood/community events, including weddings, business events, etc."

Is a live music venue eligible for an alcohol license? MGO 38.05(9)(d)(7), which is comparable to State law, provides that "[n]o Class B license may be granted for any premises where any other business is conducted in connection with the premises," with specified exceptions. One exception is a "bowling center or recreation premises." Does a live music venue come within the definition of "recreation premises?"

In *Norton v. Town of Sevastopol*, 108 Wis.2d 595, 323 NW 2d 148 (1982), a license applicant wanted to obtain a license to have a bluegrass festival at a drive-in movie theater. The Court of Appeals ruled that a drive-in theater did not qualify as "recreational premises" since "the wording of the statute evidences a legislative intent to generally prohibit the conduct of all other business on the premises of licensed Class "B" retailers of fermented malt beverages, subject only to a very few limited and specific exceptions." The court discussed how music at a supper club was entertainment auxiliary to the food.

Respectfully Submitted,
Linda Lehenrtz