

**CITY OF MADISON**  
**OFFICE OF THE CITY ATTORNEY**  
**Room 401, CCB**  
**266-4511**

Date: August 14, 2020

To: ALRC Members

From: Steven Brist, Assistant City Attorney

**Re: Boneyard Production LLC, Application for “Class B” Beer and Liquor Retail Alcohol License**

In July, the ALRC considered the application of Boneyard Productions, LLC to operate “The Boneyard” which is described in Section D, Question 21, of the Application as a “dog park with a bar/tavern”. I was asked to research the legal issues surrounding such a business. There are several areas that need to be addressed, including what type of license is needed to operate the dog-related business, health requirements for establishments that serve food or beverages with a dog present, and state limitations on businesses permitted to be operated in conjunction with a bar or tavern.nf

***Other Potentially Applicable Licenses***

1. The City of Madison does not license private “dog parks”. In Madison, “dog parks” are areas in public parks where dogs may be off a leash, as provided in Sec. 8.195, MGO. Madison does license dog kennels, under Sec. 9.50(5), MGO, and this license may be applicable to the applicant’s business. It is unclear if the language of this ordinance fits this type of operation.

***Dogs in Drinking Establishments***

2. The application states that the establishment will have “minimal” indoor seating. It also states that outdoor seating “will be provided as covered, shaded and open”. An establishment that holds a food and drink license from Public Health Madison and Dane County, may only permit service animals inside their establishment.

Dogs may be allowed in outdoor seating areas if restaurants/businesses adhere to the following:

- a. Signage is provided informing customers that dogs are allowed in outdoor seating areas.
- b. No food or beverage is *prepared* in these areas.

- c. Food may not be served to dogs; however, water may be provided in a single-use disposable container.
- d. Employees shall not have direct contact with dogs while working, (i.e. No petting!).

### ***Operating Other Businesses On Licensed Premises***

3. As mentioned above, the application describes the contemplated business as a “Dog park with a bar/tavern”. In general, a Class “B” (beer) retail license or permit may not be issued to a premises that combines the retail sale of fermented malt beverages with any other business activity. Sec. 125.32 (3m) Wis. Stats. This provision also applies to “Class B” liquor and beer retail licensees. Numerous exemptions exist, such as for hotels, restaurants, and taverns combined with grocery stores, novelty stores, or, in fourth class cities, sporting goods stores. Madison is a second class city. The ALRC will need to decide if it that law permits licensing this business, or what type of separation is needed between the two business activities.

Here is the applicable state statute, Sec. 125.32(3m), Wis. Stats:

“(3m) Limitations on other business; Class “B” premises. No Class “B” license or permit may be granted for any premises where any other business is conducted in connection with the premises, except that this restriction does not apply if the premises for which the Class “B” license or permit is issued is connected to premises where other business is conducted by a secondary doorway that serves as a safety exit and is not the primary entrance to the Class “B” premises. No other business may be conducted on premises operating under a Class “B” license or permit. These restrictions do not apply to any of the following:

- (a)** A hotel.
- (b)** A restaurant, whether or not it is a part of or located in any mercantile establishment.
- (c)** A combination grocery store and tavern.
- (d)** A combination sporting goods store and tavern in towns, villages and 4th
- (e)** A combination novelty store and tavern.
- (f)** A bowling center or recreation premises.
- (g)** A club, society or lodge that has been in existence for 6 months or more prior to the date of filing application for the Class “B” license or permit.

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**(h)** A movie theater.

**(i)** A painting studio.

**(j)** Premises for which a temporary Class "B" license is issued under s. 125.26 (6) if the license is one of multiple licenses issued by the municipality to the same licensee for the same date and times, the licensee is the sponsor of an event held at multiple locations within the municipality on this date and at these times, and an admission fee is charged for participation in the event and no additional fee is charged for service of alcohol at the event."

I hope you find this information helpful. We can discuss it further at our upcoming meeting.