



Legislation Details (With Text)

**File #:** 13735      **Version:** 1      **Name:** Restaurant definition  
**Type:** Ordinance      **Status:** Filed  
**File created:** 2/18/2009      **In control:** ALCOHOL LICENSE REVIEW COMMITTEE  
**On agenda:** 2/24/2009      **Final action:** 4/1/2009  
**Enactment date:**      **Enactment #:**  
**Title:** Amending Sec. 38.02 of the Madison General Ordinances to revise the definition of restaurant for the purposes of Chapter 38.  
**Sponsors:** Michael Schumacher  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
4/15/2009	1	ALCOHOL LICENSE REVIEW COMMITTEE		
2/24/2009	1	COMMON COUNCIL	Referred	
2/18/2009	1	Attorney's Office/Approval Group	Referred for Introduction	

**Fiscal Note**

No fiscal impact is anticipated from changing the definition of a restaurant.

**Title**

Amending Sec. 38.02 of the Madison General Ordinances to revise the definition of restaurant for the purposes of Chapter 38.

**Body**

DRAFTER'S ANALYSIS: This proposal changes the definition of a restaurant for those who hold both a restaurant permit and a Class B retail alcohol beverage license. It changes the standard from alcohol being 50% or less of an establishment's gross receipts to a standard of food and non-alcohol beverages being more than 50% of gross receipts. It states that taxes collected by a retailer, such as sales taxes are not part of the gross receipts. It places the burden on the business to affirmatively prove that their principal business is restaurant and requires a retailer to retain records for at least 3 years and to produce those records upon request. It also states that if records are not available or cannot be used, that those records are deemed to represent non-food sales.

\*\*\*\*\*

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

Section 38.02 entitled "Definitions" of the Madison General Ordinances is amended by amending therein the following:

~~“Restaurant” has the meaning as defined in Wis. Stats. Sec. 254.61(5) and whose sale of alcohol beverages accounts for 50% or less of the establishment’s gross receipts. This definition is effective January 1, 2004.~~

- (a) For the purposes of this Chapter, “Restaurant” means a person who holds a permit under Wis. Stat. § 254.64 whose principal business is that of a restaurant and whose sale of food and non-alcohol beverages consumed on premise accounts for more than 50% of the establishment’s gross receipts. Gross Receipts do not include any taxes collected under law. A licensee claiming to be a restaurant under this chapter has the affirmative duty to demonstrate that its principal business is that of a restaurant under Sub (a). A licensee claiming restaurant status under this Chapter shall maintain all records of gross receipts and purchase invoices for a

minimum of three years. Upon request by the City Comptroller's Office, a licensee shall produce such records within 14 days of the date of the request, unless the time to produce such records is extended by the City Comptroller's Office. Records that are not produced, or are missing, incomplete or illegible shall be deemed to represent nonfood sales in the determination of restaurant status."