



Legislation Text

File #: 05377, Version: 1

Fiscal Note

No impact on general fund revenues or administrative work load is anticipated.

Title

Amending Section 38.06(11) of the Madison General Ordinances to change the title of the ordinance regarding the nightclub license to more accurately reflect what the ordinance regulates and what age groups are allowed on a premise that has been granted this license.

Body

DRAFTER'S ANALYSIS: This amendment simply changes the name of the nightclub license to more accurately reflect what the ordinance regulates and to eliminate the perception that every establishment that applies for this type of license is going to operate as a "nightclub." This ordinance requires an entertainment license in "Class B" and/or Class "B" establishments with patron capacities in excess of 100 if the establishment offers live entertainment.

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

Subsection (11) entitled "Nightclub License" of the Madison General Ordinances is amended to read as follows:

"(11) Nightclub 21+ Entertainment License.

- (a) Nightclub Entertainment License Required. No holder of a "Class B" and/or Class "B" intoxicating liquor or fermented malt beverage license with a patron capacity of more than one hundred (100) shall offer or allow live entertainment without first obtaining a Nightclub Entertainment License from the City Clerk.
- (b) Temporary Nightclub Entertainment License. A licensed establishment may obtain an nightclub entertainment license on an event basis. Such license shall authorize live entertainment during a particular 24 hour period. No such license shall be required for New Year's Eve and live entertainment will be permitted in all licensed establishments on New Year's Eve. No more than five (5) Temporary Nightclub Entertainment Licenses shall be issued for the same premises in any license year.
 - 1. Temporary Nightclub Entertainment licenses shall be issued by the City Clerk. The issuance and review provisions contained in Sec. 38.05(9)(e) shall govern the issuance and review of this event nightclub entertainment license.
 - 2. The fee for each Temporary Nightclub Entertainment license shall be fifty dollars (\$50.00).
- (c) Live Entertainment Defined. A licensed establishment shall be deemed to offer or allow live entertainment if any of the following activities are offered, permitted or allowed:
 - 1. live music performances;
 - 2. disc jockeys;
 - 3. the establishment has a designated dance floor area.
- (d) Designated Dance Area Defined. An identified area of at least 200 square feet that is devoted to dancing at times when entertainment is the principal business of the establishment. No dancing shall be permitted on top of a bar at which patrons are directly served.
- (e) Under Age On Premise. An establishment that does not meet the definition of a restaurant as defined in Sec. 38.02, MGO, may not allow patrons under the age of 21 on their premise unless they do so pursuant to any of the circumstances enumerated in Sec. 28.04(3), MGO. An establishment holding a Class "B" and/or "Class B" license and a restaurant permit and who meets the definition of a "restaurant" in Sec. 38.02, Madison General Ordinances, shall, for times when its primary business is entertainment, submit a plan to the Madison Police Department and the Alcohol License Review Committee that details the establishments plan for identifying patrons under the age of twenty-one (21) and a specific plan as to how they will enforce drinking-age requirements. When the establishment's principal business, as that term is defined in Sec. 125.02(15m), Wis. Stats., is entertainment, no patrons under the age of eighteen (18) shall be allowed on the licensed premises unless they are accompanied by a parent, legal guardian, or spouse who is of legal drinking age.

- (f) Identification of Patrons 21 Years Of Age And Older. Any licensed establishment that meets the exceptions contained in Section 125, Wisconsin Statutes and Chapter 38 of the Madison General Ordinances for allowing underage patrons on the licensed premise, must have a means of visually and conspicuously identifying patrons who are twenty-one (21) years of age and older. It shall be the sole responsibility of the license holder to determine whether any of the exceptions contained in Sec. 125, Wis. Stats. and Chapter 38 MGO, apply to their establishment. An establishment whose principal business is that of a tavern may not have underage patrons on the premise at any time unless an exception contained in Sec. 125, Wis. Stats. and/or Chapter 38 MGO applies to their situation.
- (g) Security and Door Personnel. All security personnel and door personnel (e.g. ID checkers) shall wear clothing that readily identifies them as security personnel or door personnel.
- (h) Security/Operational Plan. All nightclub entertainment license applicants shall submit a security/operational plan at the time of application. The plan shall indicate what type of live entertainment the establishment will offer. The plan shall indicate the number of security personnel the applicant will employ and how they will be utilized. The security plan shall also set forth how the applicant will handle issues regarding: control and clearance of the parking lot during hours of operation and at closing time; unruly patrons; patrons who are intoxicated; patrons presenting false ID's; control and supervision of patrons under the age of twenty-one (21); the circumstances under which the police should be called and how physical disturbances (including fights) will be handled. The security plan shall also identify by name and date of birth, individuals who are employed by the establishment in a management capacity.
- (i) Control of Premises. At no time may licensee relinquish control of the licensed premises or the service of alcohol to any other person or entity. The licensee must remain in control of the premises and must continue to be in control of the alcohol and service thereof during all events, including private parties. The licensee and its employees will be held responsible for all conduct taking place on its premises at all times including conduct taking place during private parties.
- (j) Application. Upon application to the City Clerk, the City Clerk shall refer the nightclub entertainment license application to the ALRC for a public hearing pursuant to Madison General Ordinance Section 38.05(3)(c). The ALRC shall make a determination and recommendation to the Common Council regarding the issuance of the nightclub entertainment license. The ALRC may recommend, and the Common Council may impose, restrictions on the nightclub entertainment license hours relating to presentation of live entertainment if the information or evidence available to and considered by the ALRC and/or Common Council reasonably establish that such restriction is necessary to protect the health, safety and welfare of the designated neighborhood or necessary to prevent underage patrons from purchasing, possessing or consuming alcohol beverages on the licensed premise.
- (l) Fee. The annual license fee shall be two hundred and fifty dollars (\$250.00) and the license shall expire on June 30 following its issuance.
- (m) Renewal. Nightclub Entertainment licenses shall be obtained on or before June 30 of each year or be subject to a late filing of fifteen percent (15%) of the license fee. Payment of the late filing fee shall not relieve any person from any other penalties prescribed in this chapter for failure to obtain the license.
- (n) Change In Operation. If, after the license has been granted or issued, the licensee wishes to make any substantial deviations from its original plan of operation, the licensee shall file a written request with the City Clerk which states the nature of the change. No change shall take place until the request has been considered by the ALRC and approved by the Common Council.
- (o) Revocation/Suspension or Non-renewal. A Complaint for revocation, suspension or non-renewal of an nightclub entertainment license may be made by; An Alderperson; The Police Chief; The City Attorney; and/or any resident of the City of Madison. Complaints shall be made in writing and filed with the City Clerk who shall then refer the Complaint to the ALRC for a hearing. The ALRC may recommend to the Common Council that an nightclub entertainment license be suspended for cause after notice to the licensee and a hearing. If an nightclub entertainment license is revoked, no other nightclub entertainment license shall be issued to the same person for the same premises for at least twelve (12) months.
- Nightclub Entertainment licenses may be suspended or revoked for any of the following causes:
1. Violation of any conditions or restrictions placed on the license by the Common Council;
 2. Repeated violations of any provisions of Chapter 38 of the Madison General Ordinances;
 3. The licensed premises is operated in such a manner that it has a substantial adverse effect upon the health, safety and welfare of the immediate neighborhood;
 4. Any other reasonable cause which shall be in the best interests and good order of the City.
- The licensee shall be notified in writing of the charges against her or him at least ten (10) days prior to the hearing. At the hearing, the complainant and the licensee will have an opportunity to produce

witnesses, cross-examine witnesses and be represented by counsel. The proceedings shall be tape-recorded. Within ten (10) days of the hearing, the ALRC shall issue a written decision and recommendation stating the reasons therefor and forward such decision to the Common Council. If the Common Council rejects the recommendation of the ALRC, the matter shall be dismissed without costs to either party. If ordered, suspension shall be for a period not to exceed six (6) months; revocation shall be for a period of one (1) year.

- (p) Judicial Review. The decision of the Common Council shall be a final determination and shall be subject to review in court as may be provided by law. Any person aggrieved by the decision may seek review thereof within thirty (30) days after the date of the final determination.
- (q) Penalty. In addition to suspension, revocation or non-renewal of the ~~nightclub~~ entertainment license, licensee may be subject to a forfeiture of not less than \$500 nor more than \$1,000 plus costs for violation of any provision of this section.
- (r) This section shall become effective on June 30, 2005."