



## Legislation Text

File #: 32961, Version: 3

### Fiscal Note

No significant fiscal impact is anticipated.

### Title

**AMENDED** SUBSTITUTE Amending Sections 28.061, 28.072, 28.082, 28.091, 28.151 and 28.211 and creating Section 28.127 of the Madison General Ordinances to create an Alcohol Overlay District in the zoning code, create “Restaurant-Nightclub” and “Nightclub” as uses of land in the zoning code, establish supplemental regulations for “Restaurant-Tavern,” “Tavern,” “Restaurant-Nightclub,” and “Nightclub,” to amend the definition for “Restaurant-Tavern,” “Theater, Assembly hall,” and “Outdoor stage, band shell, or amphitheater and to create definitions for Liquor Store and Accessory Retail Alcohol Sales.

### Body

DRAFTER’S ANALYSIS: The zoning code regulates the permitted uses of land by district. Each table below represents a category of zoning districts, such as the mixed-use and commercial districts, the downtown and urban districts, and the employment districts. The row on the top of each table identifies a specific district within that category. For example, “LMX” is the Limited Mixed Use district in the mixed use and commercial district category.

The table has rows for the available uses of land. If there is a “P” where the use row intersects the district column, that use is permitted in that district. If there is a “C” at that location, that use is a conditional use in that district. If there is neither a “P” nor a “C,” the use is not allowed in that district. Finally, if there is a “Y” in the “supplemental regulations” column, additional rules might apply to that use, and you should look up the use by name in Sec. 28.151. There you will find what the supplemental regulations are for that use. “P/C” means permitted or conditional, depending on specific requirements in the supplemental regulations. For example, under this new law, a Restaurant-Tavern is a conditional use in the NMX and a permitted use in the TSS. It has supplemental regulations.

This ordinance creates three new uses of land in the zoning code, two principal uses known as “Restaurant-Nightclub” and “Nightclub,” and one accessory use known as “Accessory Retail Alcohol Sales”. The ordinance incorporates these new uses into the relevant land use tables throughout the ordinance.

The ordinance also creates new supplemental regulations, new definitions, and amends existing definitions. First, the ordinance creates supplemental regulations for Restaurant-Tavern, Tavern, Restaurant-Nightclub, and Nightclub. Second, it creates new definitions for Liquor Store and Accessory Retail Alcohol Sales. Third, it amends the definition of Restaurant-Tavern in order to remove the zoning department’s consideration of the percentage of sales comprised of food versus alcohol. Importantly, this does *not* remove this requirement under state alcohol licensing laws. Therefore, in addition to receiving approval from zoning for land use, operators must also be licensed by the City. This ordinance simply clarifies that the consideration of the percentage of sales comprised of food versus alcohol is one that is required by and properly decided by the Alcohol License Review Committee, not the Zoning Administrator. Fourth, the ordinance clarifies the definition of “Tavern” to specify that Taverns do not contain kitchen facilities. And finally, the ordinance amends the definition of “Theater, Assembly hall” to require fixed or designated seating, and moves “outdoor stage, band shell, or amphitheater” under the definition of “outdoor recreation.”

Given that the ordinance creates two new land uses, Nightclub and Restaurant-Nightclub, the ordinance also addresses the use status of those establishments depending on whether they were operating prior to the effective date of this ordinance. For example, an establishment that was operating in the NMX district prior to the effective date of this ordinance and in a manner that would meet the definition of Nightclub or Restaurant-Nightclub contained in this ordinance may continue to operate as a Nightclub or Restaurant-Nightclub as a permitted use. However, any Nightclub or Restaurant-Nightclub established after the effective date of this ordinance must apply for a conditional use permit. This distinction is made clear in the

supplemental regulations for each new land use.

The ordinance also establishes an Alcohol Overlay District, within which Taverns, Liquor Stores, and Accessory Retail Alcohol Sales are no longer allowed after the effective date of this ordinance. Taverns, Liquor Stores, and Accessory Retail Alcohol Sales that were established before the effective date of the ordinance may continue nonconforming uses subject to the limitations on nonconforming uses contained in Secs. 28.190 -28.195. Within the Alcohol Overlay District, Restaurant-Nightclubs and Nightclubs are treated as described above, and Restaurants and Restaurant-Taverns are permitted uses both before and after the effective date of this ordinance. The land use requirements in the Alcohol Overlay District supercede the land use requirements in all other districts. Brewpubs are defined separately and are a conditional use within the overlay district.

The ordinance also sets out an annual review process that requires City Staff submit an annual report on the impact and effectiveness of this ordinance to the Plan Commission, ALRC, and Common Council. The ordinance is set to become effective on July 1, 2014. It is set to expire on July 1, 2019, unless extended by Common Council.

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

Please see "Amended Substitute Body-Adopted" in Attachments.