

Outlet Density:

Limiting the Concentration of Retailers Selling & Serving Alcohol in Your Community

In Wisconsin, municipalities control many of the factors shaping the local alcohol environment. Because municipalities issue alcohol licenses, municipal government has control over the number and type of establishments selling and serving alcohol, as well as whether sales are concentrated in one area or spread throughout the community. Issues relating to the number and location of alcohol outlets are often referred to as “outlet density” issues or “density” issues.”ⁱ

Overview of alcohol outlet density:

The causal relationship between the concentration of licensed outlets selling alcohol and alcohol related crime and injury is clear.ⁱⁱ The number and type of licensed outlets in a community is a powerful factor in the creation of a community’s alcohol environment. Long term public safety and community growth are best served by careful review and planning prior to issuing alcohol licenses.

As the *Milwaukee Journal Sentinel* noted in 2008, “Person for person, we have three times more taverns than the rest of the country”.ⁱⁱⁱ Outlet density limits can prevent additional over-concentration and effectively reduce outlet density over time. Although Wisconsin’s municipalities can deny an alcohol license application for any stated reason,^{iv} a municipal ordinance establishing a ceiling or license limit on the number of outlets within a vulnerable area is likely to be more stable than political agreements or resolutions. For example, Madison and Racine have adopted partial density limits targeting areas with a history of alcohol related problems.

Municipal officials are often unaware of the likely consequences of over-concentration. Once over-concentration occurs, it is difficult to reduce the number of alcohol licenses. License non-renewal and revocation is difficult, costly, and time consuming. As a result, concentrations of alcohol outlets are not easily reversed making it imperative for municipalities to understand outlet density and consider appropriate local limitations *before* problems emerge.

What problems do density limits address?

Across nations and cultures, researchers have documented the relationship between concentrations of alcohol retail outlets and social problems such as drunk driving, alcohol related injuries, violence, and property crime.^v Outlet density also impacts quality of life concerns, sometimes called amenity issues, such as late night noise, garbage, public urination, and minor vandalism.

How does a density limit work?

Simply by limiting the number of outlets that sell and serve alcohol, two related situations are avoided. First, the overall availability of alcohol is reduced which reduces the overall amount of alcohol consumed, even by heavy drinkers.^{vi} Second, limiting the number of sellers reduces the likelihood that vendors will adopt drink specials or other price cutting promotional strategies that encourage drinking. Price cutting is a common result of over-concentration forcing retailers to compete with aggressive price cuts. Drink specials featuring discounted alcohol are known to contribute to dangerous drinking sometimes referred to as “binge drinking.”^{vii}

It is important to understand that all limitations on density work over time, and that it is easier to increase the number of licensed establishments in a community than it is to reduce the number. Even if your community froze the number, size, and location of outlets today, reductions in alcohol related problems would be gradual.

Methods of limiting license density:

Each municipality (city, village, or town) in Wisconsin has the authority to license (or refuse to license) retail outlets to sell alcoholic beverages, beer, wine, and distilled spirits (hard liquor) within the community. Density caps, license density limits, and alcohol license density ordinances (ALDO) are general terms used to describe a wide range of options that limit the number and type of alcohol retailers.

Municipalities have the authority to cease issuing additional alcohol licenses at any time.

- There is no “right” to an alcohol license in Wisconsin.
- Selling alcohol is a privilege granted by municipal government, and state law allows a license to be denied for any reason as long as the reason is provided in writing to the applicant.^{viii}

A municipality may impose limits on issuing new licenses to reduce alcohol outlet density. For example:

- The City of Madison created an “Alcohol Density Zone” with significant limitations on new licenses and alcohol sales.
- The City of Racine placed a moratorium on new Class A licenses (retail outlets) in Racine, believing the area had sufficient outlets to purchase alcohol for off-premise use.

Define the density problem in your community.

It is important to understand that a density problem may exist in a community even in the absence of “problem” licensees. Communities will experience alcohol related problems when too many establishments sell and serve alcohol within a confined geographic area, even without “problem” establishments. For example, price cutting and all-you-can-drink specials are signs of an over saturated alcohol market, not necessarily associated with “problem” licensees.

Local information can help you determine whether your community has a density problem. For example:

- Ask local police if they have mapped crime and violence in the community. Many police departments have access to mapping software through building and planning departments. Create a Google map of all the licensed establishments in your community. Designate Class A (retail outlets) licensees differently than Class B licensees (taverns and restaurants that serve alcohol) on the map (for example: red vs. blue dots). If you have access to crime and crash maps, combine or create overlays to see if there is a relationship between outlet location and density.
- Ask your police or sheriff about local crime and disturbances such as underage drinking, impaired driving, property destruction, robbery, and assaults. How many local police calls for service are alcohol related?
- Ask police to identify “hot spots” within your community that have both a disproportionate number of alcohol outlets and a disproportionate number of alcohol related problems.
- Review traffic reports or speak with law enforcement officers familiar with local traffic patterns to determine if a disproportionate share of motor vehicle accidents occur in a specific area, and if alcohol is frequently a contributing factor.

As you conduct this research, you may discover alarming trends in police, emergency room, or other related data indicating your community is at a saturation point for alcohol outlets. Communities can reach a tipping point without experiencing the negative consequences identified earlier. Regardless, you need to be prepared to demonstrate how you determined that a density problem exists in your community - or a portion of your community - and present a compelling case for swift action.

Will reducing outlet density reduce alcohol related problems?

There is ample evidence that increasing outlet density increases alcohol related problems. Studies conducted in Norway (2000), California (2005), New Jersey (2001), Boston (2003), and Baton Rouge (2001) indicate a relationship between the presence of a large number of establishments that sell and serve alcohol and increased levels of harmful alcohol related consequences, although the experiences of each nation or community studied varied.

In general, capping and then stepping down the number of alcohol outlets in your community will reduce the number of alcohol related problems, although no single policy or intervention will resolve all alcohol related problems. It is important to pair practices that will promptly address the results of over-concentration -- such as increased police presence, saturation patrols, or age compliance checks -- with community efforts to reduce outlet density.

As research on the impact of alcohol outlet density evolves, it may be possible to identify different alcohol related consequences for concentrations of Class A outlets (retail stores, sometimes called off-premises licenses) as compared to Class B licenses (bar, restaurants and taverns).

How can a community frame density limits?

The scope and language of a specific ordinance should be determined by the local situation. For example, if commercial access to alcohol among local youth increases as a result of an over-concentration of retail alcohol outlets, the community may wish to limit the number of Class A licenses it issues and adopt rigorous standards for license renewal.

Municipalities are free to establish a numerical ceiling, limit on licenses, or simply refrain from issuing additional licenses for Class A) licenses.

If municipal leaders conclude that community problems are the result of an over-concentration of "Class B" licenses, the community may cease to issue additional licenses or restrict additional licenses through additional conditions appended to the license. A moratorium on new licenses would lower density over time as licenses are surrendered, moved to a new location within the community, or non-renewed.

Why limit alcohol outlet density through ordinance instead of agreeing not to issue additional licenses or adopting an internal policy?

Adopting or modifying a municipal ordinance is more time consuming and difficult than political or organizational agreements. However, ordinances are also far less vulnerable to repeal or amendment. Political agreements can be broken by changes in the political climate and composition of the governing body. Once an ordinance is in place, it becomes part of the status quo, and change requires a majority vote of the governing body (city council or village board). An ordinance is also less likely to attract legal challenges than a simple administrative policy.

How does a community construct a density ordinance; what are the options?

State statutes require municipalities to provide the reason for license denials in writing but do not establish any criteria for a community to use in making that determination. A community may adopt broad or very narrow limitations on additional alcohol licenses depending on community size, the number of existing outlets, and community development plans.

For example, a municipality could:

- Create a numerical cap on the number of off-premise outlets in a specific geographic area.

Convenience stores, gas stations, and drug stores often sell alcohol, though it is not the primary business. These outlets often rely upon young, low-wage workers who may be susceptible to requests from friends and other underage youth looking to purchase alcohol illegally.

- If your community believes the sale of gasoline and alcohol at one location is incompatible, the municipality may adopt guidelines or an ordinance prohibiting the sale of gasoline by Class A licensees or adopt guidelines against issuing alcohol licenses to locations selling gasoline.
- Create a numerical cap on the total licensed capacity within a geographic area, that is, a ceiling on the maximum number of patrons the community wants to be in all licensed Class B establishments at one time.

Communities may establish a maximum occupancy for any Class B license when it is issued. Often, communities use the maximum number of patrons determined by the fire inspector to establish a maximum occupancy, but communities are free to set lower limits on capacity for purposes of issuing an alcohol license. Ask local law enforcement if your community experiences problems with the total number of people allowed in licensed establishments.

A barometer of total capacity might be the number and type of police calls at closing hour (bar time) resulting when multiple outlets close simultaneously. Is there sufficient sidewalk capacity for the departing patrons, or are individuals forced into the streets? Is local law enforcement able to handle the level of calls for service in the area, or are other jurisdictions regularly called upon for assistance?

- Cease issuing or limit the number of Class B on-premise licenses, but allow additional licenses to be issued to restaurants. Be sure to define restaurants by the percentage of annual revenue generated from food sales as a condition of all licenses and assign responsibility for making that determination.
- Require a specific portal to portal distance between licensed outlets.

For example, amend municipal ordinances to require a distance of 1,000 feet (an example) between the entrances of licensed establishments. (500 feet is roughly .2 miles)

- Enforce existing statute 125.68(3)(b) which prohibits licensed outlets within 300 feet of a school, hospital or church building.

How to begin a public dialog on outlet density.

Effective advocacy on alcohol licensing requires a thorough understanding of local licensing procedures. Attending public meetings to learn specifically how *your* community issues, renews and disciplines alcohol license holders is the first step. While municipalities have the statutory authority to issue alcohol licenses, each community creates its own system for reviewing, approving, and disciplining licenses.

Often a committee of the Village Board or City Council conducts an initial review of the applicant and location before making a recommendation to the full body. Some communities appoint citizen members to license review committees, and some governing bodies chose to conduct all aspects of review themselves. Regardless, these committees are public bodies bound by open meeting and open record laws.

It is important to learn the governmental bodies and individuals reviewing licenses, the role of local law enforcement in the process, and the order and timing of each step. License reviews are open public meetings that must meet the requirements of Wisconsin's open meetings and open records laws. The internet makes keeping abreast of meetings and agendas much easier, but vigilance is important.

Once you thoroughly understand your local licensing system and the alcohol related problem facing your community, gather the data and maps described earlier (under "Define the density problem in your community") and reach out to law enforcement, local elected officials, and other concerned citizens to craft a plan that will prevent or remediate the over-concentration of alcohol.

ⁱ The titles given to Wisconsin's licenses to sell and serve alcohol are very similar, but the type of the licensed activity varies significantly. In general, Class A licenses are awarded to alcohol retailers who sell alcohol for consumption at another location. In some states these are called off-premises licenses. In Wisconsin a Class "A" license permits beer (and malt based cooler) sales for consumption elsewhere, and a "Class A" license permits the sale of, beer, wine, and distilled spirits (hard liquor) for consumption elsewhere. The varying placement of the quotation marks shows the distinction in the beverages for sale.

Similarly, "Class B" licenses and Class "B" licenses are issued for establishments selling and serving alcohol at that location, such as taverns, bars, and restaurants. In some states these are called on-premises licenses. Following the pattern set for Class A licenses, a Class "B" license authorizes the sale of beer for immediate consumption, and a "Class B" license authorizes the sale of beer, wine, and distilled spirits for consumption within that site. "Class C" wine licenses permit the sale of just wine by the glass or bottle for consumption on-site. For simplicity, licenses are listed by Department of Revenue titles, and quotation marks are omitted when referring to all types of alcohol beverages.

ⁱⁱ Thomas Babor, et al., *Alcohol: No Ordinary Commodity* 131-134, (2d ed., Oxford University Press 2010) (2003).

ⁱⁱⁱ Rick Romell, *Wasted in Wisconsin: Drinking Deeply Ingrained in Wisconsin's Culture*, Milwaukee Journal Sentinel, October 19, 2008.

^{iv} Wis. Stat. § 125.12(3m).

^v Thomas Babor, et al., *Alcohol: No Ordinary Commodity* (1st ed., Oxford University Press 2003).

^{vi} Elissa R. Weitzman, Alison Folkman, M. P. H. Kerry Lemieux Folkman, Henry Wechsler, *The Relationship of Alcohol Outlet Density to Heavy and Frequent Drinking and Drinking-related Problems Among College Students at Eight Universities*, 9 Health & Place 1, 1-6 (2003).

^{vii} Thomas Babor, et al., *Alcohol: No Ordinary Commodity* (2nd ed., Oxford University Press 2010).

^{viii} Wis. Stat. § 125.12(3m).

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