



## *Office of the City Attorney*

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### Memorandum

To: Ordinance and License Committee  
From: Julie Gay  
Re: Pick N Save Request for Extension of Premises

At the September 11, 2017 meeting of the Ordinance and License Committee, the agenda contained two applications for extension of premises related to the sales of alcohol with online grocery pickup. The application from Pick N Save requested online ordering for wine, beer and liquor. The application from Walmart applied to beer and wine only. The committee approved the Walmart application and held the Pick N Save application pending review by the city attorney. The police department reviewed and approved both applications.

The committee requests an opinion as to whether approval of the Pick N Save application violates a provision of the city code requiring the checkout of liquor at a separate location. The section of the Waukesha Municipal Code implicated is section 9.09(4):

No Class A Intoxicating liquor license may be granted for any premises where another business is conducted in connection with the premises. This restriction does not apply if intoxicating liquor is displayed and sold in a room separate from the remainder of the premises where the other business is conducted. All checkouts and purchases shall be made in the room in which the intoxicating liquor is displayed. The restrictions and requirements of this subsection do not apply to the display and sale of wine.

The Pick N Save premises does include "another business," a bank, and therefore the current provisions of sec. 9.09(4), Waukesha Municipal Code, in our opinion, do not permit the sale or purchase of intoxicating liquor outside of the room in which it is displayed. Approval of the application for the extension of premises does not alter this requirement. The licensee must still operate in a manner that complies with the ordinance, just as it does within the original premise. Therefore, the committee can approve the extension of premises and it is incumbent upon the licensee to ensure that the provisions of the code and state statutes are met. In other words, no intoxicating liquor can be purchased and delivered through the on line process described.