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Memorandum

To: Ordinance and License Committee, Common Council
From: Brian Running
Re: Residency Restriction for Alcohol Licensee Agents

This memo is to provide some background info on alcohol-license agents and some follow-up points for consideration after last night's O&L meeting.

Alcohol License Agents

Corporations, limited liability companies, and non-profit organizations are legal entities that are treated as persons under the law. Because they are not individuals, an individual has to be appointed to represent them as the legal "face" of the entities. That person is referred to as the agent. The agent becomes the legal representative for the entity, to receive official notices, receive service of process, etc., on the entities' behalf.

For alcohol-licensing purposes, corporations, limited-liability companies, and non-profit organizations that apply for alcohol licenses must appoint an agent for licensing matters.¹ Agents must:

- Meet all of the requirements in Wis. Stat. §125.04(5):²
 - No arrest or conviction record, subject to the limitations of the Fair Employment Act
 - Not be a habitual offender or convicted felon, subject to the Fair Employment Act.
 - Resident of Wisconsin continuously for at least 90 days prior to the application.
 - At least 21 years of age.
 - Completed a responsible server training course in the last 2 years, unless the agent has held an operator's license or retail alcohol license in the last 2 years.

¹ Wis. Stat. 125.04(6)(a)

² Wis. Stat. §125.04(6)(a)1

- In addition, be satisfactory to the City with respect to character, record, and reputation.³
- Be vested by the entity with full authority and control of the licensed premises and the business carried on there.⁴

The City may add its own requirements for agents, as long as they do not conflict with state law and are only in addition to state law.⁵

Waukesha Additional Requirements for Agents

Waukesha Mun. Code §9.09(1) imposes an additional residency requirement on alcohol licensees and their agents:

- (1) Residency Restrictions.** No alcohol beverage license shall be issued by the City to a person or agent for a corporation unless that person or agent resides within Waukesha County.

Note that this applies not only to agents, but to individual license applicants, too. The rationale behind this is to have a responsible person with authority to manage the business close enough nearby that they can quickly respond to the premises if needed.

As a general principle, the City shouldn't have an ordinance unless there's a good reason for its existence. So, in reviewing a possible amendment of §9.09(1) you should first determine whether the ordinance serves a valid purpose, and if it does, whether that purpose is outweighed by inconvenience to license applicants. Options are to leave the ordinance as-is, change the geographical area, or to repeal the subsection altogether.

If the Council feels that it is desirable to have a nearby licensee or agent for quick response time, then an acceptable response time should be determined, and that time then translated into driving distances. The current ordinance results in drive times of between 30 and 45 minutes from the farthest corners of the county. Data presented at last night's O&L meeting suggest that a 50-mile radius from the center of the City would still result in drive times under one hour. The Committee settled on a 25-mile radius from City Hall as a reasonable limit, which is a considerable expansion beyond just Waukesha County. A 25-mile radius is shown in this map prepared by our GIS division:

³ Id.

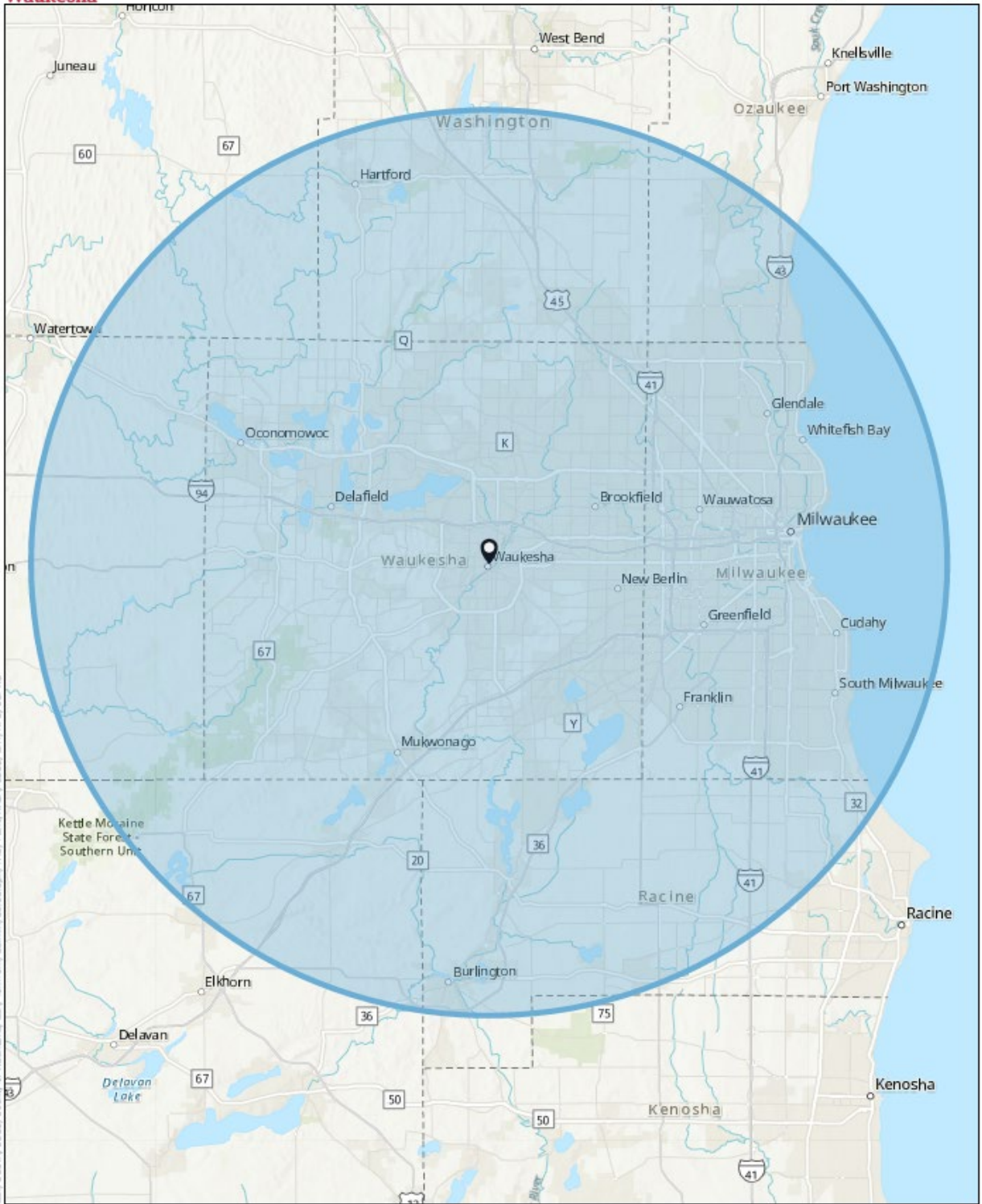
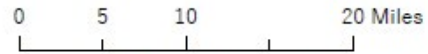
⁴ Wis. Stat. §125.04(6)(a)2

⁵ Wis. Stat. §125.10(1)



25-mile Radius around City Hall

12/10/2024



This radius includes virtually the entire Milwaukee metro area, including Grafton, Jackson, Hartford, Ixonia, Palmyra, and Burlington, and stopping just short of West Bend, Watertown,

Whitewater, and Racine. This would result in something on the order of 1.6 million people eligible to be licensees or agents in the City. Depending on traffic and weather, all points within that radius should be less than an hour of driving time away.

The Police Department indicates that they are neutral on this issue.

From this office's perspective, it's more important that the agent meet the requirements of §125.04(5) and have actual authority and control over the business than to reside within a certain area, although having an agent promptly available is certainly a consideration. Most employees are going to live within a reasonable driving time just by pure practicality. We don't have a strong opinion on this proposal.

Please let me know if you have questions or comments, and as always, do not discuss this among yourselves outside of a public meeting.