

GENERAL ORDINANCE NO. 84-1059

AN ORDINANCE ESTABLISHING A PROCEDURE FOR LIQUOR LICENSE REVIEW AND COUNCIL RECOMMENDATION TO THE OREGON LIQUOR CONTROL COMMISSION AND ESTABLISHING FEES AND REPEALING ORDINANCE NO. 80-987 BY IMPLICATION.

THE PEOPLE OF THE CITY OF THE DALLES DO ORDAIN AS FOLLOWS:

Section 1: Definitions. For the purposes of this ordinance the following words shall mean:

Administrator - The City Clerk of the City of The Dalles or the Clerk=s authorized designee.[As amended by General Ordinance No. 98-1225, adopted July 13, 1998.]

Application - The written request to the Administrator to grant, modify or renew a liquor license.

Commission - The Oregon Liquor Control Commission.

Section 2: License Application. Any person or business requesting a Council recommendation to the Commission of a liquor license application shall make application upon the forms furnished by the Commission.

Section 3: License Application Fees. The applicant shall be required to pay the following fees to the City Clerk after the investigation has been completed and the City Council has granted an endorsement and approval of the license application: [As amended by Ordinance No. 98-1225, adopted July 13, 1998.]

- A. \$100 for any original application.
- B. \$ 75 for any application showing a change in ownership, location, or privilege.
- C. \$ 35 for any renewal or temporary license.

Section 4: Administrator's Duties. The Administrator shall maintain a record of all applications. The Administrator shall refer all applications to the Chief of Police for the purpose of conducting an investigation and making a recommendation to the Council. The review may include those subjects contained in this ordinance and the Chief of Police may require the applicant to supply any relevant additional information to assist the Chief in making a determination on the application. Upon completion of the investigation, the Chief of Police shall make a recommendation to the Council. [As amended by Ordinance No. 98-1225, adopted July 13, 1998.]

Upon completion of the review, the Chief of Police shall make a recommendation to the Council.

Section 5: Hearing Procedure.

A. If the Chief of Police recommends approval of an application, the matter will be scheduled as a council agenda item unless a Council member requests a public hearing. Upon request of a Council member or an adverse recommendation by the Chief of Police, a public hearing will be scheduled and notice given pursuant to Section 6.

B. The hearing will be presided over by the Mayor or Council President in accordance with the City Council's adopted rules and procedures. [As amended by Ordinance No. 98-1225, adopted July 13, 1998.]

C. The City and the applicant shall have the right to present evidence and witnesses and shall have the right to cross-examine witnesses presenting opposing testimony.

D. The applicant may be represented by legal counsel, but legal counsel shall not be provided at public expense.

E. The following types of evidence may be considered during the hearing: [As amended by Ordinance No. 98-1225, adopted July 13, 1998.]

1. Type of evidence. The City and the applicant shall have the right to present oral or written testimony.

2. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

3. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence having any tendency to make the existence of any fact that is of consequence to the determination of the issues presented at the hearing, more probable or less probable than it would be without the evidence.

4. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

F. After due consideration of all pertinent information and testimony the Council shall make its recommendation. The recommendation shall be based on substantial evidence relative to the criteria in this ordinance and shall be final. In the case of an adverse recommendation, findings of fact shall be produced and forwarded to the Commission along with the Council recommendation against the application.

Section 6: Applicant Notice. Before the Council recommends denial of a liquor license application, notice of the public hearing must be given to the applicant either personally or by registered or certified mail postmarked not later than ten days prior to the hearing. The notice shall contain:

- A. A statement of the time and place of the hearing;
- B. A statement from the Administrator of the matter(s) asserted or charged supporting the adverse recommendation or stating why the hearing was requested;
- C. A statement that the applicant may be represented by legal counsel at the hearing, but legal counsel shall not be provided at public expense;
- D. A statement that if the applicant desires to participate in the hearing, the Administrator must receive notice in writing, no later than five working days prior to the hearing; and
- E. A statement that if participation is requested by the applicant, that information on procedures and rights of parties may be obtained at the Administrator's office.

Section 7: Public Notice. In the event that a public hearing is scheduled, the City in addition to any regular Council notice provisions, shall cause to be published in a newspaper of general circulation in the City a notice specifying a time, date and location of the hearing and business name and address of the applicant. The notice shall inform the public that testimony may be given for or against the application.

Section 8: Standards and Criteria. The Council shall make its recommendation for approval, denial or modification of the liquor license application based on the Council's evaluation of the relevant standards and criteria. The applicant shall be held strictly accountable for the conditions of the premises. The Council may recommend against the applicant if: [As amended by Ordinance No. 98-1225, adopted July 13, 1998.]

- A. The application is incomplete;
- B. The applicant neglects or refuses to provide in a timely manner any information reasonably requested by the Administrator, Chief of Police or Council;
- C. The applicant provides false or misleading information to the Administrator, Council or any City employee;
- D. Public opinion weighs against the application. Public opinion may be received by written or oral comment. Public opinion will be evaluated in light of the reasons expressed and the extent to which the persons expressing it are likely to be affected by the issuance of the license. The number of persons expressing support or opposition will not, in and of itself, be controlling;
- E. The applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted of any felony or any misdemeanor involving moral turpitude;
- F. The applicant has been convicted of an offense involving the illegal use, possession, consumption, manufacture, or delivery of controlled substances or alcoholic beverages;
- G. The applicant has maintained, or allowed to exist a noisy, lewd, or disorderly establishment, or an establishment which creates or is a public nuisance under the ordinances of the City or the laws of the State of Oregon;
- H. The interior or exterior of the applicant=s premises are not maintained in good repair, and kept clean and free of litter, rubbish, dirt, or junk;
- I. The applicant or applicant=s premises fail to conform to, abide by, or comply with, City ordinances or regulations or state laws or regulations;
- J. The applicant=s premises place unreasonable, excessive demand on City services, including but not limited to law enforcement; or
- K. There are any other reasons, which in the opinion of the City Council, based on public health, safety, welfare, convenience or necessity, warrants an adverse recommendation.

Passed by the Council and approved by the Mayor on October 1, 1984.