

RESOLUTION NO. 2451

A RESOLUTION PRESCRIBING GUIDELINES FOR RECOMMENDATIONS ON LIQUOR LICENSE APPLICATIONS AND INCREASING FEES AND REPEALING RESOLUTION NO. 2401.

WHEREAS, the City Council of Albany, Oregon, desires to promote high standards of conduct by persons engaged in selling and dispensing or in the use and consumption of alcoholic beverages within the city; and

WHEREAS, ORS 471.605 establishes the obligation of city police officers to enforce the provisions of the Liquor Control Act and to assist the Liquor Control Commission in detecting violations of that statute; and

WHEREAS, ORS 471.210 and 472.120 provides for a recommendation by governing bodies of local governments directed to the Liquor Control Commission in regard to each application for a liquor license within its jurisdiction; and

WHEREAS, Senate Bill 464 amends ORS 471.210 by authorizing governing bodies of local governments to adopt guidelines for recommendations on liquor license applications and establishing fees; and

WHEREAS, Senate Bill 464 requires each local government to provide public notice and hear public comment prior to the adoption of liquor license recommendation guidelines and the approval of increased fees.

WHEREAS, notice was published in the Albany Democrat-Herald on March 21, 1984 and a public hearing was held before a quorum of the Albany City Council on March 28, 1984.

NOW, THEREFORE, BE IT RESOLVED that Exhibit A "Liquor License Recommendation Guidelines" be submitted to the Liquor Control Commission for its approval.

BE IT FURTHER RESOLVED that Resolution No. 2401 is hereby repealed.

DATES THIS 28th day of March, 1984



Mayor

ATTEST:



City Recorder

LIQUOR LICENSE RECOMMENDATION GUIDELINES

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

The applicant shall be required to pay the fee established by the Council.

Police Department Duties. The Police Department shall maintain a record of all applications. The Police Department shall review all applications for the purpose of making a report to the Council. The review may include these guidelines, and the Police Department may require the applicant to supply any relevant additional information to determine qualifications of the applicant.

Upon completion of the review, the Police Department shall advise the Council of any adverse information.

Hearing Procedure.

A. If the Police Department has no adverse information regarding an application, the matter will be scheduled as a consent calendar agenda item unless a Council member requests a public hearing. Upon request of a Council member or adverse information from the Police Department, a public hearing will be scheduled and notice given.

B. 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.

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

D. Notice of a public hearing shall be given by publication in a newspaper of general circulation in the community at least one time prior to the hearing and said notice shall set forth the time, place, and purpose of the hearing. In addition thereto, the applicant will be notified of the time and place of the hearing. The hearing shall be limited to production of evidence as alleged in the Police Department's recommendation, unless the Council waives the rule or unless the hearing is pursuant to a Council member request.

E. 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 these guidelines 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.

Applicant Notice. Before the Council recommends denial of a liquor license application, notice of the public hearing must be given 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 Police Department and/or City Council of the matter(s) asserted or charged supporting the adverse recommendation of 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 City Recorder 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 from the City Recorder.

Public Notice.

- A. In order to facilitate public participation in liquor license applications, the City shall cause to be published in a paper of general circulation in the City a notice specifying all liquor license applications by business name and address pending before the City Council.
- B. In the event that public hearing is scheduled, the City as part of its 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.

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 Council may recommend against the applicant if:

- A. The application is incomplete;
- B. The applicant neglects or refuses to provide in a timely manner any information reasonably requested by the Police Department or Council;
- C. The applicant provides false or misleading information to the Police Department, Council or any City employee;
- D. 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.
- E. The applicant's premises and the area nearby are heavily frequented by persons under 21 years of age unaccompanied by adults;
- F. 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;

G. The applicant uses controlled substances or alcoholic beverages to excess;

H. 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 laws of the state;

I. The applicant's premises are not maintained in good repair, both interior and exterior, and kept clean and free of litter, rubbish or dirt;

J. The applicant's premises are unsanitary;

K. The applicant or applicant's premises fail to conform to, abide by, or comply with, City ordinances or regulations or state laws and regulations;

L. The applicant's premises place unreasonable, excessive demand on City services, including law enforcement;

M. There are sufficient licensed premises in the locality set out in the application and the license is not demanded by public interest or convenience. If a reduction in dispenser licenses is warranted, the Council may make a decision based on reasonable comparisons of services, facilities and economic benefit to the area.

N. There is any other reason, which in the opinion of the Council, based on public health, safety, welfare, convenience or necessity, warrants an adverse recommendation.