

LIQUOR LICENSE REVIEW

7.700 Purpose. The purpose of sections 7.700 to 7.740 is to provide administrative procedures and criteria for the City's review of liquor license applications. The city council shall make a recommendation to the Commission concerning all applications for premises within the city. The recommendation may be to grant, grant with restrictions, or deny the application. [Section 7.700 amended by Ordinance No. 1478, adopted November 28, 2001.]

7.705 Scope of Provisions. Sections 7.700 to 7.740 shall govern the procedures and criteria for consideration of liquor license applications and city council recommendation to the Oregon Liquor Control Commission.

7.920 Definitions. For the purpose of sections 7.700 to 7.740 the following mean:

Applicant. The person or entity who submits an application to the Commission.

Application. The written request to the Commission to grant or renew a liquor license for premises within the City limits.

Commission. The Oregon Liquor Control Commission.

Liquor License. A license to sell liquor issued by the Commission.

Notice of Application. The notice provided by an applicant to the City of an application for a new liquor license as required by Section 7.715.

Notice of Renewal. The notice provided by the Commission to the City under OAR 845-005-0304 listing liquor licenses within the city that are scheduled for renewal.

[Section 7.710 amended by Ordinance No. 1478, adopted November 28, 2001.]

7.715 Notice of Application Required.

(1) An applicant shall provide the City Manager with a notice of application for any new liquor license in a form approved by the City Manager. The notice shall include:

- (a) A copy of the application;
- (b) A request that the city issue a written recommendation to the Commission concerning the application;
- (c) The type of license applied for and a description of the nature of the business for which the application is made;
- (d) The name of the applicant, with address; if a partnership, the names and addresses of all partners; if the business is a corporation, the name and address of the home office, and the name and address of the designated agent in the state; if a foreign corporation, the name and address of the local agent or representative of the business in the city;
- (e) The address of the location where the business will be located in the city;
- (f) Any other relevant information the city manager deems necessary for review;
- (g) The signature of the applicant or the agent making the application.

Items (c) through (e) do not have to be separately stated if included in the copy of the application provided to the city.

(2) At the time of submission of the notice of application, the applicant shall be required to pay a fee in an amount set by council resolution and consistent with applicable statutes.

[Section 7.715 amended by Ordinance No. 1478, adopted November 28, 2001.]

7.717 Renewal Fee.

Any holder of a liquor license for premises located within the City shall submit a renewal fee to the City prior to the date on which the license is to be renewed. A copy of the renewal application must accompany

the fee. [New Section 7.717 added by Ordinance No. 1478, adopted November 28, 2001.]

7.720 City Manager's Duties.

(1) The city manager shall maintain a record of all notices of application and all notices of renewal received. The City Manager shall review all notices for the purpose of making a recommendation to the City Council. The review shall address all criteria that are relevant to the application under state law. The review of the notice of renewal shall include a determination whether the renewal fee has been paid.

(2) The City Manager may require an applicant to supply any relevant additional information to determine the qualifications of the applicant. Upon completion of the review, the City Manager shall make a recommendation to the City Council. The written recommendation shall be available at least 10 days prior to the City Council meeting at which the recommendation is to be considered.

[Section 7.720 amended by Ordinance No. 1478, adopted November 28, 2001.]

7.725 Hearing Procedure.

(1) The City Manager shall normally schedule City Council consideration of its recommendation on notices of applications within 25 days of receipt of the notice of application. If for any reason the matter cannot be considered by the City Council within 25 days, or if the City Council is unable to come to a decision on the date the matter is first presented to the Council, or if the City Council votes to recommend denial after the City Manager recommends approval, the City Manager shall request an extension of time from the Commission to submit the City's recommendation to the Commission. The final recommendation by the City must be submitted to the Commission within 30 days of the notice of application if no extension is granted and within 75 days of the notice of application if an extension is granted, or such other time as determined by the Commission.

(2) The City Manager shall normally schedule City Council consideration of its recommendation on notices of renewal within 55 days of the receipt of the notice of renewal. If for any reason the matter cannot be considered by the City Council within 55 days, or if the City Council is unable to come to a decision on the date the matter is first presented to the Council, the City Manager shall request an extension of time from the Commission to submit the City's recommendation to the Commission. The final recommendation must be submitted by the City within 60 days of the notice of renewal if no extension is granted and within 105 days of the notice of renewal if an extension is granted or such other time as determined by the Commission.

(3) If the City Manager recommends approval of the application, the application will be scheduled as a Council agenda item. Upon adverse recommendation by the City Manager, a public hearing will be scheduled and notice given pursuant to section 7.730.

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

(5) Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of their serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(6) Irrelevant and unduly repetitious evidence shall be excluded.

(7) After due consideration of all pertinent information and testimony, the City Council shall make its recommendation. The recommendation shall be based upon the criteria established by state law and shall be final. In the case of a recommendation of an unfavorable determination, the specific reasons for the recommendation shall be

announced at the meeting and set out in the City Council's minutes. A copy of the minutes shall be provided to the Commission.

[Section 7.725 amended by Ordinance No. 1478, adopted November 28, 2001.]

7.730 Applicant Notice. Before the city council recommends denial of a liquor license application to the commission, 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:

(1) A statement of the time and place of hearing;

(2) A statement from the city manager of the matter(s) asserted or charged supporting the adverse recommendation or stating why the hearing was requested;

(3) A statement that the applicant may be represented by legal counsel at the hearing, but legal counsel shall not be provided at public expense;

(4) A statement that if the applicant desires to participate in the hearing, the manager must receive notice in writing, no later than five working days prior to the hearing; and

(5) A statement that if participation is requested by the applicant, that a copy of sections 7.700 to 7.740 may be obtained at the city manager's office.

7.735 Public Notice. In the event that a public hearing is scheduled, the city, in addition to any regular city 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.

7.740 Standards and Criteria.

The City Council shall make its recommendation for approval, denial or approval with restrictions of the liquor license application based on the City Council's evaluation of the relevant standards and

criteria. The applicant shall be held strictly accountable for the conditions of the premises. The City Council shall apply the standards and criteria established by state law. In determining whether the license is demanded by the public interest or convenience, the City Council may consider:

(1) The completeness of the application;

(2) The applicant provision or failure to provide in a timely manner any information reasonably requested by the City Manager or City Council;

(3) Whether the applicant provided false or misleading information to the City Manager, City Council or any City employee;

(4) The impact on the citizens and public institutions of the City. In determining the impact, the City Council shall consider public opinion and whether public opinion weighs against the application. Public opinion may be received by written or oral comment. Persons who comment on a pending application must provide their names in order to have their opinion considered. 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. Greater weight will be given to opinions of persons residing, working, owning a business or who have children attending school or day-care within a one-half mile radius of the premises. The number of persons expressing opposition will not, in and of itself, be controlling;

(5) Whether the applicant's premises and the area nearby are heavily frequented by persons under 21 years of age unaccompanied by adults;

(6) Any convictions of the applicant for violating any of the alcoholic liquor laws of this state, general or local, or any felony or misdemeanor convictions involving moral turpitude;

(7) The applicant's use of controlled substances or alcoholic beverages to excess;

(8) The applicant's reputation and moral character;

(9) Whether the applicant has maintained, or allowed to exist a noisy, lewd, or disorderly establishment, or an establishment that creates or is a public nuisance under the ordinances of the City or laws of the state;

(10) The maintenance, cleanliness and repair history of applicant's premises during applicant's ownership;

(11) Conformity and compliance with City ordinance and regulations and state laws and regulations by the applicant or applicant's premises; and

(12) Whether excessive demand on City services, including law enforcement, has resulted from applicant's operation of the premises.

[Section 7.740 amended by Ordinance No. 1478, adopted November 28, 2001.]

PUBLIC TELEPHONE BOOTHS

7.750 Permit Grant. A revocable permit is granted to the Pacific Northwest Bell Telephone Company, its successors and assigns to install, maintain and operate public telephone booths at various locations on city property and city streets on the following terms:

(1) Location of Booths. Sites for the location or relocation of telephone booths shall be selected by the permittee, subject to approval of the city.

(2) Installation and Maintenance. The permittee shall bear the entire cost of installation, maintenance, relocation and removal of every telephone booth installed under this permit.

(3) Commissions. The permittee shall pay to the city a commission equal to

fifteen percent of the net contents of the coin box of each public telephone installed hereunder, after deduction for applicable excise taxes. After this permit becomes effective, such commissions shall be paid to the city semiannually.

(4) Electricity. With approval of the city, the permittee, where feasible, may interconnect with electric service furnished to the city.

(5) Removal of Booths. Upon 30 days' notice, the city, for cause, may require the permittee to remove or relocate any telephone booth installed hereunder. The permittee on its own initiative may remove any telephone booth at any time but shall restore the surface to good condition, and safe for public use, considering the nature and location of the property.

(6) Termination of Permit. This permit may be discontinued voluntarily by the permittee, only after 30 days' notice. In event of such termination, the permittee shall remove all installations hereunder within 90 days and in compliance with provisions of subsection (5) of this section.

7.755 Indemnification of City. The permit granted by sections 7.750 to 7.760 is subject to the condition that permittee, its successors and assigns, forever will indemnify, and save the city, its officers, agents and employees harmless from and against any and all liability, loss, cost, damage and expense, and any and all claims for injury or death to persons and damage to property, directly or indirectly arising from the installation, maintenance, or operation of telephone booths under this permit. The city shall promptly notify the permittee upon receipt of any claim or demand against which it is, or may be held harmless by the permittee under this indemnification. As evidenced by its written acceptance of the terms and conditions as provided in section 7.760, the permittee understands and agrees that the permit is granted only upon, and constitutes consideration for, this indemnification.

7.760 Filing of Acceptance. Sections 7.750 to 7.760 are not operative until the permittee has filed with the city manager