

## ORDINANCE NO. 760

AN ORDINANCE PRESCRIBING LICENSING GUIDELINES TO BE FOLLOWED IN REVIEWING AND MAKING RECOMMENDATIONS ON LIQUOR LICENSE APPLICATIONS, AND AMENDING CODE SECTION 5.16.

WHEREAS, ORS 471.166(8) provides for cities to adopt guidelines for making recommendations to the Oregon Liquor Control Commission regarding the granting of liquor licenses within the City; now, therefore,

The City of Scappoose ordains as follows:

**Section 1. Title.** This ordinance shall be known as the “liquor license review ordinance” of the City of Scappoose.

**Section 2. Definitions.** As used in this ordinance, the following terms shall have the meanings indicated:

“Application” means the written request of the City to grant, modify or renew a liquor license.

“City” means the City of Scappoose.

“Commission” means the Oregon Liquor Control Commission.

“Council” means the governing body of the City of Scappoose.

**Section 3. Application.** Any person or business requesting Council recommendation to the Commission of a liquor license application shall make application upon suitable forms furnished by the City and/or the Commission. The application shall contain:

A. The type of license applied for and a description of the nature of the business for which the application is made.

B. The name and address of the applicant(s); 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 registered agent in this state and the name and address of the local agent or representative who will be in charge of the business in the City.

C. Name and address of all businesses and locations for which the applicant ever possessed a license to sell alcoholic beverages, both in Oregon and elsewhere.

D. The address of the location where the business will be located in the City.

E. The date of application.

F. Any other information the City Manager/Recorder or Council deems necessary for review.

- G. The signature of the applicant or agent making the application.

**Section 4. City Manager/Recorder Duties.**

A. The City Manager or Recorder may cause any application to be reviewed by the Chief of Police, City Planner, Building Official, or any other departmental manager, at his/her discretion, and may require the police department or other governmental agencies to inspect the premises on behalf of the City, for the purpose of obtaining information necessary to make a recommendation to the City Council. The applicant shall promptly supply to the Manager or Recorder such other or additional information as the Manager or Recorder may deem necessary to fully and completely review the application and formulate a recommendation to the City Council.

B. The Manager or Recorder may waive any of the provisions of this article, other than City Council review, for any annual renewal. In such a case, the recommendation of the Manager or Recorder may be placed on the City Council consent agenda, from which it may be removed for discussion upon the request of any member of the City Council.

C. Within thirty (30) days of receipt of the application, the Manager or Recorder shall make a recommendation to the City Council.

**Section 5. Hearing Procedure.**

A. If the City Manager or Recorder recommends approval of an application, the matter will be scheduled as an agenda item before the City Council. Any member of the Council or any person determined by the Council to be affected may request a public hearing before the City Council prior to approval of an application. Such public hearing will be scheduled and notice given pursuant to Section 6 and Section 7 of this ordinance.

B. The Mayor shall preside over the hearings provided in this section and shall make rulings on all matters of procedure and evidence incident to the hearing not inconsistent with the provisions of this ordinance.

C. The City, the applicant, and any interested parties shall have the right to present evidence and witnesses. The Mayor and Council Members may ask questions of any witnesses.

D. Any other person wishing to present testimony will be given the opportunity before closing of the public hearing.

E. The City, the applicant, or any other affected party may be represented by legal counsel at their own expense.

F. After due consideration of 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, written findings shall be produced and forwarded to the Commission along with the Council recommendation.

**Section 6. Applicant Notice.** Before the City Manager or Recorder forwards a recommendation of denial or license restriction to the City Council, notice to the applicant shall be given either personally or by registered or certified mail, postmarked no later than ten (10) working days prior to the meeting at which the matter will be considered. The notice shall:

- A. State the time and place of the meeting;
- B. Afford the opportunity for the applicant or an affected party to request a public hearing;
- C. State the City Manager or Recorder's reasons for the recommendation of denial or restriction;
- D. State that if the applicant desires a public hearing, the City Manager or Recorder must receive notice in writing, within ten (10) days of the date of notice of recommendation for denial or restriction.

**Section 7. Public Notice.**

- A. In order to facilitate public participation in liquor license applications, the City shall cause to be placed on the City Council agenda an item specifying all liquor license applications by business name and address pending before the City Council.
- B. In the event that a public hearing is scheduled, the City in addition to any regular City Council agenda, 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. Council Action.** The Council shall recommend to the Commission on each liquor license application either approval, denial or modification in particulars stated. In making such determination, the Council may consider among other factors the following:

- A. The completeness and accuracy of the application;
- B. The timeliness and responsiveness of the applicant in supplying information requested by the City Manager or Recorder, or Council;
- C. The frequency of persons under twenty-one (21) years of age, unaccompanied by adults, in the area of the applicant's premises;
- D. Compliance with all statutes and ordinances related to the control and use of alcoholic beverages and controlled substances;
- E. The criminal record and moral character of the applicant(s) and the agents and employees of the applicant;
- F. The maintenance of the applicant's former or existing licensed premises including, but not limited to, noise, sanitation, cleanliness, orderliness, law enforcement

incident experience and compliance with applicable nuisance laws, and other ordinances and regulations;

G. The relative condition of the premises with respect to sanitation and cleanliness;

H. The anticipated demands on City services, including law enforcement;

I. The number and sufficiency of licensee premises in the locality set out in the application (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, as well as convenience and public interest);

J. Conformance to City ordinances or regulations pertaining to zoning, building and fire codes;

K. Any other factors, which in the opinion of the Council, have bearing on the public health, safety, welfare, convenience or necessity of the City and/or its citizens.

**Section 9. Standards and Criteria.** Any unfavorable recommendation by the City to the Commission shall be based on one or more of the standards and criteria described in ORS 471.313(4), ORS 471.313(5), OAR 845-005-0320, OAR 845-005-0325, OAR 845-005-0326, or OAR 845-005-0355, which are attached hereto as Exhibit A and incorporated herein by reference.

**Section 10. Severability.** If any phrase, clause, or part of this Ordinance is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses and parts shall remain in full force and effect.

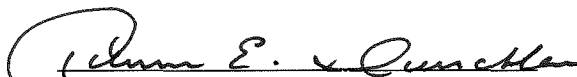
**Section 11. Repealer.** Sections 5.16.020, 5.16.030, and 5.16.040 are hereby repealed.

Duly enacted by the City Council in open session on November 1, 2004, by the following vote:

AYES: 7                      NAYS: 0                      ABSTAIN: 0                      ABSENT: 0

**CITY OF SCAPPOOSE**

First Reading: October 18, 2004  
Second Reading: November 1, 2004

  
Glenn E. Dorschler, Mayor

  
Susan M Pentecost

City Recorder and Custodian of City records