

RESOLUTION NO. 653

**A RESOLUTION ADOPTING POLICY GUIDELINES AND PROCEDURES FOR STAYTON CITY COUNCIL RECOMMENDATIONS FOR RENEWAL AND ISSUANCE OF LIQUOR LICENSE.**

Whereas, Oregon Revised Statues provide criteria for local government to make recommendations to the Oregon Liquor Control Commission concerning liquor license renewal and issuance;

Whereas, a specific liquor license recommendation policy will assist in the fair and consistent processing of liquor license applications; and,

Whereas, the adoption of a liquor license recommendation policy will protect the interest of the general public and provide direction to Stayton city staff in processing liquor license applications,

NOW, THEREFORE, BE IT RESOLVED THAT:

The Stayton City Council hereby approves the "Liquor Application Policy"; a copy of which is attached and by this reference incorporated herein, is hereby adopted by the Stayton City Council and is effective immediately.

ADOPTED BY THE STAYTON CITY COUNCIL this 4th day of October, 1999.

CITY OF STAYTON

Date: Oct 7th, 1999

By: Henry A. Porter  
HENRY A. PORTER, Mayor

Date: 10.7.99

Attest: Thomas L. Barthel  
THOMAS L. BARTHEL, City Administrator

APPROVED AS TO FORM:

Date: OCT 18 1999

David A. Rhoten  
DAVID A. RHOTEN, City Attorney

CITY OF STAYTON

LIQUOR LICENSE APPLICATION POLICY AND CHECKLIST OF CRITERIA FOR RECOMMENDATIONS TO THE OREGON LIQUOR CONTROL COMMISSION

(A) New Licenses

- (1) (a) Is there a history of serious and persistent problems, disturbances, lewd or unlawful activities or noise either in the premises proposed to be licensed or involving patrons of the establishment in the immediate vicinity of the premises, if the activities in the immediate vicinity of the premises are related to the sale or service of alcohol under the exercise of the license privilege as provided by Oregon Revised Statutes and Oregon Administrative Rules.

“A history of serious and persistent problems” includes but is not limited to, obtrusive or excessive noise, music or sound vibrations, public drunkenness, fights, altercations, harassment, unlawful drug sales, unlawful alcohol sales to minors or related litter, trespassing on private property, public urination.

Histories from premises currently or previously operated by the applicant may be considered when it is reasonable to infer that similar activities will occur as to the proposed licensed premises.

- (b) Does the applicant fail to demonstrate willingness and ability to control problems described in (1) (a) above?

- Does the applicant have the same problems with other current licensed outlets?
- Does the applicant fail to demonstrate willingness and ability to control these problems?
- Does the applicant have a corrective plan that is likely to be effective?
- Are there no license conditions or restrictions that would enable control, as listed in Oregon Administrative Rules?

- (2) Will the licensed premises be located in an area that has a “history of serious or persistent problems” with unlawful activities, noise or disturbances? These need not be alcohol related as outlined in Oregon Administrative Rules.

- Does the applicant fail to show good cause, including but not limited to:
- Showing that alcohol beverage sale or service at the premises will not substantially contribute to the problems; or,

- A plan demonstrating willingness and ability to adequately control the proposed premises and patrons' behavior on or near the premises.
- (3) (a) Does the applicant have a history or record of using alcohol or other drugs to excess?
- (b) Is the applicant unable to show discontinued uses of these substances to excess and is unlikely to do so in the future as provided by Oregon Revised Statutes and Oregon Administrative Rules.
- (4) Has the applicant been convicted of a felony of a kind where there is a relationship between the facts that support the conviction and fitness to exercise license privileges as related to Oregon Revised Statutes and Oregon Administrative Rules.
- (5) Has the applicant provided material false or misleading information to the Commission or the City of Stayton as provided by Oregon Revised Statutes and Oregon Administrative rules?
- (6) (a) **\*\*Does the applicant propose to locate within 500 feet of the boundary (measured property line to property line) of a(n):**
- licensed child care facility
  - elementary or secondary school
  - church
  - hospital
  - nursing or convalescent care facility
  - park or children-oriented recreational facility, or
  - alcohol and drug treatment or rehabilitation facility?
- (b) If so, will the license premises adversely impact the facility?
- (c) Is there a good cause to overcome this criterion, including but not limited to a showing by the applicant that the proposed operation is consistent with the zoning and general character of the area and the adverse impact will not unreasonably affect the facility as provided by Oregon Administrative Rules?
- \*\*NOTE:** Criterion (A) (6) is not applicable to changes of ownership with no change in license privileges or operation.
- (7) Does or will the applicant have inadequate financial resources or facilities to build and operate as provided by Oregon Administrative Rules?
- (8) Is there insufficient demand for the license? e.g.: Is there declining or static population, business or industrial development in the city or decreasing sales or patronage at other similarly licensed outlets in the city as described in Oregon Administrative Rules?
- (9) Failure to comply with liquor laws of this or any other state, as shown by a final order of a court or administrative agency as provided by Oregon Administrative Rules.

**(B) Renewals**

All of the above criteria for new licenses apply, except criteria (A)(6) and (A)(8).

Add the following:

- (1) Did the applicant fail to build and operate the premises substantially as proposed and approved as provided by Oregon Administrative Rules?
- (2) Are there persistent problems involving police calls related to the sales or service of alcohol not stemming from calls for assistance from the licensed establishment in the prior 12 months, concerning unlawful activities related to the sales or service of alcohol, either on the licensed premises or in its immediate vicinity?

**(C) City Council Recommendation**

The City Council may recommend approval of the application through the Consent Agenda or as an Agenda Action Item. If the City Council recommends denial of the application, it may schedule a public hearing.

**(D) Authority**

Review of liquor license application as provided by Oregon Revised Statutes and Oregon Administrative Rules.

**(E) Standards for Police Department Recommendations**

Oregon law provides criteria to be used by OLCC for license refusal which can be adapted into criteria for police departments recommendations. The specific offenses are:

- Fights or assaults
- Liquor law violations by the licensee or their employees
- Excessive or obtrusive noise
- Illegal drug use or sales on the premises
- Trespass on private property
- Public Drunkenness
- Failure of the Licensee to take appropriate action to prevent or control problems caused by patrons on the premises or within the local vicinity.

**(F) Evaluation Guidelines and Criteria**

- (1) A recommendation to deny the renewal application will be made when there are persistent problems involving the types of police calls listed above related to the sales of alcohol.
- (2) The police department will automatically recommend denial of a renewal application when there is a record of ten arrests, in the prior 12 months, of employees or patrons of

the licensed business for unlawful activities related to the sale of service of alcohol under the license either on the premises or in the immediate vicinity.

- (3) Actions by the licensee which might tend to mitigate the problems should be considered. Examples of mitigating actions are seeking and following recommendations by the OLCC, or police, and increased security measures.
- (4) In addition to the criteria previously outlined, a recommendation for denial of a license renewal may be made when there are persistent problems involving police calls related to the sales or service of alcohol not stemming from calls for assistance from the establishment, within the preceding twelve months, concerning unlawful activities by employees and patrons of the licensed business, either on the licensed premises or in the immediate vicinity thereof.
- (5) The recommendation by the police department is only one component of the liquor license recommendation process. Community input is a significant factor in a complete review of applications. With all licensing activities, it must be remembered that the City recommends and OLCC grants or denies.

**(G) Procedures for Recommendation of Denial**

- (1) In the event that the police department anticipates a recommendation for denial, based on the preceding guidelines, the Chief of Police shall contact the City Administrator who shall meet with the Chief of Police to review the application, circumstances surrounding it and any associated investigatory materials.
- (2) The review process described in (F)(1) above shall apply the criteria as provided by Oregon Administrative Rules of the Oregon Liquor Control Commission (OLCC), in recommending appropriate action on the pending liquor license application.
- (3) In the event the City Administrator concurs with a staff recommendation for denial, the police department shall provide a copy of the appropriate police records to the licensee, including the fact that the application has been reviewed by the City Administrator.
- (4) In the event the City Administrator does not concur with a staff recommendation for denial, the City Administrator and the Chief of Police shall meet with the City Attorney in an attempt to reach consensus. If no such consensus is reached, that fact shall be clearly conveyed to the City Council (see (F)(5) below).
- (5) Following the review process described above, the pending application shall be placed on the earliest possible City Council regular meeting agenda for consideration, at which time the Chief of Police shall present the recommendation to the City Council.
- (6) Upon receipt of a recommendation for denial, the Council may set the matter for public hearing at a subsequent meeting. If a public hearing is scheduled in connection therewith, the City Administrator shall:
  - (a) Cause to be published in a newspaper of general circulation within the City a notice of said hearing. The notice shall specify the time, date and location of the

hearing and the business name and address of the applicant. The notice shall inform the public that testimony may be given, either for or against the application, and further, that written comments will be accepted by the City Administrator at any time prior to the scheduled hearing; and,

- (b) Cause written notice to be served upon the applicant personally or by certified mail postmarked not later than ten days prior to the hearing.
- (7) The notice to the applicant referred to in (F)(6)(b) above; shall contain:
- (a) A statement of the time, date and phrase of the hearing;
  - (b) A copy of the background materials supporting a recommendation for denial (if not previously provided pursuant to (F)(3) above; and,
  - (c) A statement that the applicant may be represented by legal counsel at the public hearing, but that no such legal counsel will be provided at public expense.
- (8) At the time of the public hearing, in addition to the recommendation of the police department and the City Administrator, the City Council may also consider actions taken by the licensee to mitigate problems such as increased security measures or seeking and following the recommendations of the OLCC or the police department.
- (9) Following the public hearing, the City Council shall vote on its final recommendation concerning the application, including any compliance plan conditions, which shall constitute the City's formal recommendations to be forwarded to the OLCC in the matter.