

## ORDINANCE NO. 908

### AN ORDINANCE ESTABLISHING A PROCEDURE FOR LIQUOR LICENSE REVIEW AND COUNCIL RECOMMENDATION TO THE OREGON LIQUOR CONTROL COMMISSION.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

**Section 1. Title and Purpose.** This ordinance shall be known and may be cited as the "Liquor License Review Ordinance," and may also be referred to herein as, "this ordinance."

The purposes of this ordinance are to establish the principle criteria which shall be considered by the Council, and its designees, the Chief of Police, in making recommendations to the Oregon Liquor Control Commission, concerning the granting, denying, modifying, or renewing of all liquor licenses for premises within the City limits and to establish a process, to be utilized for the investigation of such license applicants for the purpose of making such recommendations, that is fair, effective, and efficient. This ordinance is necessary to ensure that all premises licensed to sell and dispense liquor in any form, meet the high expectations of this community that all such businesses are conducted in a lawful manner that does not unreasonably disturb the peace and tranquility of this City and its neighborhoods.

**Section 2. Definitions.** For purposes of this ordinance, the following definitions shall apply:

- A. "Application," the written request to the City Council to grant, modify, or renew a liquor license.
- B. "Commission," the Oregon Liquor Control Commission.
- C. "Special Retail Beer Licenses (SRB)," a temporary dispenser license, issued by the Commission, pursuant to ORS 472 and OAR 845-04-025(2) and (5) for the purposes of serving beer or other malt beverage in exchange for some financial consideration and as part of a picnic, convention, fair, civil or community enterprise or similar special event, such as a spectator sports event, musical concert or festival and for which approval by the City must be obtained.
- D. "Special Retail Wine License (SPW)," a temporary dispenser license, issued by the Commission, pursuant to ORS 472 and OAR 845-04-025(2) and (5) for the purpose of serving wine or similarly regulated fermented beverage in exchange for some financial consideration and as part of a picnic, convention, fair, civic or community event, musical concert or festival and for which approval from the City must be obtained.

**Section 3. License Application.** Any person or business, requesting a City recommendation to the Commission on a liquor license application, shall make application upon suitable forms, furnished by the City. The application shall contain the following:

- 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 of the applicant, with address; if the business is 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 who will be in charge of the business in the City.
- C. The address where the business will be located in the City.
- D. The date of application.
- E. Any other information the Council deems necessary for review.
- F. A verification that the information submitted within the application is true and accurate.
- G. The signature of the applicant or agent making the application.
- H. The application shall be accompanied by the appropriate fee. Such fees shall be non-refundable.
  - 1. In the case of an original application--\$100.
  - 2. For a change in ownership, change in location, or change in privilege application--\$75.
  - 3. Except as provided in subsection (4), for renewal and temporary license applications--\$35.
  - 4. For Special Retail Beer and Special Retail Wine license applications or combined applications--\$35. If the applicant for an SRB or SRW or combination thereof can demonstrate that it is organized and operating as a non-profit organization, no application fee to the City shall be required.

**Section 4. Chief of Police's Duties.** The City shall provide application forms and shall maintain a record of all applications. The Chief of Police shall coordinate and conduct an investigation of each application for the purpose of determining what recommendation shall be made by the Chief of Police to the Council or in the case of Special Retail Beer and Special Retail Wine licenses, to the Commission. The investigation may include those subjects contained in the ordinance of the City of Canby, as well as the statutes of the State of Oregon. The Chief of Police may require the applicant to supply any relevant additional information to determine the qualifications of the applicant. Upon completion of the review and for all applications except Special Retail Beer and Special Retail Wine licenses, the Chief of Police shall make a recommendation to the City Council. For Special Retail Beer and Special Retail Wine licenses upon completion of review, the Chief of Police shall determine and advise the applicant and the Commission what the recommendation of the City shall be in accordance with the standards, criteria and procedures contained in this ordinance.

**Section 5. Hearing Procedure.**

- A. For all applications for which Council approval is required under this ordinance, and where the Chief of Police recommends approval of an application, the matter will be scheduled as an agenda item at the next regular Council meeting.
- B. Prior to City Council consideration of a liquor license application, a Councilmember may review such application and the investigation materials gathered by the Chief of Police, but only to the extent that disclosure of such application and investigation materials is not prohibited by law. Upon the request

of a Councilmember or where the Chief of Police's recommendation is adverse to the application, by the applicant, a public hearing will be scheduled.

C. Notice of Public Hearing before the Council shall be given in the following manner:

1. The notice shall contain the business name of the applicant, the location of the business, the nature of the license applied for, and the time and location at which the hearing will take place.
2. Notice shall be mailed to the applicant or applicant's agent at the address shown on the application not less than seven (7) days before the date set for the hearing.
3. Notice shall be published in a newspaper of general circulation in the City not less than five (5) days before the date set for the hearing.
4. The Public Hearing shall be conducted as follows:
  - a. The Chief of Police shall present the Police report. Any other written or oral evidence which is supportive of the Chief of Police's recommendation may also be presented at this time.
  - b. The applicant may present evidence and/or witnesses in support of the application.
  - c. Interested members of the public shall be given an opportunity to present evidence or testimony bearing upon the application, whether such evidence is supportive or adverse to the application.
  - d. The applicant shall be afforded an opportunity to rebut evidence presented in opposition to the application.
  - e. Any relevant evidence shall be admitted, if it is the type of evidence on which reasonable persons are accustomed to relying on in the conduct of their serious affairs, regardless of the existence of any law or rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Evidence of past transactions and occurrences shall not be excluded solely on the basis of having occurred in the past and may be relied upon by the Council in making its recommendation. However, irrelevant and unduly repetitious evidence shall be excluded.
5. In the case of Special Retail Beer and Special Retail Wine license applications, after due consideration of all pertinent information, the Chief of Police shall make a recommendation. The recommendation shall be based on substantial evidence relative to the criteria in this ordinance, ORS Chapters 471 and 472 and the public health, safety and welfare. The Chief of Police may attach reasonable conditions upon the recommendation, which conditions shall be consistent with the purposes of this ordinance. Where the Chief of Police recommends approval of an application, the City Administrator shall cause the applicant to be notified of the recommendation. Where the Chief of Police's recommendation is for denial or otherwise adverse to the applicant, it may be appealed to the City Council in accordance with the procedures provided in this section.

**Section 6. 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, as set forth herein. The applicant shall be held strictly accountable for the conditions of the premises. The council may recommend against the applicant if any of the following conditions exist:

- A. The application is incomplete.
- B. The applicant neglects or refuses to provide in a timely manner any information reasonably requested by the Chief of Police or City Council.
- C. The applicant provides false or misleading information to the Chief of Police, City Council, or to any City employee.
- D. The applicant does not possess a current City Business License.
- E. The zoning district in which the applicant proposes to locate the business does not allow such business either as a permitted or conditional use.
- F. The record of the applicant shows a conviction(s) of criminal law(s) or ordinance(s) connected in time, place, and manner with a liquor establishment.
- G. The applicant has maintained or allowed to exist an establishment which creates or is a public nuisance under the ordinances of the City or laws of the State, or in which any violations of the provisions of the City, ordinances or Federal or State law relating to minors, gambling, obscenity, controlled substances, prostitution or alcoholic beverages, or Chapters 163, 164, 165, or 166 of Oregon Revised Statutes have occurred, or which creates an increase in disorderly or violent acts, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other locational problems in the reasonable proximity of such premises.
- H. The applicant's premises are not maintained in reasonable repair, both interior and exterior, and kept clean and free of litter, rubbish and dirt.
- I. In the case of an application for a new license or for an increase in liquor selling or dispensing privilege, there are sufficient licensed premises in the locality set out in the application and the license is not demanded by public interest or convenience.
- J. The licensing of the premises would not be in the best interest of the community because of a history of illegal activities, altercations, noisy conduct, or other disturbances in or around the premises.
- K. The applicant has demonstrated an unwillingness or inability to cooperate with City agencies and/or neighbors in resolving community disputes relating to a licensed establishment.
- L. The applicant's premises place unreasonable, excessive demand on City services, including law enforcement.

**Section 7.     **Reconsideration of Applications.****

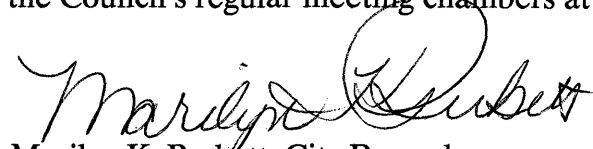
- A. After having made a recommendation other than favorable on any license application, the Council shall not consider any new application for the same location by the same or substantially the same applicant for a period of at least six (6) months, except as otherwise provided herein.
- B. If the Chief of Police reasonable believes that the conditions which caused the Council to make a recommendation, other than a favorable recommendation, have substantially changed and no court or administrative appeal of such license is

pending, then the Chief of Police may reconsider and/or resubmit such application to the Council.

**Section 8. Penalty.** Violation of any of the terms of this ordinance is punishable by a fine not to exceed five hundred dollars (\$500). Each day that a violation is shown to exist shall constitute a separate offense.

**Section 9. Severability.** Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

**SUBMITTED** to the Council and read the first time at a regular meeting thereof on January 19, 1994, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on February 2, 1994, commencing after the hour of 7:30 p.m., at the Council's regular meeting chambers at the Canby City hall in Canby, Oregon.


  
Marilyn K. Perkett, City Recorder

**ENACTED** by the Canby City Council at a regular meeting thereof on February 2, 1994, by the following vote:

YEAS 6      NAYS 0

  
Scott Taylor, Mayor

ATTEST:

  
Marilyn K. Perkett, City Recorder