

A BILL FOR AN ORDINANCE PROVIDING) ORDINANCE NO. 2071
PROCEDURE AND CRITERIA FOR CITY) for 1990
RECOMMENDATIONS TO THE OREGON)
LIQUOR CONTROL COMMISSION REGARDING)
LIQUOR LICENSE APPLICATIONS FOR)
PREMISES LOCATED IN THE CITY OF)
LEBANON)

The City Council of the City of Lebanon finds as follows:

WHEREAS, Oregon Revised Statutes 471.210 and the administrative rules of the Oregon Liquor Control Commission authorize City Council to make recommendations concerning liquor licenses for businesses within the City; and

WHEREAS, the City Council desires to establish a formal review and recommendation process in order to provide for neighborhood and community comment and to fairly determine which persons and locations should be recommended for OLCC licensure; and

WHEREAS, this formal process will ensure that recommendations are determined in an orderly, consistent and efficient manner,

NOW THEREFORE, the Council does ordain as follows:

Section 1 Title and Area of Application

This ordinance shall be known as the Lebanon Liquor License Recommendation Ordinance, may be so pleaded and referred to, and shall apply to the incorporated areas within the city limits of Lebanon, Oregon.

Section 2 Policy and Purpose

The purpose of this ordinance is to establish the criteria that shall be considered by the City Council and its designees, in making recommendations to the Oregon Liquor Control Commission, hereinafter referred to as the OLCC, concerning the granting, denying or renewal of liquor licenses within the incorporated areas of the City of Lebanon, and to establish a process to be used to investigate license applications in order to make fair, effective, and efficient recommendations. This ordinance is necessary to assist the OLCC assuring that premises licensed to sell or dispense liquor within the city limits of Lebanon conduct business in a lawful, peaceful, safe and sanitary manner.

Section 3 Application Procedure

1. Any applicant for a liquor license who is required by the Oregon Liquor Control Commission to have a recommendation from the City Council from the City of Lebanon shall present properly completed application forms as prescribed by the Lebanon Chief of Police, along with the appropriate processing fee. The processing fee shall be determined by resolution of the City Council.

2. The Chief of Police, upon receipt of such properly completed application, shall forward the liquor license for investigation to the City Planner, the City Building Official, and any other city department manager or county official whom the Chief of Police deems appropriate for such investigation. A written report of such investigation shall then be forwarded to the Chief of Police, if an unfavorable recommendation is made, within ten (10) days after the receipt of the application, unless a reasonable extension of time is granted by the Chief of Police.

Section 4 Public Hearing

A public hearing shall be held on all applications for renewal or new liquor licenses after investigation has been made as required by Section 3 of this ordinance. No later than ten (10) days prior to the public hearing, there shall be published in a newspaper of general circulation within 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.

Notice of the public hearing shall be given to the applicant either personally or by certified mail postmarked not later than 10 days prior to the public hearing. The notice shall contain the date, time and place of the hearing and a statement that information about procedures and rights

of parties may be obtained from the office of the City Administrator.

Section 5 Public Hearing Procedures

A public hearing shall be conducted in the same manner as any other public hearing held by the Council.

The City, the applicant, and any interested parties shall have the right to testify upon the application submitted.

1. After due consideration of the evidence and testimony presented, the City Council shall make its recommendation. The recommendation shall be based upon substantial evidence relative to the criteria within this ordinance and shall be final. If the recommendation of the City Council is for the denial of a license, the Council shall make written findings regarding the basis for its recommendation and forward such findings to the OLCC along with the Council's recommendation. A copy thereof shall be sent to the applicant by first class mail.

Section 6 Criteria for Recommendation

City Council may make an unfavorable or conditionally favorable recommendation to the OLCC on any application if the following apply, or a favorable recommendation if none of the following apply:

1. The application is not complete.

2. The applicant fails to provide the City Council or any city or county agency involved herein with reasonably requested information in a timely manner.

3. The applicant recklessly or intentionally provides the city with false or misleading information.

4. The applicant has been convicted of or pled guilty to one or more of the following local, state or federal offenses:

- A) Driving while under the influence of intoxicants.
- B) Drinking alcoholic liquor in a motor vehicle upon a public highway.
- C) Possession of a controlled substance.
- D) Delivery of a controlled substance.
- E) Manufacture of controlled substance.
- F) Any other offense involving moral turpitude.

5. Evidence is discovered which indicates that the applicant is in the habit of using alcoholic beverages, habit-forming drugs or controlled substances to excess.

6. The applicant is incompetent or physically unable to carry on the management of the establishment proposed to be licensed.

7. The applicant has maintained an unsanitary establishment.

8. The applicant does not display a good record of compliance with the alcoholic liquor laws of this state and the rules of the OLCC when previously licensed.

9. The applicant is not the legitimate owner of the business proposed to be licensed or other persons have ownership interests in the business, which interests have not been disclosed.

10. The applicant's record shows, through convictions, guilty pleas, civil compromises, administrative rulings or other means, violation(s) of law(s) or ordinance(s) connected in time, place and manner with a liquor establishment, including state alcoholic liquor and gambling laws.

11. The applicant has maintained or allowed to exist, an establishment that creates or is a public nuisance under state law or city ordinance.

12. That there are sufficient licensed premises in the locality set out in the application, or that the granting of a license in the locality set out in the application is not demanded by public interest or convenience.

13. The applicant has not maintained the premises in accordance with the building code or fire code in the city and the state.

14. The applicant seeks licensing of premises which would not be consistent with city land use designations.

15. That there is a history of serious and persistent problems involving disturbances, lewd or unlawful activities or noise either in the premises 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. Behavior which is grounds for an unfavorable recommendation under this criteria, were so related to the sale or service of alcohol, includes, but is not limited to obtrusive or excessive noise, music or sound vibrations; public drunkenness; fights; altercations; harrassment or unlawful drug sales; alcohol or related litter; trespassing on private property; and public urination.

Council can consider such mitigating factors by a showing of the applicant that the problems are not serious or persistent or that the applicant has demonstrated a willingness and ability to control adequately the licensed premises and patrons' behavior in the immediate vicinity of the premises.

Section 7 Conditional Recommendation

If the City Council finds that an applicant does not meet the criteria established by Section 6 of this ordinance, it may make a conditionally favorable recommendation with a letter of warning. The City shall cause to be delivered to

the applicant in person or by first class mail a summary of the reports relating to the application, and a notice to correct the problem cited. A copy of this notice and summary shall be sent to OLCC. During the following license period, the Police Chief shall monitor the progress of the applicant in correcting such problems and report to the City Council. At the time of the next license renewal, the applicant shall have the burden of proof to establish that the license should receive a favorable recommendation for renewal. If the Council finds that the applicant has not made sufficient progress in correcting the conditions which resulted in the letter of warning, then the Council may make an unfavorable recommendation to the OLCC without further public hearing.

Section 8

If the Council makes an unfavorable recommendation on any license application, the Council shall not consider a new application from the same applicant while an administrative or court appeal relating to license is pending. A further application may be resubmitted to the Council in less than six months from the date of the Council's unfavorable recommendation only if the conditions which caused such recommendation have been remedied.

Section 9 Emergency Clause

Inasmuch as the provisions of this ordinance are necessary for the immediate preservation of the peace, health and safety of the people of the City of Lebanon, an emergency

