

COUNTY CLERK JUNE WAGNER

FILED

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF TILLAMOOK COUNTY, OREGON

JAN 4 2 44 PM 1984

JUNE WAGNER
COUNTY CLERK

DEPUTY

In the Matter of an Ordinance)
Establishing a Review Procedure)
for Liquor License Review and)
Board of Commissioner)
Recommendation to the Oregon)
Liquor Control Commission)

ORDINANCE NO. 23

WHEREAS the Board of Commissioners is required to review liquor license applications and make a recommendation to the Oregon Liquor Control Commission regarding each application, and

WHEREAS the Oregon Liquor Control Commission will carefully consider the recommendation of the Board of Commissioners before issuing or renewing a liquor license if the recommendation is reached after due consideration and upon reasonable notice to the applicant and public and reasonable opportunity to be heard, and

WHEREAS the Board of Commissioners wishes to enhance the consideration afforded its recommendation by the Oregon Liquor Control Commission and to enhance the local control of liquor licenses; now, therefore,

THE BOARD OF COMMISSIONERS OF TILLAMOOK COUNTY
ORDAINS AS FOLLOWS:

Section 1. Purpose.

The purpose of this Ordinance is to provide review criteria and administrative procedures for the review of liquor

licenses. The Board of Commissioners is required by ORS 471.210 (3) to make a recommendation to the Oregon Liquor Control Commission concerning the granting, denying, modifying or renewing of all liquor license applications in the unincorporated areas of Tillamook County.

Section 2. Title.

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."

Section 3. Scope of Provisions.

This ordinance shall govern the procedures and criteria for consideration of liquor license applications and Board of Commissioner recommendation to the Oregon Liquor Control Commission.

Section 4. Definitions.

For the purposes of this ordinance the following mean:

Administrator - The Tillamook County Health Officer or his or her designate.

Application - The written request to the Administrator to grant, modify or renew a liquor license.

Board - The Tillamook County Board of Commissioners.

Commission - The Oregon Liquor Control Commission.

Section 5. License Application.

Any person or business requesting a Board recommendation to the Commission on a liquor license application shall

make application upon suitable forms furnished by the Administrator and available from the County Clerk. 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 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, and the name and address of the local agent or representative who will be in charge of the business in the County.
- C. The address of the location where the business will be located in the County.
- D. The date of application.
- E. Any other information the Administrator or Board deems necessary for review.
- F. The signature of the applicant or agent making the application.

The applicant shall be required to pay the fee established by the Board under Ordinance No. 18.

Section 6. Administrator's Duties.

The Administrator shall provide application forms and shall maintain a record of all applications. The Administrator

shall review all applications for the purpose of making a recommendation to the Board. The review may include those subjects contained in this ordinance and the Administrator may require the applicant to supply any relevant additional information to determine the qualifications of the applicant.

The Administrator shall send copies of the application to the Tillamook County Sheriff's Department, the Tillamook County Permit Coordinator and the Tax Department for their review and comment. Written reports and recommendations from these departments shall be made a part of the record for the application.

Upon completion of the review, the Administrator shall make a recommendation to the Board.

Section 7. Hearing Procedure.

A. If the Administrator recommends approval of the application, the application will be scheduled as a consent agenda item. Upon adverse recommendation by the Administrator, a public hearing will be scheduled and notice given pursuant to Section 8 of this ordinance.

B. The hearing will be presided over by the Chairman of the Board or, in his or her absence, the Vice Chairman.

C. The County and the applicant shall have the right to present evidence and witnesses and shall have the right to cross examine witnesses presenting opposing testimony. The Administrator shall present the evidence and witnesses for the County.

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

E. If the applicant does not both provide written notice of the applicant's intention to participate in the public hearing as provided in Subsection D of Section 8, and subsequently appear at the public hearing, the recommendation of the Administrator shall be adopted by the Board.

F. The hearing shall be limited to production of evidence as alleged in the Administrator's recommendation, unless the Board waives the rule.

1. Admissibility of evidence. 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.

2. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.

G. After due consideration of all pertinent information and testimony the Board 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, the specific reasons for the recommendation shall be announced at the meeting and set out in the Board's minutes. A copy of the minutes shall be provided

to the Commission.

Section 8. Applicant Notice.

Before the Board 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:

- A. A statement of the time and place of the hearing;
- B. A statement from the Administrator of the matter(s) asserted or charged supporting the adverse recommendation or stating why the hearing was requested;
- C. A statement that the applicant may be represented by legal counsel at the hearing, but legal counsel shall not be provided at public expense;
- D. A statement that if the applicant desires to participate in the hearing, the Administrator must receive notice in writing, no later than five working days prior to the hearing; and
- E. A statement that if participation is requested by the applicant, that a copy of this ordinance may be obtained at the Administrator's office.

Section 9. Public Notice.

In order to facilitate public participation in liquor license applications, the County shall cause to be published in a newspaper of general circulation in the county a notice

specifying all liquor license applications by business name and address pending before the Administrator. The notice shall inform the public that written comments will be accepted by the Administrator and shall further specify the time limitation for receipt of those comments.

B. In the event that a public hearing is scheduled, the County, in addition to any regular Board notice provisions, shall cause to be published in a newspaper of general circulation in the County 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 10. Standards and Criteria.

The Board shall make its recommendation for approval, denial or modification of the liquor license application based on the Board's evaluation of the relevant standards and criteria. The applicant shall be held strictly accountable for the conditions of the premises. The Board may recommend against the applicant if:

- A. The application is incomplete;
- B. The applicant neglects or refuses to provide in a timely manner any information reasonably requested by the Administrator or Board;
- C. The applicant provides false or misleading information to the Administrator, Board or any County employee;
- D. 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 or owning a business within a one-half mile radius of the premises. The number of persons expressing support or opposition will not, in and of itself, be controlling;

E. The applicant's premises and the area nearby are heavily frequented by persons under 21 years of age unaccompanied by adults;

F. The applicant has been convicted of violating any of the alcoholic liquor laws of this state, general or local, or has been convicted of any felony or any misdemeanor involving moral turpitude;

G. The applicant uses controlled substances or alcoholic beverages to excess;

H. The applicant is not of good repute or moral character;

I. The applicant has maintained, or allowed to exist a noisy, lewd, or disorderly establishment, or an establishment which creates or is a public nuisance under the ordinances of the County or laws of the state;

J. The applicant's premises are not maintained in good repair, both interior and exterior, and kept clean and free of litter, rubbish or dirt;

K. The applicant's premises are unsanitary;

L. The applicant or applicant's premises fail to conform to, abide by, or comply with, County ordinances or regulations or state laws and regulations;

M. The applicant's premises place unreasonable, excessive demand on County services, including law enforcement;

N. County records show that the applicant is delinquent in payment of personal or real property taxes on the applicant's business premises.

Section 11. Emergency Clause.

An emergency is hereby declared to exist because in order to protect the health, safety and welfare of the citizens of Tillamook County, it is necessary to implement the liquor review process immediately to be able to assess the liquor license applicants for 1984.

DATE OF FIRST READING: December 21, 1983.

DATE OF SECOND READING: January 4, 1984.

APPROVED AND EFFECTIVE: January 4, 1984

APPROVED AS TO FORM:

BOARD OF COMMISSIONERS OF
TILLAMOOK COUNTY, OREGON

Lynn Rosik
Lynn Rosik
County Counsel

Gerald A. Woodward
Gerald A. Woodward, Chairman

Barbara Legoo
Recording Secretary

F. E. Knight
F. E. Knight, Commissioner

Carol Williams, Commissioner