

License and Fees Committee Meeting Agenda
City of Superior, Wisconsin

Monday – July 14, 2014
1:00 p.m. Government Center – Conference Room 204

DATE

Roll Call

Approval of Minutes – June 9, 2014

(Referred from July 1, 2014 Council meeting)

City Clerk Kalan requesting the following:

1. Review of the Outdoor Alcohol Consumption license.
2. Review of the Sidewalk Café license
3. Discussion of prohibiting Commercial Quadricycles (pedal pubs) on city streets.

Adjournment

Linda Byrnes, Deputy City Clerk

c:

Mayor
City Council
City Attorney
Police Chief
Matt Markon
Fire Chief
Planning Director

Dave Minor, Chamber
Kaye Tenerelli, BID
Keith Kern, Tavern League

Shelley Nelson (email)
Post - 2
Library – Please Post (faxed)

Notice is hereby given that a majority of the members of the common council may be present at the meeting, and although this may constitute a quorum of the common council, the council will not take any action at this meeting.

In compliance with Wisconsin Open Meetings Law, this agenda was:
Posted at: Government Center, Courthouse, & Public Library
Media & mailing list notified: DATE

LICENSE AND FEES COMMITTEE PROCEEDINGS
City of Superior, Wisconsin
Monday – June 9, 2014

The License and Fees Committee was called to order by City Clerk Kalan at 1:00 p.m. in the Government Center Conference Room 204.

Members Present: Tom Fennessey, Esther Dalbec

Member Excused: Denise McDonald

Staff present: City Clerk Kalan, Deputy Clerk Byrnes, City Attorney Prell, Police Chief LaGessee, Herrick, Bob Finsland

Others Present: Aaron Dandrea, Kevin Holm, Kay Tenerelli, Vonnie Kalinoski, Brittany Oliver

Selection of Chair and Vice Chair

MOTION by Dalbec, seconded by Fennessey and carried, to appoint Fennessey as Chair and McDonald as Vice Chair.

Approval of Minutes – May 12, 2014

MOTION by Dalbec, seconded by Fennessey and carried, to approve.

Referred from the June 3rd Council meeting:

MOTION by Fennessey, seconded by Dalbec and carried, to take the items in order of 1, 4, 5, 2, 3.

1. Tower Avenue Tavern, Inc. 405 Tower Avenue, application for an Outdoor Alcohol Consumption License.

Clerk Kalan advised all approvals have been received.

MOTION by Dalbec, seconded by Fennessey and carried, to approve.

Police Chief LaGessee expressed concern over the Outdoor Alcohol Consumption ordinance not requiring the outdoor area be clearly delineated. LaGessee and Kalan will work on clarifying the ordinance language and bring back to the next meeting.

2. Superior Entertainment Inc., Trade Name Ugly Stick Saloon, 3303 Belknap St. application for an Outdoor Alcohol Consumption License.

Vonnie Kalinoski, Belknap Terrace resident, complained of loud music coming for this establishment and cars driving through the parking lot and the trailer park. She advised this has been a nightmare for her since they opened.

Brittany Oliver, owner, advised there have been no police calls in the past 7 months regarding the music. The complaint calls prior to that were found unsubstantiated. The intent is to allow patrons to sit outside and have a beverage during warm weather as her competition is doing. She did not want this for late night evenings, but rather until about 9:00 p.m. There will not be music in the outdoor area.

Councilor Herrick did not support the area due to the proximity to the trailer park and believed if people were allowed to drink outside, they could become louder as the evening went on.

Police Chief LaGessee advised when the business first opened there were calls regarding music but the officers did not find the noise unreasonable for a business of this type. He suggested restricting the hours of this Outdoor Alcohol Consumption license to 9:00 p.m. If patrons were found in the area or in the parking lot after that time with alcohol, they could be cited for public consumption.

Brittany Oliver was in agreement with the time frame restriction.

MOTION by Fennessey, seconded by Dalbec and carried, to approve the license limiting the hours of operation to 9:00 p.m.

3. Superior Sands, LLC, Trade Name Superior Sands, 69 N. 28th St. Suite 50, application for an Outdoor Alcohol Consumption License.

Clerk Kalan advised all approvals have been received. Because the outdoor area is not contiguous with the licensed premises, she contacted the Alcohol and Tobacco Agents with the Department of Revenue for clarification. The agents concluded that because it is a private parking lot, a crosswalk could be designated allowing patrons to move between the indoor and outdoor premises.

MOTION by Fennessey, seconded by Dalbec and carried, to approve.

4. Kurtz's Twin Ports Subs (Erbert & Gerbert's) 1325 Tower Avenue application for a Sidewalk Café license.

Clerk Kalan advised all approvals have been received.

MOTION by Dalbec, seconded by Fennessey and carried, to approve.

5. Dandrea WI, Inc. (Tavern 1201, aka VIP), 1201 Tower Avenue application for a Sidewalk Café License.

Clerk Kalan advised all approvals have been received.

MOTION by Fennessey, seconded by Dalbec and carried, to approve.

MOTION by Councilor Dalbec, seconded by Fennessey and carried, meeting adjourned at 1:45 p.m.

Respectfully submitted,
Terri Kalan, City Clerk
City of Superior, Wisconsin

ORDINANCE #O

ORDINANCE INTRODUCED BY THE LICENSE AND FEES COMMITTEE AMENDING CITY CODE CHAPTER 14, ALCOHOL BEVERAGES, BY CREATING AN OUTDOOR ALCOHOL CONSUMPTION LICENSE

The Common Council of the City of Superior, Wisconsin, does ordain as follows:

SECTION 1: Chapter 14, Alcohol Beverages, is hereby amended by adding Section 14-23 (5) and (6); Section 14-24 (a)(3)f; and Section 14-58 (c) is created, to read as follows:

Section 14-23 Other Licenses is hereby amended by *adding*:

(5) Karaoke

(6) Outdoor Alcohol Consumption License as provided in article III.

Section 14-24. License Fees is hereby amended by *adding*:

(a) (3) f. Outdoor Alcohol Consumption license (Initial fee)\$100.00

Section 14-58 Premise is hereby amended by *creating*:

(c) *Outdoor Alcohol Consumption License.* No licensee authorized under this section shall permit the sale, service, or consumption of alcohol on any unenclosed part of the licensed premises or adjacent premises owned or leased by the licensee except when granted an Outdoor Alcohol Consumption License by the Common Council. The license is a privilege in which no rights vest and therefore, may be revoked for violations of any provisions.

(1) Application. An application shall be made in writing on the form prescribed by the City Clerk and must include a site plan drawn to scale and dimensions showing the location of fixtures, entrances/exits and furniture; and shall accurately describe the outdoor area and the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. **The area in which the outdoor alcohol license is to be granted must be clearly delineated from the adjacent non-licensed property by the installation of a fence, railing, wall, or by an obvious change in the surface such as paving stones or concrete slab.** (All applicable building/fire codes apply)

(2) Approval.

a. All initial applications must be approved by the Common Council, after recommendation for approval by the following Departments: Police, Fire, ~~Health, Building~~ Inspection; and the License & Fees Committee. Renewals will be approved by the Common Council with other applicable alcohol renewal applications.

b. In making their determination on whether or not to recommend approval of an Outdoor Alcohol Consumption License, the License & Fees Committee shall, on a case-by-case basis, take into consideration public safety; size of the outdoor area; location with respect to adjacent residential uses and neighborhood conditions; noise; parking; hours of operation; harmful, offensive or otherwise adverse impact to the surrounding neighborhood; and security and monitoring of alcohol consumption when recommending the license be granted as requested, modified for denied.

(3) Control over area. A licensed operator shall have control over the outdoor seating area at all times the outdoor seating area is in operation and the area shall be capable of being constantly observed by serving or security personnel.

(4) **Amplified sound.** Amplified sound, such as music, is permitted but may not be audible outside of the outdoor seating area **unless a One Day Cabaret license has been applied for and approved by Council Outdoor music is limited to the following hours: Sunday – Thursday 12:00 p.m. - 10:00 p.m.; and Friday & Saturday 12:00 p.m. - 12:00 a.m.**

(5) **Improved Surface.** The outdoor area must be suitable for pedestrian traffic. The appearance, lighting, signage, visual barriers must be reasonably compatible with the surrounding area.

(6) **Fee.** There shall be an initial application fee of one hundred dollars (\$100.00); and no renewal fee if there are no changes to the outdoor area.

(7) **Time of Operation.** The outdoor seating area may only be open during regular business hours. No one may be in the outdoor seating area beyond those hours unless they are employees of the licensed premise and are actually involved in the process of clean-up, maintenance or repair. The shift commander of the Police Department has the authority to order any outdoor seating area to be closed down at any time the Shift Commander believes it is in violation of this ordinance.

(8) **State Statutes Enforced Within Outdoor Seating Area.** Every licensee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the Outdoor Alcohol Beverage License by the Common Council.

SECTION 2: All ordinances and parts of ordinance in conflict herewith are hereby repealed.

SECTION 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this _____ day of

Attest:

Mayor

City Clerk

ORDINANCE #O

AN ORDINANCE INTRODUCED BY THE LICENSE & FEES COMMITTEE TO AMEND THE CODE OF ORDINANCES, CHAPTER 14, ALCOHOL BEVERAGES, ARTICLE VII. CABARET LICENSE

The Common Council of the City of Superior, Wisconsin, does ordain as follows:

SECTION 1: Chapter 14, Article VII Cabaret licenses, Section 14-165 Required, is hereby amended to read as follows:

Sec. 14-165. Required.

No dancing, whether private or public, or exhibitions or entertainment of whatever nature, commonly classed under the term "cabaret," "nightclub" or "floor show" performance shall be permitted on any premises licensed under this chapter unless a cabaret license has been also issued for such premises. No cabaret license shall be issued except in conjunction with a "Class B" liquor license, unless an exception is granted by the common council. If such an exception is granted, the fee for such license shall be \$50.00. A one (1) day license or a **one (1) day outdoor license** may be issued for a license fee of \$50. **Outdoor music is limited to the following hours: Sunday – Thursday from 12:00 p.m. - 10:00 p.m.; and Friday & Saturday 12:00 p.m. - 12:00 a.m.**

SECTION 2: Chapter 14, Article VII Cabaret licenses, Section 14-169 is hereby created to read as follows:

Sec.14-169 Exemptions

A Cabaret license issued under this chapter is not required under the following circumstances and conditions:

- (1) Musical entertainment, provided by non-profit organizations, at events for a period of not more than seven (7) days, such as events being held at City's parks.***
- (2) Those entities that meeting the qualifications to hold a temporary beer and/or wine license under Chapter 125 of the Wisconsin Statutes.***

SECTION 3: All ordinances and parts of ordinance in conflict herewith are hereby repealed.

SECTION 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 5: This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 16th day of May, 2006

DVISION 3. COMMERCIAL QUADRICYCLES

Sec. 112-53 Commercial Quadricycles prohibited on city streets

Operation of a “Commercial quadricycle” as defined by Wis. Stat. sec. 340.01(8m) is prohibited on all city streets.

Sec. 112-54 Penalty

Any person convicted of violating any of the provisions of this chapter shall forfeit not less than \$50.00 nor more than \$200.00, plus court and prosecution costs.