

CITY OF NEWPORT

ORDINANCE NO. 2212

AN ORDINANCE PRESCRIBING LICENSING GUIDELINES TO BE FOLLOWED IN
MAKING RECOMMENDATIONS ON LIQUOR LICENSE APPLICATIONS TO THE
OLCC AND AMENDING THE NEWPORT MUNICIPAL CODE TO ADD CHAPTER 4.50
LIQUOR LICENSE REVIEW

WHEREAS, ORS 471.166(8) provides for cities to adopt guidelines for making recommendations to the Oregon Liquor and Cannabis Commission regarding the granting of liquor licenses within a city; and

WHEREAS, the City of Newport has relied on unwritten policy or practice for purposes of providing favorable or unfavorable recommendations on liquor licenses; and

WHEREAS, this ordinance has been prepared to formalize the process used by the City of Newport, and to bring the City of Newport into compliance with ORS 471.166.

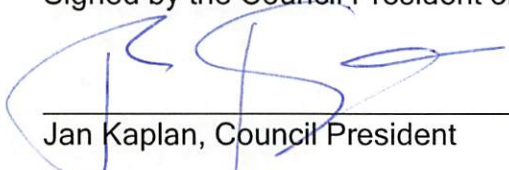
THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. The Newport Municipal Code is amended to add Chapter 4.50 Liquor License Review, attached as *Exhibit A*.

Section 2. This ordinance shall become effective thirty days after adoption.

Adopted by the Newport City Council on June 20, 2023.

Signed by the Council President on June 26, 2023.



Jan Kaplan, Council President

ATTEST:



Erik Glover, Assistant City Manager/ City Recorder

Chapter 4.50

LIQUOR LICENSE REVIEW

4.50.010 Title, purpose and authority

A. This chapter shall be known and may be cited as the "liquor license review ordinance" and may also be referred to herein as "this chapter."

B. The purpose of this chapter is to establish the substantive criteria which shall be considered by the city council, and its designee(s), including the chief of police, in making recommendations to the Oregon Liquor and Cannabis Commission (OLCC) concerning the granting, denying, modifying, changing, conditioning or renewing of all liquor licenses for premises within the city limits. Further, the purpose of this chapter includes the establishment of fees and the establishment of a process for investigation, and, if necessary, the conduct of an appeal hearing concerning such license applications.

C. The procedure and criteria in this chapter, together with the establishment of processing fees herein, is specifically authorized by ORS 471.166(8).

4.50.020 Definitions

A. "Applicant" means the person, persons, corporation or entity applying for a liquor license.

B. "Application" means the written forms provided by the Oregon Liquor and Cannabis Commission that serve as a written request to the city to grant, modify, or renew a liquor license.

C. "Chief of police" means the person holding the position of chief of police for the city of Newport or any officer or employee of the city of Newport delegated or assigned (in writing) any or all of the tasks of the chief of police described herein.

D. "City" means the city of Newport, Oregon.

E. "City council" means the city council for the city of Newport, or council's designee.

F. "City recorder" means the person holding the position of city recorder or any officer or employee of the city of Newport delegated or assigned in writing any or all of the tasks of the city recorder described herein.

G. "Commission" or "OLCC" means the Oregon Liquor and Cannabis Commission.

H. "Temporary sales license (TSL)" means a license obtained from the commission that gives a successful applicant authority to sell alcoholic beverages on premises that the

commission has not otherwise licensed, and for which a recommendation by the city must be obtained.

4.50.030 Submission of license application and fees to city recorder

A. Any person, corporation or entity requesting a liquor license through the OLCC shall present the completed license application forms prescribed by OLCC and all other supportive materials identified in this chapter to the city recorder.

B. An OLCC personal history form shall be completed by the applicant for each person named on the license application. A signed release for a criminal background investigation to address the criteria in ORS 471.313(4) shall be submitted by all applicants.

C. A mandatory processing fee shall be submitted with the application. The fee shall be periodically established by resolution of the city council. Such fees shall not exceed the maximum fees established in ORS 471.166(8).

D. The city recorder shall accept liquor license applications only when the following conditions are met:

1. An applicant provides legible completed copies of the required applicable forms, including, but not limited to, liquor license application form, temporary sales application (TSL) form, individual history forms, background check form, and business information form.
2. The applicant submits a valid city of Newport business license, when applicable.
3. The application is complete.
4. The applicant has provided any relevant additional information the city recorder requests to determine the qualifications of the applicant.
5. The application is accompanied by the appropriate fees, as established by subsection (C) of this section. There is no provision for waiver of an application fee, including TSL fees, regardless of the applicant.

E. If the city recorder finds the application package complete, the application shall be forwarded to the chief of police. The city recorder shall also request that the planning department determine and forward to the chief of police competent evidence concerning whether the location of the licensee's business complies with all applicable city land use requirements. If the application package is found not to be complete the city recorder shall notify the applicant of the deficiencies in writing. The city recorder shall take no action on an incomplete application; if the application is not completed within 30 days of the city recorder's notice of deficiencies, the application shall be returned to the

applicant. The applicant may require, upon written request to the city recorder, that an application with missing information (except fees) be processed to decision.

4.50.040 Chief of police recommendation – Appeal

A. The city council hereby delegates to the chief of police the ability to process all OLCC liquor license applications or requests, and further delegates to the chief of police the authority to make a city recommendation on such applications; provided, that the recommendation shall be placed on the city council consent agenda for review by council. Notwithstanding the above, if the chief of police's recommendation on a TSL is favorable, the chief's recommendation is the final recommendation of the city and the matter need not be placed on the council's consent agenda. In the case of an unfavorable recommendation, or recommended restrictions or conditions otherwise adverse to the applicant, the appeal hearing procedures of this section and NMC 4.50.050 shall be applicable, if properly initiated by the applicant.

B. Upon receipt of a complete application packet for any liquor license from the city recorder, the chief of police shall:

1. Coordinate and conduct an investigation, gather reliable evidence and write a report including written findings, concerning each application with due consideration of the valid grounds for unfavorable recommendations, specifically analyzing ORS 471.313(4) and (5) and implementing administrative rules. Based on this evidence and findings, the chief of police shall make a recommendation.
2. The chief of police may, at any time, require the applicant to supply additional information if such information is deemed necessary and relevant to the OLCC grounds for unfavorable recommendations.
3. Except as provided above for TSLs, if the chief of police recommendation is for approval, the recommendation shall be placed on the next available consent agenda of the city council for action. The city council may approve such recommendation or may remove the item from the consent agenda for discussion at the request of a council member, or a member of the public. The council, by majority vote, may require that the matter be scheduled for a hearing before the city council.
4. If the chief of police recommendation is unfavorable, or the chief of police recommends restrictions or conditions otherwise adverse to the applicant, the applicant shall be notified in person or by mail of such unfavorable recommendation or restriction. The notification to the applicant by the chief of police of such unfavorable recommendation or restriction shall advise the applicant that they have the right to a hearing on the matter before the city council, if such request for a hearing is timely filed in the office of the city manager within 15 calendar days of personal service or mailing of the notice. If no request for a hearing is filed, the recommendation by the chief of police shall be scheduled for the council's next available consent agenda.

5. After a recommendation is made by the city council, the city recorder shall forward the recommendation and any necessary supporting documentation and evidence to the OLCC; the chief of police shall endorse, on behalf of the city, any forms required to forward the recommendation to the OLCC.

6. After final action on such applications the chief of police shall forward all documentation to the city recorder who shall maintain a record of all OLCC applications.

4.50.050 Hearing

A. In the event the city council requests a hearing on an application which has been recommended for approval by the chief of police, the hearing shall be scheduled before the city council, and conducted in accordance with quasi-judicial hearing procedures under the council rules.

B. In the event the applicant requests a hearing on an application which has an unfavorable recommendation or recommended restriction by the chief of police, the hearing shall be scheduled before the city council, and conducted in accordance with quasi-judicial hearing procedures under the council rules.

C. There is no fee imposed for a hearing requested pursuant to subsection (A) or (B) of this section, other than the processing fee specified in NMC 4.50.030.

4.50.060 Substantive criteria for the decision

The city council may make an unfavorable recommendation to the commission if it finds sufficient basis for such a recommendation under Oregon liquor laws, including without limitation ORS 471.313(4) or (5), OAR 845-005-0320, 845-005-0325 or 845-005-0326, or the license restriction bases of OAR 845-005-0355, and such recommendation must be supported by reliable factual information.

4.50.070 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 three months, except as otherwise provided herein.

B. If the chief of police reasonably believes that the conditions which caused the council to make an unfavorable recommendation or impose restrictions adverse to the applicant have substantially changed, and no appeal of such license is pending, then the chief of police may reconsider and/or resubmit such application to the council.