

**CITY OF WASILLA  
ORDINANCE SERIAL NO. 07-54(SUB 1)**

**AN ORDINANCE OF THE WASILLA CITY COUNCIL AMENDING WMC 6.16.020, REVIEW OF LIQUOR LICENSE APPLICATIONS, WMC 6.16.030, WAIVER OF PROTEST, AND WMC 6.16.040, CONSIDERATION BY COUNCIL, TO PROVIDE FOR CITY ACTION ON APPLICATIONS TO RELOCATE A LIQUOR LICENSE INTO THE CITY THAT ARE SUBJECT TO CITY APPROVAL UNDER AS 04.11.400(n).**

\* **Section 1. Classification.** This ordinance is of a general and permanent nature and shall become part of the city code.

\* **Section 2. Amendment of section.** WMC 6.16.020, Review of liquor license applications, is amended by adding a subsection B to read as follows:

A. Upon receiving notice from the Board of an application for the issuance, renewal, transfer of location or transfer to another person of a liquor license for a license location in the city, the city shall refer the application for review:

1. By the planning office to determine whether any structure, or use of land or a structure, at the license location does not conform to Title 16 of this Code, or the terms and conditions of any rezoning, planning commission approval, or administrative approval granted for the license location under Title 16 of this Code. The planning office shall notify the applicant in writing of any nonconformity that it finds. In response to the notice, the applicant may either:

a. Provide evidence satisfactory to the mayor that the nonconformity has been corrected; or

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

b. Provide a plan for correction of the nonconformity satisfactory to the mayor, with security satisfactory to the mayor for the performance of the plan.

2. By the finance department to determine whether the licensee or license transferee is delinquent in paying to the city any tax, assessment, business license fee, or fee or charge for utility service, or to the Matanuska-Susitna Borough any real property tax, for the business that operates, or will operate, under the liquor license. The finance department shall notify the applicant in writing of any delinquency that it finds. In response to the notice, the applicant may either:

a. Provide evidence satisfactory to the mayor that the delinquent amount has been paid; or

b. Provide a plan for paying the delinquent amount satisfactory to the mayor, with security satisfactory to the mayor for the payment of the delinquent amount.

3. By the police department to determine whether, in the opinion of the chief of police, there has been an excessive number of convictions or arrests for unlawful activity at the license location, police reports of unlawful activity at the license location, or police dispatches to the license location. The police department shall notify the applicant in writing of any adverse finding under this subsection.

**B. Upon receiving notice from the Board of an application for the transfer of location of a liquor license into the city under AS 04.11.400(n), in addition to the referrals under subsection A of this section, the city shall refer the application for review by the Community and Economic Development Department to determine whether the application meets the requirements of AS 04.11.400(n),**

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

and the degree to which approving the application will promote economic development and serve the convenience of the public in the city by causing either

1. The establishment of a new restaurant or eating place in the city; or

2. Significant investment in the improvement of an existing restaurant or eating place in the city.

The Community and Economic Development Department shall establish a form of written application for city approval of the transfer of location of a liquor license into the city under AS 04.11.400(n), and written criteria for evaluating such an application.

\* **Section 3. Amendment of section.** WMC 6.16.030, Waiver of protest, is amended to read as follows:

6.16.030 Waiver of protest.

If, within twenty (20) business days after the referrals under Section 6.16.020 of a liquor license application that is subject to protest by the city under AS 04.11.480, the code compliance officer [MAYOR] finds that the referrals have resulted in no findings adverse to the liquor license application that have not been resolved, the code compliance officer [CITY CLERK] shall [MAY] notify the Board that the city waives its right to protest the application.

\* **Section 4. Amendment of section.** WMC 6.16.040, Consideration by council, is amended to read as follows:

6.16.040 Consideration by council.

A. [IF,] Within twenty (20) business days after the referrals under Section 6.16.020, [THE MAYOR FINDS THAT THERE ARE UNRESOLVED FINDINGS

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

ADVERSE TO THE LIQUOR LICENSE APPLICATION,] the code compliance officer [CITY CLERK] shall contact the city clerk to schedule [THE] each liquor license application for which the city has not waived its right to protest under Section 6.16.030 for consideration by the city council at a city council meeting, and send written notice to the applicant. The notice shall include the following information:

1. The date and time of the meeting at which the council will consider the application; [AND]

2. A statement that the applicant may appear before the council at the meeting to defend the application; and

3. A summary of any unresolved findings adverse to the liquor license application that have resulted from the referrals under Section 16.16.020.

B. Before taking action on a liquor license application under this section, the city council shall provide the applicant an opportunity to make a presentation in defense of the application.

C. For a liquor license application that is subject to protest by the city under AS 04.11.480:

1. After considering the application, the city council may decide to:

a [1]. Protest the application under AS 04.11.480(a);

b [2]. Recommend conditions on which the application should be granted under AS 04.11.480(c); or

c [3]. Take no action on the application.

2 [D]. If the city council protests an application or recommends conditions on which the application should be granted, the city council shall state on the record the

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]

reasons for its decision, and the **code compliance officer** [CITY CLERK] shall notify the Board and the applicant in writing of the decision of the council and the reasons therefor.

**3** [E]. If the city council finds that the basis for its decision to protest an application, or to recommend conditions on which an application should be granted, no longer exists, the city council may rescind its decision and direct the **code compliance officer** [CITY CLERK] to notify the Board and the applicant of the rescission.

**D. For an application to relocate a liquor license into the city under AS 04.11.400(n):**

**1. After considering the application, the city council may decide to:**

**a. Approve the application with or without conditions; or**

**b. Deny the application.**

**2. The code compliance officer shall notify the Board and the applicant in writing of the decision of the council and the reasons therefor within 10 business days.**

\* **Section 5. Effective date.** This ordinance shall take effect upon adoption by the Wasilla City Council.

DEFEATED by the Wasilla City Council on September 24, 2007.

**Bold and underline added.** [CAPS AND BRACKETS, DELETED.]



**CITY OF WASILLA  
LEGISLATION STAFF REPORT**

**RE: 07-54: AMENDING WMC 6.16.020, REVIEW OF LIQUOR LICENSE APPLICATIONS, WMC 6.16.030, WAIVER OF PROTEST, AND WMC 6.16.040, CONSIDERATION BY COUNCIL, TO PROVIDE FOR CITY ACTION ON APPLICATIONS TO RELOCATE A LIQUOR LICENSE INTO THE CITY THAT ARE SUBJECT TO CITY APPROVAL UNDER AS 04.11.400(n).**

Agenda of: September 10, 2007  
Originator: Economic Development Planner

Date: September 4, 2007

Route to:	Department	Signature/Date
X	Finance, Risk Management & MIS Purchasing	<i>Dorian Edliger</i>
X	Community & Economic Development Planning, Economic Development, Human Resources	<i>Sandra Gault</i>
X	City Clerk	

**REVIEWED BY MAYOR DIANNE M. KELLER:**

*Sandra Gault for the Mayor*

**FISCAL IMPACT:**  yes or  no

Funds Available  yes  no

Account name/number:

Attachments: Proposed Ordinance Serial Number 07-55;  
Process for Review of Application  
Application Grading Sheet  
Staff Report  
Current City Liquor License Transfer Code

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**SUMMARY STATEMENT:**

In April the Alaska State Legislature, at the request of the city of Wasilla and others, passed SB 128 amending AS 04.11.400(n) to allow three beverage dispensary liquor licenses for bonified restaurants to be transferred into cities every 10 years. The governor has since signed SB128 into law. SB 128 also requires approval by the borough and city legislative bodies for such a transfer. The city of Wasilla code currently addresses only liquor licenses issued or transferred in the city limits and does not at all mention transfers into city limits.

Therefore, a code change is needed to provide a process for allowing such transfers.

The Community and Economic Development Department (CEDD) believes this process should recognize the value of liquor license transfers as substantial financial and operational incentives to attracting and retaining high quality dining establishments in our community. By using the attached process, or one similar, the city can be proactive in assisting restaurateurs to locate new or upgrade existing venues while enhancing local quality of life through the development of unique dining options.

The proposed process mirrors current Wasilla code in that the applications would be reviewed by the Finance Department to ensure the business is current on taxes, the Planning office to ensure proper land use codes are being followed, and by the Police Department to ensure the proposed location is not generating criminal activity. One additional review would be added in the form of a scoring process similar to the one used for RFPs. The city would establish a set of evaluation criteria (attached) and would ask applicants to supply additional information to be evaluated according to those criteria. The CEDD would then form a three person evaluation committee comprised of one person each from the finance department, purchasing office, and economic development office. Each member of the committee would independently score (scoring sheet attached) the application. If the average of the scores is 80 points or greater CEDD would forward the application to city council with a staff report and a recommendation for approval. If the average score is less than 80 points, CEDD would forward the application to city council with a staff report and recommendation for denial. The applicant would then be informed of the date for City Council consideration so the applicant can be present and represent the application. Regardless of staff recommendation, City Council would decide the approval/denial of the transfer.

Other Key element of the legislation:

1. Applicants may either own or have a liquor license under contract to buy. Buying a license while a political process is pending would be a significant investment risk, therefore we have allowed for applicants to first secure city approval and then complete the purchase of their license.
2. Applicants are required to provide the city the same documentation as will be required by the Alcohol Beverage Control Board (Board). This is to ensure applicants are fully prepared to seek Board approval following city and borough approvals.
3. Applicants are given 180 days to get borough approval and open their restaurant. This is to ensure we don't have indefinitely lingering approvals. If an applicant's time expires they would need to go thru the city process again and get a second approval.

4. The applicant is barred from selling their license for 5 years after council approval of their transfer unless they get city approval. This is to ensure we don't have applicants quickly selling their license for profit after the transfer. If a restaurant goes out of business after a good faith effort, as frequently happens, they may petition for the city's consent to sell their license. This provision insures that only those interested in long term operation of their restaurant will apply.



**CITY OF WASILLA  
PROCESS FOR REVIEW OF APPLICATION TO  
TRANSFER LOCATION OF A BEVERAGE DISPENSARY  
LIQUOR LICENSE INTO THE CITY UNDER AS 04.11.400(n)**

1. Application. A person (“Applicant”) desiring to transfer the location of a beverage dispensary license into the City of Wasilla (“City”) under AS 04.11.400(n) shall submit a written application to the City Community and Economic Development Department (“Office”) on a form provided by the Office.

2. Who May Apply. The applicant must be either (i) the owner of the license that is to be transferred into the City, or (ii) the purchaser under a contract to purchase the license that is to be transferred into the City, under which the obligations of the purchaser to purchase, and the seller to sell, the license are unconditional except for the following:

- a. Approval of the transfer of location of the license by the City;
- b. Approval of the transfer of location of the license by the Matanuska-Susitna Borough; and
- c. Approval of the transfer of location of the license, and transfer of ownership of the license to the applicant, by the Alcoholic Beverage Control Board (“ABC Board”).

3. Submissions from ABC Board Application. The Applicant shall submit the application with the following items that are required by the ABC Board for a liquor license application:

- a. Proof of Right, Title or Interest (Lease or Deed in Applicant’s Name).
- b. Statement of Financial Interest (signed by the appropriate corporate officers and notarized).
- c. Certificate of Incorporation (if the applicant is a corporation).
- d. Certificate of Organization (if the applicant is a limited liability company).
- e. Partnership Agreement (if the applicant is a partnership).
- f. Security Documents, if applicable.
- g. Affidavit of Creditors, if applicable.
- h. Fingerprint Cards.

4. Additional Submissions for City Approval. In addition to the items required by the ABC Board described above, the Applicant shall submit with the application the following items:

- a. Evidence that the Applicant owns the license that is to be transferred into the City, or a copy of the fully executed contract under which the Applicant is the purchaser of the license that is to be transferred into the City.
- b. Plan and elevation drawings of the premises in the City to which the license is to be transferred, showing the improvements, if any,

that will be made in connection with the transfer of the license to the premises, the building design, color scheme, layout, and landscaping. The drawings shall be consistent with the narrative description of the proposed restaurant or eating place business, and sufficiently detailed to demonstrate that the premises will conform to applicable zoning requirements.

c. A narrative discussion of the plan for the restaurant or eating place to which the license is proposed to be transferred, including the following:

- Estimates of the cost of any improvements to the premises, start-up costs, and required working capital.
- Evidence the Applicant has the financial resources necessary to provide for any improvements to the premises, start-up costs and required working capital, including financial statements and binding commitments to provide financing to the Applicant.
- A description of the Applicant's experience and qualifications related to the operation of a restaurant or eating place with a beverage dispensary license.
- A description of the dining concept for the proposed restaurant including atmosphere concept, menu, and food price points.
- A description of the economic impact of the proposed license transfer on the City, including, number of additional employees for each job description, increase in payroll, average wages, and additional City taxes to be generated on an annual basis.

5. Review of Application. The Finance Department, Planning office, and Police Department shall review the application as provided in WMC Chapter 6.16.020. The Applicant or a representative of the Applicant may appear before the Council to represent the application as provided in WMC 6.16.040.A. The Office shall form an evaluation committee (Committee) consisting of one representative each from the Finance Department, Purchasing Office, and Economic Development Office. The Committee will rate the Applicant under the attached rating criteria to determine the degree to which the Applicant will either

- a. Add a substantially original, attractive, and viable dining option to the community; or
- b. Enhance an existing dining establishment with a significant investment in the community and a track record of providing a quality full service dining option to the community.

6. Approval Conditional. City approval of an application shall be subject to the following conditions, in addition to any other conditions that the Council may impose in its discretion. Applicant shall have 90 days to prove compliance with any additional conditions as set by Council. Failure of the Applicant to meet any such condition shall void City approval of the application, and constitute cause for the Council to protest the renewal of the transferred license.

a. The Applicant shall obtain all permits and approvals required for the license transfer and the improvement of the premises in the City to which the license will be transferred within 120 days after Council or Borough action approving the license transfer, whichever is later. The Applicant shall obtain approval from the Matanuska Susitna Borough within 180 days of Council Action approving the license transfer

b. The Applicant shall commence operation of the restaurant or eating place under the transferred license within 180 days after Council action approving the license transfer.

c. The Applicant may not sell or otherwise transfer any ownership interest in the transferred license for a period of 60 months after Council action approving the license transfer.

**ECONOMIC DEVELOPMENT OFFICE  
RATING OF APPLICANT TO TRANSFER  
LOCATION OF A BEVERAGE DISPENSARY  
LICENSE INTO THE CITY UNDER AS 04.11.400(n)**

Applicant Name: \_\_\_\_\_

1. Originality of Dining Concept (30 Points)

An Applicant is scored on the degree to which its restaurant development would provide menu offerings and atmosphere not available in Wasilla's current restaurant market.

\*(An Applicant providing proof of local ownership, and operation before September 1, 2007, of a restaurant at the location to which the license would be transferred will receive a maximum score in this category)\*

Score: \_\_\_\_\_

2. Project Quality (20 Points)

An Applicant is scored on the atmosphere, design, aesthetics, and amenities of its restaurant. Higher scores will be given to a restaurant development that creates a destination dining value to the City through its quality, style, and design.

Score: \_\_\_\_\_

3. Economic Impact (20 Points)

An Applicant is scored on its demonstration of the number of jobs created and/or retained, wages and benefits paid, tax revenues generated, and dollars invested in the City as a result of approval of the application, as well as any other resulting economic benefit to the City demonstrated by the Applicant.

Score: \_\_\_\_\_

4. Financial and Managerial Capabilities (20 Points)

An Applicant is scored on its demonstration of financial and managerial capability to operate its proposed restaurant or eating place with a beverage dispensary license. The Applicant's score will be based on the Applicant's financials, business plan, business history, education, and staff resumes and other information either provided by the Applicant or requested by the City.

Score: \_\_\_\_\_

5. Project Readiness (10 Points)

An Applicant is scored on its demonstration of its readiness to commence operation of the restaurant or eating place with beverage dispensary license upon approval of the application. A higher score will be given to an Applicant that can commence operation sooner after approval of the application.

Score: \_\_\_\_\_

**TOTAL SCORE** \_\_\_\_\_

**-A Score of 80 or better is required for an approval recommendation to be forwarded to Wasilla City Council for their consideration.-**

**Definitions:**

**Destination dining:** A restaurant concept of such high or unique quality that itself draws diners and shoppers to a community regardless of surrounding attractions or amenities.

**Menu Offerings:** The individual food and beverage items available for purchase at a given price in a dining or drinking establishment.

**Atmosphere:** An aesthetic quality or effect, especially a distinctive and pleasing one, associated with a particular place: