

## **RESOLUTION NO. 1919**

### **A RESOLUTION SETTING FORTH CRITERIA FOR COMMENCING PROCEDURES TO SUSPEND OR REVOKE AN ALCOHOLIC BEVERAGE OR DANCE HALL LICENSE.**

WHEREAS, the police department is encountering ongoing difficulties with violations of the City's alcoholic beverage ordinances, including, but not limited to, possession of alcohol by minors, sale of alcohol to minors, allowing individuals below the minimum age in alcoholic beverage establishments, alcoholic beverage establishments operating above occupancy limits, assaults in alcoholic beverage establishments and alcoholic beverage establishments remaining open beyond allowed hours; and

WHEREAS, these violations are continuing and increasing in spite of enforcement of the City's alcoholic beverage ordinances against individuals observed in violation of those ordinances; and

WHEREAS, the Code of Ordinances of the City of Warrensburg allows the suspension or revocation of an alcoholic beverage license, or placing a licensee on probation, under specified conditions; and

WHEREAS, the Code of Ordinances of the City of Warrensburg now allows for the operation of dance halls, and allows the suspension or revocation of a dance hall license under specified conditions; and

WHEREAS, the City Council wishes to provide guidance as to the criteria which will be used to determine whether to commence proceedings to suspend or revoke an alcoholic beverage or dance hall license.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Warrensburg, Missouri, as follows:

Proceedings to revoke or suspend a licensee's alcoholic beverage or dance hall license shall be commenced upon any of the following:

1. Two convictions in each of three consecutive months or six convictions in any 90-day period of a minor for consumption or possession of an alcoholic beverage on the premises of the licensee.
2. One conviction in a month of the licensee or an employee of the licensee for selling alcoholic beverages to a minor; or two convictions in a month of the licensee or an employee of the licensee for allowing minors on the premises of the licensee; or any combination of two such convictions.

For the purposes of this resolution:

1. The term "conviction" shall mean a plea of guilty, a finding of guilty, and a not guilty plea with a stipulation of finding of facts (technical not guilty plea), and any other plea or finding resulting in an imposition of sentence, suspended imposition of sentence, or suspended execution of sentence.
2. The term "alcoholic beverage" shall mean intoxicating liquor, malt liquor, light wine, and non-intoxicating beer.
3. The term "premises" shall include the interior premises of the alcoholic beverage establishment, and any exterior areas of the establishment covered by the alcoholic beverage license or under control of the licensee, such as courtyards and decks.

4. For determining whether convictions have occurred within the time-frames specified in this resolution, the dates of occurrence of the incidents resulting in conviction shall be considered, and not the dates of the convictions.

Nothing in this resolution shall be construed as a jurisdictional limitation on the hearing officer. All guidelines set forth in this resolution are merely advisory and not mandatory

Passed this 23<sup>rd</sup> day of June, 2008

---

---

## **RESOLUTION NO. 1920**

### **A RESOLUTION SETTING FORTH CRITERIA FOR CONSIDERATION BY HEARING OFFICER FOR SUSPENDING OR REVOKING ALCOHOLIC BEVERAGE AND DANCE HALL LICENSES.**

WHEREAS, the police department is encountering ongoing difficulties with violations of the City's alcoholic beverage ordinances, including, but not limited to, possession of alcohol by minors, sale of alcohol to minors, allowing individuals below the minimum age in alcoholic beverage establishments, alcoholic beverage establishments operating above occupancy limits, assaults in alcoholic beverage establishments and alcoholic beverage establishments remaining open beyond allowed hours; and

WHEREAS, these violations are continuing and increasing in spite of enforcement of the City's alcoholic beverage ordinances against individuals observed in violation of those ordinances; and

WHEREAS, the Code of Ordinances of the City of Warrensburg allows the suspension or revocation of an alcoholic beverage license, or placing a licensee on probation, under specified conditions; and

WHEREAS, the Code of Ordinance of the City of Warrensburg now allows for the operation of dance halls, and allows the suspension or revocation of a dance hall license under specified conditions; and

WHEREAS, the City Council wishes to provide guidance to hearing officers in the criteria to use for determining whether to suspend or revoke an alcoholic beverage or dance hall license.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Warrensburg, Missouri, as follows:

In determining whether to suspend or revoke an alcoholic beverage license or dance hall license, or to place the licensee on probation, and the period of the probation or suspension, the hearing officer in determining good cause for the suspension, revocation or probation may consider, among other relevant factors, the following:

1. Number of convictions of persons for drinking or being in possession of alcoholic beverages when under the age of 21 years, which drinking or possession occurred in the establishment. The hearing officer may further consider the actual age of the individuals under 21 years of age who were drinking or in the possession of alcoholic beverages in the establishment.

2. Number of convictions of the licensee or an employee of the licensee for sale of alcoholic beverages to any person under 21 years of age. The hearing officer may further consider the actual age of the individuals under 21 years of age who were sold the alcoholic beverages in the establishment.

3. Number of convictions of persons for being present in the establishment while underage. The hearing officer may further consider the actual age of the individuals under 21 years of age who were present in the establishment.

4. Number of convictions of the licensee or an employee of the licensee for allowing underage persons in the establishment. The hearing officer may further consider the actual age of the individuals under 21 years of age who were present in the establishment.

5. Number of convictions of the licensee or an employee of the licensee for serving an intoxicated individual.

6. Number of convictions of the licensee or an employee of the licensee for remaining open, or serving alcoholic beverages, after hours.

7. Number of convictions of the licensee or an employee of the licensee for allowing occupancy of the premises exceeding posted occupancy limits.

8. Number of convictions for violation of any provision of Chapter 6 or Chapter 10 of the Code of Ordinances of the City of Warrensburg, or any other provision of the Code regulating the safety of individuals occupying premises which are open to the public.

9. Prior probation, suspension or revocation of the licensee.

10. Whether or not the owner, manager(s) or employees of the licensee have attended within the current license period training programs of the State Division of Alcohol and Tobacco regarding the lawful and responsible service of alcoholic beverages and proper identification of minors.

In determining whether to suspend or revoke an alcoholic beverage license or dance hall license, or to place the licensee on probation, the hearing officer in determining whether the licensee has failed to keep an orderly place may consider, among other relevant factors, the following:

1. The number of instances in which individuals have been convicted of a violation of Chapter 14 or Chapter 3 of the Code of Ordinance of the City of Warrensburg, which offense occurred on the premises of the establishment.

2. The number of instances in which emergency personnel have been required to respond to the establishment for calls involving assaults, disturbances, fights, property damage, and similar circumstances, and the emergency personnel were able to verify that an assault, disturbance, fight, property damage or similar circumstance actually occurred on the premises.

In rendering a decision, the hearing officer shall consider the following guidelines, which the City Council considers to be reasonable in most circumstances, while recognizing that all final decisions are with the hearing officer, and that more lenient or harsher results may be warranted by the facts in any given case:

1. First suspension: 10 consecutive business days, commencing with a Tuesday.
2. Second suspension: 90 consecutive calendar days, commencing with a Tuesday.
3. Third suspension: 180 consecutive calendar days, commencing with a Tuesday.
4. Fourth action: 365 consecutive calendar days, or revocation of the license.

For the purposes of this resolution:

1. The term "conviction" shall mean a plea of guilty, a finding of guilty, and a not guilty plea with a stipulation of finding of facts (technical not guilty plea) and any other plea or finding resulting in an imposition of sentence, suspended imposition of sentence, or suspended execution of sentence.

2. The term “underage” shall mean that age set by the City ordinance for sale or consumption of alcoholic beverages, or for being present on the premises of an alcoholic beverage establishment.

3. The term “alcoholic beverage” shall mean intoxicating liquor, malt liquor, light wine, and non-intoxicating beer.

4. The term “premises” shall include the interior premises of the alcoholic beverage establishment, and any exterior areas of the establishment covered by the alcoholic beverage license or under control of the licensee, such as courtyards and decks.

5. The hearing officer may consider any combination of factors set out above in determining whether a license should be revoked or suspended or the licensee placed on probation, and the period of any suspension or probation.

Nothing in this resolution shall be construed as a jurisdictional limitation on the hearing officer. All guidelines set forth in this resolution are merely advisory and not mandatory

Passed this 23<sup>rd</sup> day of June, 2008.