

RESOLUTION NO. 16

**A RESOLUTION OF THE VALPARAISO COMMON COUNCIL
OF THE CITY OF VALPARAISO AMENDING THE
OBJECTIVES AND CRITERIA FOR THE ISSUANCE OF
ALCOHOLIC BEVERAGE PERMITS
PURSUANT TO I.C. 7.1-3-20-16(g)**

WHEREAS, during the 2005 legislative session, the Indiana General Assembly enacted and the Indiana Governor signed Senate Enrolled Act 282, which is codified at I.C. 7.1-3-20-16(g); and

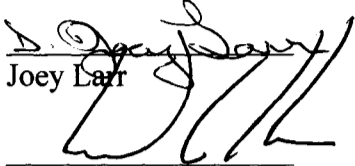
WHEREAS, the aforementioned legislation provides that after June 30, 2005, the Indiana Alcoholic Beverage Commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five-hundred (500) feet from a district, that meets the statutorily created boundaries and which are approximately described as “downtown” Valparaiso; and

WHEREAS, the aforementioned legislation provides that the legislative body of the City of Valparaiso shall recommend to the Alcoholic Beverage Commission sites that are eligible to be permitted premises; and

WHEREAS, the Common Council of the City of Valparaiso is desirous of establishing objectives and criteria for making a recommendation to the Alcoholic Beverage Commission.

THEREFORE, be it hereby resolved by the Common Council of the City of Valparaiso that the objectives and criteria for license allocation, and the amendment located on Page 1, Item A are attached hereto and made a part of this Resolution as “Exhibit A,” should be, and are, hereby adopted and approved by the Common Council of the City of Valparaiso for purposes of establishing a criteria for recommending potential permit holders to the Alcoholic Beverage Commission pursuant to Indiana law.

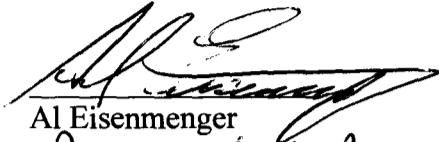
All of which having been resolved, adopted and approved by the Common Council of the City of Valparaiso this 14th day of November, 2005.

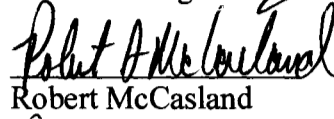

Joey Lafr

Ed Howe

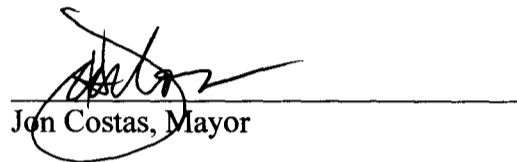

John Bowker


Chuck Williams


Al Eisenmenger


Robert McCasland


Jan M. Dick


Jon Costas, Mayor

ATTEST:

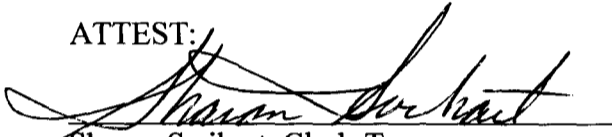

Sharon Swihart, Clerk-Treasurer
City of Valparaiso

Exhibit A

Valparaiso Downtown Alcoholic Beverage License Committee

Objectives and Criteria for License Allocation

The Indiana state legislature enacted Senate Enrolled Act № 282 (Act) which will be codified under the Indiana alcoholic beverage laws. The Act permits the Indiana Alcoholic Beverage Commission (ABC) to issue up to ten additional liquor licenses (one, two, or three-way)(Downtown Licenses) in historic downtown Valparaiso. The Valparaiso City Council (Council) may recommend to the Indiana ABC sites in the downtown where permits may be issued.

The Mayor has appointed a four-member committee (Committee) to recommend to the Council those sites that meet the qualifications in this Policy and are appropriate for Downtown Licenses.

Purposes and Goals

The purpose behind the Act is to further a key component of the city's downtown strategic plan by encouraging the location and operation of upscale restaurants in the historic downtown area. The goal is to provide the finest dining environment in Northwest Indiana in a single downtown district.

The Act also assists small business owners. These business owners invest not only in their business but also in our community. They are often active within the business community, sit on local boards, and participate in the local community.

The City, through implementation of the Act and this Policy, seeks to achieve the following:

- A. Increase the number and variety of distinctive and unique restaurants that operate in Valparaiso's downtown to a degree that distinguishes it as the best dining environment in Northwest Indiana.**
- B Assist local, talented restaurant owners to achieve success by providing them the ability to offer a full line of beverages to their clientele.**
- C. Use the license allocation program to encourage recipients to make improvements to their buildings, support the downtown Business Improvement District (BID), participate in unified marketing efforts, encourage a healthy and fun atmosphere in the downtown, and to generally improve the downtown commerce activity and the City of Valparaiso.**

Factors

The recommendation of the Committee will be based on several factors.

Corporate Condition and Operations. The Committee will consider the Applicant's (1) financial and ownership strength, which may best be demonstrated by a business plan, (2) history of operation, (3) reputation in the Valparaiso community and, if from other than Valparaiso, the Applicant's reputation in other communities, (4) the Applicant's owners' past participation in the Valparaiso community and the likelihood of continued participation of the owners in the future, (5) the control and participation of the owners of the Applicant in the day to day operation of the business, and (6) the nature of the jobs added to or retained in the Valparaiso employment base.

Restaurant Operations. The Committee will consider the Applicant's (1) experience operating a restaurant similar to that proposed, (2) the upscale nature of the restaurant and its proposed menu, (3) the unique features of the proposed restaurant, (4) the restaurant's ability to draw people to Valparaiso and, specifically, the downtown area, and (5) the focus of the restaurant to provide a dining experience rather than an alcohol consumption experience.

Community Participation and Commitment. The Committee will consider the Applicant's (1) commitment to the downtown area and the Valparaiso community in general and (2) the impact of the business on the downtown and Valparaiso in general.

Location and Physical Elements. The Committee will consider (1) the location of the restaurant, (2) the size, floor plan, and layout of the restaurant and exterior dining areas, if any, (3) the Applicant's plans to improve the facility in which they will operate and the consistency of such plans with the nature and architecture of the downtown area, (4) any physical improvements to the restaurant, and (5) the expected timetable for work and business commencement.

Other Considerations. The City encourages Applicants to include in the Application any other factors that will aid the City to evaluate the application. All other considerations, favorable and unfavorable, will be considered.

Included with this document is an application that summarizes the numerous considerations which will be considered when weighing an application for a Downtown License. It will aid the Committee and Council to determine the merit of an application and develop any conditions upon which the recommendation is made. The summary should serve as a guide to assist the Council in evaluating the request according to the criteria set forth by the state and the Council.

Application procedure.

The application process is as follows:

1. First, the Applicant will meet with the Valparaiso Economic Development Director to review of the Application requirements and the proposed location. All communications concerning the application shall be made through the Valparaiso Economic Development Director. No direct communication will be made by the applicant or others to the Committee members.
2. Second, the Applicant will file with the Valparaiso Economic Development Director the application for a Downtown License. The Application will be in the form promulgated by the Committee. Where appropriate, the form may include forms used by the Indiana ABC. These forms must be completed to apply with the state in order to obtain the state license.
3. Third, the applicants will attend a public hearing of the Committee to present its project and to offer evidence to support the Application..
4. Fourth, the applicant will attend a public meeting of the Valparaiso City Council to present its project and to offer evidence to support the Application.

Additional Requirements of Restaurants

1. The Act provides that an Applicant is not eligible to obtain a permit if, less than two years before the date of application , the applicant sold a retailer's permit that was subject to Indiana Code 7.1-3-22 and that was for a site within the downtown district or within 500 feet of the district. **Permits are nontransferable.**
2. All restaurants must be non-smoking.
3. Applicants will be full paying members of the downtown BID when it is established.
4. Applicants will be full paying members in the Downtown Dining Marketing Fund when it is established, which shall not exceed \$200 per month for each restaurant before September 1, 2006.
5. The restaurant must comply with all building, health, and zoning laws and ordinances. The restaurant shall also comply with the architectural standards for the downtown area established by the architecture review committee and provide evidence of the restaurant's architectural approval by such body.
6. The applicant will enter into a written commitment with the City to comply with this Policy and any conditions that the City places on the restaurant.

Valparaiso Downtown Alcoholic Beverage License Application

In addition to completing the attached Indiana State Form (TBA) "Application for New Downtown Alcoholic Beverage License" for the Indiana Alcohol & Tobacco Commission, the Committee requires each applicant to provide complete answers to the following:

Corporate Condition and Operations:

Provide an executive summary of your business plan, including indicators of:

- the demonstrated financial strength of the business and the owners;
- a description and history of the operation;
- your reputation in your business community;
- the participation of owner(s) in the day-to-day operation of the business;
- the number and nature of the jobs added or retained in Valparaiso.

Restaurant Operations:

Provide a summary of your restaurant operations which includes references to:

- experience operating a restaurant similar to that proposed;
- the upscale nature of the restaurant and its proposed menu;
- the unique features of the proposed restaurant;
- the restaurant's ability to draw people to downtown Valparaiso;
- quantifiable information indicating the focus of providing a dining experience rather than an alcohol consumption experience.

Community Participation and Commitment:

Provide information supporting your demonstrated commitment to the Community by addressing the following with specific responses:

- commitment to the Valparaiso community, and the downtown area;
- indicators of the impact of the business on the downtown and Valparaiso in general.

Location and Physical Elements:

Provide information on the following:

- the location of the establishment;
- the size, floor plan, and layout of the establishment;
- exterior dining areas, if any;
- consistency of the architectural elements with the downtown architecture;
- describe, in detail, the estimated investment in personal property and real property improvements;
- Expected date of business commencement.

Other Considerations:

Please outline any other factors which may aid the Committee in the consideration your application.

STEP 2. ANNUAL FOOD SALES

****FOR EXISTING BUSINESSES ONLY****

Required for the following permits: Type 209 (except golf courses); All retail permits with less than 60% ownership by Indiana residents; Retail permits with limited bar / family room separation.

Date of beginning report (month, day, year)

Date of ending report (month, day, year)

Gross food sales (excluding all carryout and catering sales)

Gross alcoholic beverage sales

Total gross food and beverage sales

STEP 3. QUALIFICATIONS

SOLE OWNER / PARTNERSHIP PERMIT:

If applying as a sole owner or partnership for any type of permit, answer the following questions:

Yes No Are you now and have you been a continuous and bona fide resident of this state for five (5) years?

CORPORATION PERMIT: (PLEASE ATTACH COPY OF "CERTIFICATE OF EXISTENCE" FROM THE INDIANA SECRETARY OF STATE)

If applying as a corporation for any type permit, answer the following questions:

Yes No Is at least 60% of the outstanding common stock owned by persons who have been continuous and bona fide residents of this State for five (5) years? (For exceptions, see IC 7.1-3-21-6.)

Yes No If you are a corporate wholesaler, is at least one (1) of the stockholders a resident of the county in which the licensed premise is situated for at least one (1) year immediately prior to making application for the permit?

Yes No Is the applicant a retailer corporation with 41% or more of the common stock held by out of state stockholders? (If the answer is yes, you must agree to and initial below.)

I hereby affirm that the annual gross food sales at the permit location currently exceed One Hundred Thousand Dollars (\$100,000) or in the case of a new applicant are expected to exceed Two Hundred Thousand Dollars (\$200,000) by the end of the two year period commencing on the date of issuance of the permit will, thereafter, exceed One Hundred Thousand Dollars (\$100,000) per annum.

LLC / LLP PERMIT: (PLEASE ATTACH COPY OF "CERTIFICATE OF EXISTENCE" FROM THE INDIANA SECRETARY OF STATE)

If applying as a limited partnership, limited liability company, or limited liability partnership for any type permit, answer the following questions:

Yes No Is at least 60% of the ownership interest held by persons who have been continuous and bona fide residents of this State for five (5) years? (For exceptions, see IC 7.1-3-21-6.)

If a limited partnership, limited liability company, or limited liability partnership wholesaler, at least one (1) of the stockholders must have been a resident of the county in which the licensed premise is situated for at least one (1) year immediately prior to making application for the permit.

Yes No Is the applicant a retailer limited partnership, limited liability company or limited liability partnership applying with 41% or more of the ownership interest held by out of state residents? (If the answer is yes, you must agree to and initial the statement below.)

I hereby affirm that the annual gross food sales at the permit location currently exceed One Hundred Thousand Dollars (\$100,000) or in the case the case must have of a new applicant are expected to exceed Two Hundred Thousand Dollars (\$200,000) by the end of the two year period commencing on the date of issuance of the permit will, thereafter, exceed One Hundred Thousand Dollars (\$100,000) per annum.

THE FOLLOWING QUESTIONS PERTAIN TO ALL INDIVIDUALS HAVING AN INTEREST IN THIS APPLICATION.

Yes No Have any individuals with an interest in this permit been convicted of a felony or a misdemeanor? (If yes, please attach letter with dates, court, conviction, and sentence of new conviction.)

Yes No Have any individuals with an interest in this application ever been convicted of a violation of the Indiana Alcoholic Beverage laws, rules, regulations, or orders of the Commission?

Yes No Are all individuals with an interest in this application citizens of the United States?

Yes No Are all individuals with an interest in this application of sound mind, good moral character, and good repute in the community in which they reside?

Yes No Are any individuals with an interest in this application a law enforcement officer, or an officer of a municipal corporation, or government subdivision, or of this state charged with any duty or function in the enforcement of this title?

Yes No Have any individuals with an interest in this application held a permit under this title and has the permit been revoked within one year prior to the date of this application?

Yes No Have any individuals with an interest in this application made an application for a permit of any type which has been denied less than one year prior to this application for a permit? (unless the application was denied by reason of a procedural or technical defect.)

Yes No Do any individuals with an interest in this application hold any other permit of any kind connected with the sale of alcoholic beverages, or do they have any interest in any such permit directly or indirectly, through ownership of stock or otherwise? If yes, list permit numbers below:

Permit numbers

Yes No Are you indebted to a person or an officer or agent of that person, who holds a brewer's permit or wholesale permit, for a debt, secured by a lien, mortgage, or otherwise upon the premises for which the beer retailers permit is to be applicable or upon any of the property or fixtures in the premises, or used, or to be used in connection with the premises?

STEP 4. AFFIDAVIT OF OWNERSHIP

Complete Name	[REDACTED]	Citizen of US <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (number and street, city, state, ZIP)		
Nature of interest <input type="checkbox"/> Sole Owner <input type="checkbox"/> Partner	<input type="checkbox"/> Corporate President <input type="checkbox"/> Corporate Secretary	<input type="checkbox"/> Stockholder <input type="checkbox"/> Club Officer
Percent of ownership		
Complete Name	[REDACTED]	Citizen of US <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (number and street, city, state, ZIP)		
Nature of interest <input type="checkbox"/> Sole Owner <input type="checkbox"/> Partner	<input type="checkbox"/> Corporate President <input type="checkbox"/> Corporate Secretary	<input type="checkbox"/> Stockholder <input type="checkbox"/> Club Officer
Percent of ownership		
Complete Name	[REDACTED]	Citizen of US <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (number and street, city, state, ZIP)		
Nature of interest <input type="checkbox"/> Sole Owner <input type="checkbox"/> Partner	<input type="checkbox"/> Corporate President <input type="checkbox"/> Corporate Secretary	<input type="checkbox"/> Stockholder <input type="checkbox"/> Club Officer
Percent of ownership		
Complete Name	[REDACTED]	Citizen of US <input type="checkbox"/> Yes <input type="checkbox"/> No
Address (number and street, city, state, ZIP)		
Nature of interest <input type="checkbox"/> Sole Owner <input type="checkbox"/> Partner	<input type="checkbox"/> Corporate President <input type="checkbox"/> Corporate Secretary	<input type="checkbox"/> Stockholder <input type="checkbox"/> Club Officer
Percent of ownership		

If you need more space, please attach additional sheets.

STEP 5. PERMIT TYPE SPECIFIC QUESTIONS

[REDACTED]

STEP 5. PERMIT TYPE SPECIFIC QUESTIONS CONTINUED

<input type="checkbox"/>	<input type="checkbox"/>	
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STEP 6. MANAGER'S QUESTIONNAIRE

Name of manager (last, first, middle initial)

ATC Employee permit number

Expiration date

A

Home address (number and street)

City, state, zip

Are you a citizen of the United States?

Yes No

Are you at least twenty-one (21) years old?

Yes No

Is it true that you are not an officer or employee of a person engaged in the alcoholic beverage traffic, which person is a non-resident of this state, or is engaged in carrying on any phase of manufacture of, traffic in, or transportation of alcoholic beverages without a permit when one is required?

Yes No

Are you a State law enforcement officer, or a non-elected officer of a municipal corporation or government subdivision charged with any duty or function in the enforcement of Alcoholic Beverage Laws?

Yes No

Has your alcoholic beverage permit been revoked within one year prior to the date of this application for a permit?

Yes No

Have you made an application for a permit of any type which has been denied less than one year prior to this application for a permit? (Unless the application was denied by a reason of a procedural or technical defect.)

Yes No

Are you now, and have you been for the last five years a continuous and bona fide resident of the State of Indiana? If no, does the permit premise you are managing have a minimum annual gross food sales of at least \$100,000?

Yes No

Do you hold any other permit of any kind for the sale of alcoholic beverages in Indiana, or do you have any interest in any such permit, directly or indirectly, through ownership of stock or otherwise? If yes, explain below:

Yes No

Have you been convicted of a felony? If yes, attach places and dates of arrest, court of record, and conviction and attach relevant court record.

Yes No

Have you been convicted of a violation of the Indiana Alcoholic Beverage Laws, rules, regulations, or orders of the Commission? If yes, explain on a separate attachment.

Yes No

Signatures of manager or agent(s) referred to in this schedule

STEP 7. FLOOR PLAN

INSTRUCTIONS:

Applicant must submit four (4) drawings on letter size paper (8 1/2" x 11"). These drawings must show dimensions and identifications of any existing family room(s), seating arrangement(s), ballroom(s), service bar(s), dance floor area(s), kitchen area(s), restrooms, storage and office areas, exits, and alcoholic beverage display areas for all types of permits. Please sign and date each drawing.

Yes No

If a restaurant or a restaurant located in a hotel or motel, will anyone under the age of 21 be guests to the permit premise? If the answer to the above question is "yes," it should be understood that there must be COMPLETE SEPARATION of the barroom from the room or rooms where individuals under the age of 21 will be present.

Yes No

Are you requesting approval for limited separation?

NOTE:

ALL DRAWINGS MUST BE APPROVED BY THE COMMISSION BEFORE THE PERMIT IS ISSUED. WE RECOMMEND YOU RECEIVE APPROVAL BEFORE CONSTRUCTION BEGINS. CONTACT YOUR LOCAL EXCISE DISTRICT OFFICE.

(Please attach all drawings to this application)

STEP 8. AFFIRMATION OF APPLICANT

Name of applicant (individual, corporation, partnership, LLC, LLP)

I certify that this application was completed by myself or by the preparer identified herein. I certify that all information provided herein and on any attachments are true and correct. **I UNDERSTAND THAT IT IS A FELONY TO MISREPRESENT OR FALSIFY ANY PORTION OF THIS APPLICATION OR ATTACHED DOCUMENTS.**

I hereby consent for the duration of the permit term to inspection and search by an enforcement officer, without a warrant or other process, of my licensed premise and vehicles to determine compliance with the provisions of I.C. 7.1.

Printed name and title of applicant

Signature

Date

NOTE: The applicant MUST sign this application unless the proper Power of Attorney forms are attached to this application.

STEP 9. SIGNATURE OF PREPARER (IF APPLICABLE)

I certify that I have examined this application and the accompanying documents, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of preparer

Telephone number (including area code)

Date

STEP 10. FEES



**RESOLUTION NO. 15-1
2005**

**A RESOLUTION OF THE COMMON COUNCIL
OF THE CITY OF VALPARAISO RECOMMENDING ISSUANCE OF A DOWNTOWN
ALCOHOLIC BEVERAGE PERMIT PURSUANT TO I.C. 7.1-3-20-16(g)**

WHEREAS, during the 2005 legislative session, the Indiana General Assembly enacted and the Indiana Governor signed Senate Enrolled Act 282, which is codified at I.C. 7.1-3-20-16(g); and

WHEREAS, the aforementioned legislation provides that after June 30, 2005, the Indiana Alcohol & Tobacco Commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five-hundred (500) feet from a district, that meets the statutorily created boundaries and which are approximately described as "downtown" Valparaiso; and

WHEREAS, the aforementioned legislation provides that the legislative body of the City of Valparaiso shall recommend to the Alcohol & Tobacco Commission sites that are eligible to be permitted premises; and

WHEREAS, the Common Council of the City of Valparaiso adopted Resolution No. 15 on August 22, 2005, establishing objectives and criteria for issuance of Valparaiso Downtown Alcoholic Beverage Permits; and

WHEREAS, the Valparaiso Downtown Alcoholic Beverage Licensing Committee has accepted and reviewed applications for the Downtown Alcoholic Beverage permits and has recommended issuance of a permit to Bistro 157 .

THEREFORE, it is hereby resolved by the Common Council of the City of Valparaiso that Bistro 157 should be, and is, hereby recommended for a Valparaiso Downtown Alcoholic Beverage Permit. Such recommendation being conditioned upon full compliance with the objectives and criteria contained in Resolution 15, and pursuant to IC7.1-3-20-16(g).

All of which having been resolved, adopted and approved by the Common Council of the City of Valparaiso this 14th day of November, 2005.

ATTEST:

Sharon Swihart, Clerk-Treasurer
City of Valparaiso