

**ORDINANCE NO. 29, 2015**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO,  
INDIANA, ADOPTING AMENDED CRITERIA FOR LICENSE ALLOCATION AND  
APPLICANT COMPLIANCE REQUIREMENTS AND APPROVING A FORMAL  
WRITTEN COMMITMENT AS A CONDITION OF ELIGIBILITY FOR A HISTORIC  
DOWNTOWN LIQUOR LICENSE**

**PASSED 12/14/15 7-0 VOTE**

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**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ADOPTING AMENDED CRITERIA FOR LICENSE ALLOCATION AND APPLICANT COMPLAINEE REQUIREMENTS AND APPROVING A FORMAL WRITTEN COMMITMENT AS A CONDITION OF ELIGIBILITY FOR A HISTORIC DOWNTOWN LIQUOR LICENSE**

*WHEREAS*, pursuant to Ind. Code §7.1-3-20-16(g), the Indiana Alcohol and Tobacco Commission ("IATC") was authorized after June 30, 2005, to issue ten (10) additional on-premises alcoholic beverage permits, without regard to the quota provisions of I.C. 7.1-3-22, within the historic downtown district in Valparaiso, Indiana ("Downtown License"); and

*WHEREAS*, on August 22, 2005, the Common Council of the City of Valparaiso, Indiana ("Common Council") adopted Resolution No. 15-2005 which adopted Objectives and Criteria for the Issuance of Valparaiso Downtown Alcoholic Beverage Permits ("Objectives and Criteria") and established the Valparaiso Downtown Alcoholic Beverage Licensing Committee ("Licensing Committee"); and

*WHEREAS*, Resolution No. 15-2005 remains in full force and effect; and

*WHEREAS*, during the 2015 legislative session, the Indiana General Assembly enacted and the Indiana Governor signed P.L. 121-2015 which is at codified Ind. Code § 7.1-3-19-17; and

*WHEREAS*, Ind. Code § 7.1-3-19-17 includes provisions that: (1) further clarify the prohibition on the transfer of Downtown Licenses; (2) require a holder of a Downtown License to execute Written Commitments with the City as to the "character and type" of restaurant; (3) afford a greater oversight role to the Licensing Committee and City in the Downtown License renewal process; and (4) terminate a Downtown License if the holder ceases business operations for more than six (6) months; and

*WHEREAS*, in response to the passage of P.L. 121-2015, City Staff has drafted an amendment to the Objective and Criteria. The Amended Criteria for License Allocation and Applicant Compliance Requirements is attached hereto, incorporated herein and marked as *Exhibit "A"* to this Ordinance; and

*WHEREAS*, also in response to the passage of P.L. 121-2015, City Staff has drafted a Formal Written Commitment and Use Agreement. The Formal Written Commitment and Use Agreement is attached hereto, incorporated herein and marked as *Exhibit "B"* to this Ordinance; and

*WHEREAS*, the Licensing Committee previously met in order to review both the Amended Criteria for License Allocation and Applicant Compliance Requirements and Formal Written Commitment and Use Agreement; and

*WHEREAS*, in accordance with the requirements of Ind. Code § 7.1-3-19-17, the Common Council is desirous of adopting this Ordinance in order to both formally adopt and approve the Amended Criteria for License Allocation and Applicant Compliance Requirements and Formal Written Commitment and Use Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, AS FOLLOWS:

Section 1. *Incorporation of Recitals.* The foregoing recitals (or “whereas clauses”) are findings of fact by the Common Council and are incorporated into this Ordinance by reference.

Section 2. *Approval of Amended Criteria for License Allocation and Applicant Compliance Requirements.* The Common Council hereby approves and formally adopts the Amended Criteria for License Allocation and Applicant Compliance Requirements attached as *Exhibit “A”* to this Ordinance. The Amended Criteria for License Allocation and Applicant Compliance Requirements shall supersede and replace, in all respects, the Objectives and Criteria for the Issuance of Valparaiso Downtown Alcoholic Beverage Permits previously adopted by the Common Council on August 22, 2005.

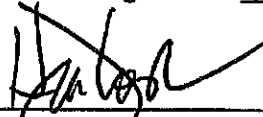
Section 3. *Approval of the Formal Written Commitment and Use Agreement.* The Common Council hereby approves and formally adopts the Formal Written Commitment and Use Agreement attached as *Exhibit “B”* to this Ordinance. In conformance with the requirements of Ind. Code §7.1-3-19-17, as a condition of eligibility for a Downtown License, all applicants are required to enter into the Formal Written Commitment and Use Agreement with the City. The Formal Written Commitment and Use Agreement shall be binding upon the permit holder of the Downtown License and on any lessee or proprietor of the permit premises.

Section 4. *Severability.* If any portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other portion of provision of this Ordinance.

Section 5. *Repealer.* All ordinances or resolutions or parts of ordinances or resolutions inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinances or resolutions or parts of ordinances or resolutions are hereby ratified, re-established and confirmed.

Section 6. *Effective Date.* This Ordinance shall be in full force and effect from and after its adoption and the procedures required by law.

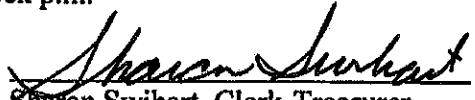
PASSED AND ADOPTED by the Common Council of the City of Valparaiso, Indiana, by a \_\_\_\_\_ vote of all members present and voting this 14<sup>th</sup> day of Dec., 2015.

  
\_\_\_\_\_  
Jon Costas, Mayor

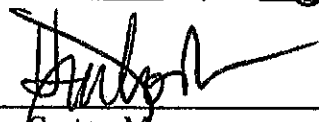
ATTEST:

  
\_\_\_\_\_  
Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 14<sup>th</sup> day of Dec., 2015, at 8:10 o'clock p.m.

  
\_\_\_\_\_  
Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 14<sup>th</sup> day of Dec., 2015, at 8:10 o'clock p.m.

  
\_\_\_\_\_  
Jon Costas, Mayor