



AN ORDINANCE: By Public Services & Safety
Committee
Re: Amending Code §4-96(b) relating to hearing
procedures on actions against licensees and
§4-100(6) relating to Abandonment of Licensed
Premises

ORDINANCE NO. 1390
Introduced: July 1, 2009
Committee/Commission Action:
RECOMMENDED FOR PASSAGE

AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

Section 1. Section 4-96(b) of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

(b) *Hearing form.* The Common Council ~~shall~~ may conduct any hearing as described in this subsection. In the alternative, the Common Council may authorize the Public Services & Safety Committee to conduct any formal evidentiary hearing under this section and report its recommendation to the Common Council. If the Public Services & Safety Committee conducts such evidentiary hearing, it shall constitute the required hearing under Wis. Stat. §125.12 and any reference in this Section to the Common Council shall be read as the Public Services & Safety Committee. When the Common Council considers the committee's recommendation, no further hearing shall be required.

Section 2. Section 4-100(6) of the Code of Ordinances of the City of Neenah is amended by deleting the stricken language and adding the highlighted language to read as follows:

(6) *Abandonment of premises.* Any licensee holding a license to sell alcohol beverages under this ~~section~~ article that abandons such business shall forfeit any right or preference the licensee may have to the holding of or renewal of such license. Abandonment shall be sufficient grounds for revocation or nonrenewal of any alcohol beverage license. ~~The losing of the licensed premises for at least six months shall be prima facie evidence of the abandonment, unless extended by the Common Council. All persons issued a license to sell alcohol beverages in the City for which a quota exists limiting the number of such licenses that may be issued by the City shall cause such business described in such license to be an abandonment of premises by a Class "A" or Class "B" license holder prorated on the premises described in such license for at least 150 days during the terms of such license, unless such license is issued for a term of less than 180 days, in which event this subsection shall not apply.~~ In this section

“abandon” and “abandonment” shall mean a continuing refusal or failure of the licensee to use the license for the purpose or purposes for which the Common Council granted the license for a period of six (6) months. The Common Council may, for good cause shown, extend such period.

Section 3. Severability. In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

Section 4. Repeal and Effective Date. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Ahles/Lange
Adopted: July 1, 2009
Approved: July 1, 2009
Published: July 6, 2009

Approved:



George Scherck, Mayor

Attest:



Angie M. Voldsness, Deputy Clerk

THIS INSTRUMENT WAS DRAFTED BY:
City Attorney James G. Godlewski
211 Walnut Street
Neenah, WI 54956
State Bar No. 1005210