

**\*\*\*ATTACHMENTS\*\*\***

**CITY OF SHEBOYGAN****COMMITTEE ON LAW AND LICENSING MINUTES****OCTOBER 11, 2016**

**MEMBERS PRESENT:** Chair Alderperson Susan Holzschuh, Vice Chair Alderperson Roman Draughon, Alderperson Mark Hermann, Alderperson Job Hou-Seye (remotely – via telephone), Alderperson Rosemarie Trester

**STAFF/OFFICIALS PRESENT:** City Attorney Charles C. Adams, Police Chief Chris Domagalski, Sgt. Mike Stelter, City Clerk Susan Richards, Alderperson Mary Lynne Donohue, Alderperson Scott Lewandoske, IT Director Dave Augustin, Kathy Hoffman

**OTHERS PRESENT:** Troy J. Murray, Basudev Adhikari

**1. OPENING OF MEETING**

1.1 NOTICE: ALDERPERSON HOU-SEYE IS PLANNING ON ATTENDING THIS LAW & LICENSING MEETING REMOTELY

1.2 Call meeting to order

Chair Alderperson Holzschuh called the meeting to order at 2:30 p.m.

1.3 Pledge of Allegiance

The Pledge of Allegiance was recited.

1.4 Introduction of Committee members, staff and guests

1.5 Approval of the minutes of the September 27, 2016 meeting

Motion by Alderperson Draughon, seconded by Alderperson Trester, to approve the minutes of the previous meeting held September 27, 2016. Motion carried 5-0.

**2. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

2.1 R.O. No. 95-16-17 (8-15-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018. Various License Applications: Bev. Op. Lic. App. No. 1906 (Troy J. Murray)

Troy J. Murray appeared before the committee to discuss his application. Mr. Murray was informed that he is ineligible for a beverage operator's license due to the felony manufacture/delivery of THC conviction from 1997. Mr. Murray presented a memo to the committee from Sean Murray regarding Troy Murray's beverage operator's license application. Alderperson Donohue indicated that she is an attorney and she is in agreement with CA Adams' interpretation of the statute regarding ineligibility.

Motion by Alderperson Hermann, seconded by Alderperson Hou-Seye, to grant the license. Motion failed 2-3 (Alderpersons Holzschuh, Draughon and Trester – nay).

Motion by Alderperson Trester to deny the license application based upon Mr. Murray's ineligibility for the license. Motion carried 3-2 (Alderpersons Hermann and Hou-Seye – nay).

*10-13-16 emailed clerk to release. 2:20 P.M.*

2.2 R.O. No. 116-16-17 (9-19-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018. Various License Applications: Taxicab Driver Lic. App. No. 1486 (Lashelle T. Tatum)

Lashelle T. Tatum failed to appear before the committee.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to request via certified mailing Ms. Tatum's appearance before the committee at its October 25th meeting. Motion carried 5-0.

2.3 R.C. No. 185-16-17 (10-3-16) [see also R.O. No. 104-16-17 (9-6-16)] "Class A" Liquor Lic. App. No. 3220-J Mart Liquor (Basudev Adhikari, Agent)

Basudev Adhikari appeared before the committee to discuss his application for a "Class A" liquor license for the proposed J Mart Liquor to be located at 2206 North 15th Street. Mr. Adhikari indicated that he would have approximately eight employees and stated he is also planning to purchase the two houses to the north and raze them in order to put in a playground in honor of his father. When asked about the building floor plan, Mr. Adhikari distributed a copy of the "Option 1" floor plan for the committee's review as this would be his preferred floor plan. In addition to Mr. Adhikari, the following people spoke regarding this license application: Alderperson Trester, Police Chief Domagalski, Alderperson Hou-Seye, Alderperson Hermann, Alderperson Lewandoske, Alderperson Draughon, ACA Adams, and Alderperson Holzschuh.

Motion by Alderperson Hou-Seye, seconded by Alderperson Hermann, to grant the license. Motion failed 2-3 (Alderpersons Holzschuh, Draughon and Trester – nay).

Alderperson Hou-Seye terminated his remote connection at 4:04 p.m.

Motion by Alderperson Trester, seconded by Alderperson Draughon, to deny the license application based upon the Law & Licensing Committee's guidelines used for granting and denying liquor licenses. Motion carried 3-1 (Alderperson Hermann – nay).

2.4 R.O. No. 130-16-17 (10-3-16) Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018

Motion by Alderperson Trester, seconded by Alderperson Draughon, to grant a license with a warning, contingent upon the application being corrected, to Bev. Op. Lic. App. No. 1496 (Frank M. Colvin). Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant a license with a warning, contingent upon the application being corrected, to Bev. Op. Lic. App. No. 1511 (Kayla A. Donath). Motion carried 3-1 (Alderperson Holzschuh – nay).

Motion by Alderperson Draughon, seconded by Alderperson Trester, to call in Bev. Op. Lic. App. No. 1500 (Tyler J. Ebbers) to discuss his application with the committee. Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Hermann, to grant a license with a warning, contingent upon the application being corrected, to Bev. Op. Lic. App. No. 7527 (Denise F. Kropp). Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Holzschuh, to grant a license to Bev. Op. Lic. App. No. 8230 (David E. Lopour) with instructions to correct the application. Motion carried 4-0.

Motion by Alderperson Draughon, seconded by Alderperson Trester, to grant the remainder of the license applications for individuals and entities listed on the above-referenced R.O. Motion carried 4-0.

2.5 Discussion and possible action regarding law violations that may require future action by the Committee

CA Adams and Sgt. Stelter indicated that they had no such violations to report at this time.

### **3. CLOSING OF MEETING**

3.1 Set time, date and place of next meeting

The next committee meeting is scheduled to be held on October 25, 2016 at 2:30 p.m. in the Common Council Chambers located at City Hall, 828 Center Avenue.

3.2 Motion to adjourn

Motion by Alderperson Trester, seconded by Alderperson Draughon, to adjourn at 4:09 p.m. Motion carried 4-0.



II

R. O. No. 130 - 16 - 17. By CITY CLERK. October 3, 2016.

Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018.

*Law & Lic.*

\_\_\_\_\_  
City Clerk

CHANGE OF PREMISE

<u>No.</u>	<u>Name</u>	<u>Address</u>
3150	Craft 30	1015 S. 10 <sup>th</sup> St. - two-day event to be held 11/11/16 to 11/12/16 to include current premise and the SW corner of grassy lot, just south of existing brick/fenced-in patio area. (between patio and alley).

BEVERAGE OPERATOR'S LICENSE (June 30, 2018)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1494	Cichocki, Ericka M.	2550 Calumet Dr.
1496	Colvin, Frank M.	1621 Kentucky Ave.
1511	Donath, Kayla A.	1824 Washington Ave.
1500	Ebbers, Tyler J.	1419 S. 11 <sup>th</sup> St.
7527	Kropp, Denise F.	707 Clara Ave.
8230	Lopour, David E.	2129 N. 23 <sup>rd</sup> St.
1502	Martinez, Forest C.	531 S. 8 <sup>th</sup> St.
1515	McMurray, Scott J. (Club)	1217 E Channel Park Dr., Waupaca
1507	Regner, Justin J.	456 Clay ST., Kiel
2013	Reif, Sheryl A.	1529 Union Ave.
5062	Rountree, Lisa M.	145 Lexington Ct., Sheb. Falls
0415	Sanchez, Mark A.	N8237 Cty Rd. J, Elkhart Lake
1510	Sawyer, Franki R.	1224 St. Clair Ave.
1506	Testwuide, Chase D.	209 Huron Ave.
7784	Udovich, Ronda L.	1226 Main Ave.

TAXICAB DRIVER'S LICENSE (December 31, 2016)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1509	Gordon, Jody Lynn	741 Acacia, Sheb. Falls

II

4.3

R. O. No. 139 - 16 - 17. By CITY CLERK. October 17, 2016.

Submitting a communication from Basudev Adhikari, Sheboygan Liquor Depot, requesting an extension for the license due to certain delays with construction issues.

*Law + Lic*

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City Clerk

OCT 13 '16 PM 1:15

October 13, 2016

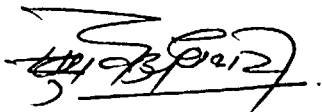
**TO WHOM IT MAY CONCERN**

I would like to inform you that the construction project at the Tidy store located at 810 N 14<sup>th</sup> St, Sheboygan may get delayed due to certain construction issues. The liquor license issued in the name of company ANANDA MARKETING LLC (SHEBOYGAN LIQUOR DEPOT: License no. 3187) will expire in the 2<sup>nd</sup> of November, 2016.

I am requesting you (The law and licensing committee) to grant an extension for the above mentioned liquor license for the Ananda Marketing LLC. (SHEBOYGAN LIQUOR DEPOT)

I hope you will take my request into consideration.

Thank you



Basudev Adhikari

Member: Ananda Marketing LLC

810 N 14<sup>th</sup> St.

Sheboygan, WI-53081

920-226-1786

Gen. Ord. No. 24 - 16 - 17. By Alderperson Belanger. October 17, 2016.

AN ORDINANCE repealing and recreating Article IV of Chapter 30 of the Municipal Code relating to Sales of Drug Paraphernalia, and repealing and recreating Section 70-8 of the Municipal Code, entitled "Adoption of State Law Regarding Controlled Substances."

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Article IV of Chapter 30 of the Municipal Code is hereby repealed and recreated to read as follows:

"ARTICLE IV. - SALES OF DRUG PARAPHERNALIA

Sec. 30-161. Sales of Drug Paraphernalia Prohibited.

(a) *Manufacture, sale or delivery of drug paraphernalia.* No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, as defined in §70-8(a) of this Code, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter.

(b) *Advertisement of drug paraphernalia.* No person may place in any newspaper, magazine, internet advertisement, handbill or other publication or upon any outdoor billboard or sign any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(c) *Exemption.* This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with that permitted under the provisions of Wis. Stat. Ch. 961. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with that permitted under Wis. Stat. Ch. 961.

(d) *Penalty.* Any person violating any provision of this article shall be fined not less than \$250.00 nor more than \$1,000.00 for the first offense and succeeding offenses during the calendar year. Each day that such violation continues shall be deemed a separate and distinct offense and, in default of payment thereof, imprisonment in the county jail for a period not to exceed 90 days.

Sec. 30-162. Sale or gift to minors of paraphernalia for use with illegal drugs or controlled substances.

*Lawrence*

*Delivery of drug paraphernalia to a minor.* Any adult, as defined by Wis. Stat. §938.02(1), who violates any provision of this Article by delivering drug paraphernalia, or who sells, gives or delivers any item, effect, accessory or thing which is designed or marketed for use with illegal cannabis, drugs, controlled substances, or controlled substance analogs as defined by the state statutes to a person 17 years of age or under shall be subject to the maximum penalty authorized hereunder."

Section 2. Section 70-8 of the Municipal Code, entitled "Adoption of State Law Regarding Controlled Substances," is hereby repealed and recreated to read as follows:

"Sec. 70-8. Possession of Drug Paraphernalia and Adoption of State Law Regarding Controlled Substances.

(a) *Definitions.* In this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, designed for use, or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog, as defined in Wis. Stat. Ch. 961. It includes but is not limited to:

- (1) Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- (2) Kits used, intended for use or designed for use in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing or preparing controlled substances;
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

- (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in packaging small quantities of controlled substances;
- (9) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
- (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles or other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;
- (12) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, including but not limited to:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;
  - b. Water pipes;
  - c. Carburetion tubes and devices;
  - d. Smoking and carburetion masks;
  - e. Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
  - f. Miniature cocaine spoons and cocaine vials;
  - g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chilams;
  - l. Bonges;
  - m. Ice pipes or chillers.

(b) *Determination of drug paraphernalia.* In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of other considerations a court shall deem relevant:

- (1) Statements by an owner or by anyone in control of the object concerning its use;
- (2) Prior convictions, if any, of an owner or of anyone in control of the object under any village, municipal, state or federal law relating to any controlled substances;
- (3) The proximity of the object in time and space to a direct violation of this chapter;

- (4) The proximity of the object to controlled substances or controlled substance analogs;
- (5) The existence of any residue of controlled substances or controlled substance analogs on the object;
- (6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter. The innocence of the owner or of anyone in control of the object as to a direct violation of this chapter shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia;
- (7) Oral or written instructions provided with the object concerning its use;
- (8) Descriptive materials accompanying the object which explain or depict its use;
- (9) National and local advertising concerning its use;
- (10) The manner in which the object is displayed for sale;
- (11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise;
- (13) The existence and scope of legitimate uses for the object in the community;
- (14) Expert testimony concerning its use.

(c) *Prohibited Activities.*

- (1) *Possession of drug paraphernalia.* No person may use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter. Possession of drug paraphernalia shall give rise to a rebuttable presumption of prohibited use.
- (2) *Manufacture, sale or delivery of drug paraphernalia.* No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this chapter.
- (3) *Delivery of drug paraphernalia to a minor.* Any adult, as defined by Wis. Stat. §938.02(1), who violates subsection (c)(1) above

by delivering drug paraphernalia to a person 17 years of age or under shall be subject to the maximum penalty authorized hereunder.

- (4) *Advertisement of drug paraphernalia.* No person may place in any newspaper, magazine, internet advertisement, handbill or other publication or upon any outdoor billboard or sign any advertisement knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (d) *Exemption.* This section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with that permitted under the provisions of Wis. Stat. Ch. 961. This section does not prohibit the possession, manufacture or use of hypodermics in accordance with that permitted under Wis. Stat. Ch. 961.
- (e) *Penalty.* Any person violating any provision of this article shall be fined not less than \$250.00 nor more than \$1,000.00 for the first offense and succeeding offenses during the calendar year. Each day that such violation continues shall be deemed a separate and distinct offense and, in default of payment thereof, imprisonment in the county jail for a period not to exceed 90 days.
- (f) *Effect of changes to State Statutes.* Pursuant to §961.577, Wis. Stats., any amendments that shall be made from time to time after the date of this ordinance to the following statutes regarding possession of drug paraphernalia, exclusive of penalties, are hereby adopted by reference and made offenses punishable as a violation of this Code: §961.573(1) and (2), §961.574(1) and (2), and §961.575(1) and (2), Wis. Stats."

Section 3. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

John B. [Signature]

I HEREBY CERTIFY that the foregoing Ordinance was duly passed by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk

Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

R. O. No. 140 - 16 - 17. By CITY CLERK. October 17, 2016.

Submitting various license applications for the period ending December 31, 2016, June 30, 2017 and June 30, 2018.

*Law & Liu*  
\_\_\_\_\_  
City Clerk

FERMENTED MALT BEVERAGE (June 30, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3225	Saap Lai	1402 S. 8 <sup>th</sup> St.

CLASS "C" WINE (June 30, 2017)

<u>No.</u>	<u>Name</u>	<u>Address</u>
3225	Saap Lai	1402 S. 8 <sup>th</sup> St.

BEVERAGE OPERATOR'S LICENSE (June 30, 2018)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1542	Anderson, James C.	1014 Dillingham Ave.
6087	Benirschke, Barbara J.	910 N. 10 <sup>th</sup> St., #328
1536	Bresser, Joel M.	3142 S. 17 <sup>th</sup> St.
1525	Harris, Shantae N.	1515A Alabama Ave.
1519	Joshi, Bashudev	1418 Wisconsin Ave.
1517	Mason JR., Charles W.	1528 Main Ave.
1528	Moan, Chad R.	2607 N. 8 <sup>th</sup> St.
1550	Outland, Brenda J.	516A S. Water St.
1534	Patnode, Kasey L.	924 Ashland Ave.
1523	Presley, Wendi J.	530 N. 15 <sup>th</sup> St.
7214	Semsch, Daniel L.	924 Logan Ave.
7565	Sievers, Fred A.	4257 Honeysuckle Ct., #I203
5650	Soerens, Donna M.	1113 N. 10 <sup>th</sup> St.
1548	Sommerfeld, Adrian M.	2307 Hillshire Dr., 1D
1533	Vandenberg, Brenda L.	508 S. 13 <sup>th</sup> St.
0661	Vanic, Patrick R.	3732 N. 12 <sup>th</sup> St.

TAXICAB DRIVER'S LICENSE (December 31, 2016)

No. Name

Address

1532 Fiedler, Randy Bruce

40 Selma St., Plymouth