

**MINUTES OF THE MEETING
OF THE COMMON COUNCIL
VALPARAISO, INDIANA
February 27, 2023**

The Common Council of the City of Valparaiso, Indiana, met on Monday February 27, 2023 at 6:00 p.m. in City Hall. Mayor Murphy called the meeting to order. The Pledge of Allegiance was said. Present were Councilmembers Reed, Cotton, Schmidt, Pupillo, Anderson, and Costas. Councilmember Peterson was absent.

MINUTES

MOTION: Councilmember Schmidt moved to adopt minutes of the February 13, 2023 meeting. Councilmember Reed seconded the motion. Upon voice vote the motion passed with a 6-0 vote.

ORDINANCE NO. 26, 2022

AN ORDINANCE ANNEXING CERTAIN TERRITORY TO THE CITY OF VALARAISO, INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF AND MAKING THE SAME A PART OF THE CITY OF VALPARAISO, INDIANA (THE “IN-49 & VALE PARK RD ANNEXATION”)

Councilmember Schmidt moved that Ordinance No. 26, 2022 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Beth Shrader advised this is the third time the Council has seen this Ordinance. This Ordinance is driven by the Sports Complex. The zone us rural. They would have to come back to the City if any development were desired. Tonight, the Council will vote to adopt. Citizens have through August, 2023 to remonstrate.

Councilmember Cotton questioned that anyone could remonstrate. He also asked about the one property owner that did not respond to any Notices. Beth Shrader replied the one property owner was properly noticed throughout the process. They have not responded to personal notice or public notice.

Public Hearing

Mayor Murphy opened a Public Hearing. Seeing no one wishing to address the Council, Mayor Murphy declared the Public Hearing closed.

MOTION: Councilmember Schmidt moved to adopt Ordinance No. 26, 2022. Councilmember Reed seconded the motion and so approved with a 6-0 roll call vote.

ORDINANCE NO. 8, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE CUMULATIVE SEWER FUND AND PROVIDING FOR PUBLICATION OF NOTICE

Councilmember Schmidt moved that Ordinance No. 8, 2023 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Mike Jabo addressed the Council. This appropriation will be used for construction of sanitary sewers to replace old and outdated sewers in the area of Campbell, Boundary and Daly Streets. Any unused funds go back into the Cumulative Sewer Fund.

Public Hearing

Mayor Murphy announced Ordinance No. 8, 2023 requires a Public Hearing and presented Proof of Publication that at tonight's meeting the Council will hear comments on the appropriation of \$705,000 in the Cumulative Sewer Fund.

Seeing no one wishing to address the Council, Mayor Murphy declared the Public Hearing closed.

MOTION: Councilmember Schmidt moved to adopt Ordinance No. 8, 2023. Councilmember Reed seconded the motion. The motion passed with a 6-0 roll call vote.

ORDINANCE NO. 9, 2023

AN ORDINANCE PROHIBITING THE SALE OF DOGS OR CATS BY RETAIL PET STORES BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VALPARAISO, INDIANA

Councilmember Schmidt moved that Ordinance No. 9, 2023 be read a second time by title and a third time in full and be considered for adoption and the opportunity be given for the offering of amendments. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read the Ordinance.

Attorney Patrick Lyp addressed the Council. There is pending legislation downstate which if passed would preempt this Ordinance. It is his recommendation to have this on our books. At the last meeting it was discussed voluntarily or involuntarily closing a business and the number of days allowed to be closed. Tonight, they can amend the Ordinance to have involuntary and they can amend the number of days from 30 to 180. Attorney Lyp was asked if a business changed their name would that matter. He replied it does not. As long as a business does not change locations or the number of square feet they are operating in.

Councilmember Cotton said the notion of a name change broadens an expanded offering. Attorney Lyp said if they sell a prohibited pet then it will have to be looked at. Councilmember Cotton asked how 180 days came about. Attorney Lyp explained he wanted the Council to have two options.

Councilmember Anderson stated this business was opened legally under the State of Indiana. The City does not want to be seen as trying to run anyone out of business. The 30 days was a little short.

MOTION: Councilmember Reed moved to amend Section 1 (E) the number of consecutive days an exempt store can be not in operation from 30 to 180 for a voluntary abandonment. Councilmember Pupillo seconded the motion. The motion passed with a 6-0 roll call vote.

MOTION: Councilmember Schmidt moved to adopt Ordinance No. 9, 2023 as amended. Councilmember Reed seconded the motion. The motion passed with a 6-0 roll call vote.

ORDINANCE NO. 10, 2023

AMENDMENT OF 2023 SALARY ORDINANCE

Councilmember Schmidt moved that Ordinance No. 10, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 10, 2023.

Mike Jabo addressed the Council. He has been using interns in his office. He is proposing to create a GIS Specialist and Coordinator. The job description was done by the person who did the wage study. They have approved adding this position as a PAT D in the 2023 Salary Ordinance.

Councilmember Cotton asked what the salary will be. Mike Jabo replied it will be in the \$40,000 to \$50,000 range.

MOTION: Councilmember Cotton moved to suspend the rules. Councilmember Pupillo seconded the motion. The motion passed with a 6-0 roll call vote.

MOTION: Councilmember Schmidt moved to adopt Ordinance No. 10, 2023 under suspension of the rules. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

ORDINANCE NO. 11, 2023

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ADOPTING SECOND AMENDED CRITERIA FOR LICENSE ALLOCATION AND APPLICANT COMPLIANCE FOR A HISTORIC DOWNTOWN LIQUOR LICENSE

Councilmember Schmidt moved that Ordinance No. 11, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 11, 2023.

Attorney Patrick Lyp addressed the Council. He has reviewed the process for the Historic Downtown Liquor Licenses. Currently it is explicit that the owner of a license cannot transfer a license. This was done to keep someone from purchasing a license and then turning around and making a profit selling it. It is intended to get a person an inexpensive license and money saved would be used for the business and employees. The license cannot be put into escrow. If a business fails, the City does not want the license tied up in escrow for any length of time. The restaurant owner is to have a commitment to the type of restaurant, hours etc. If they are an Italian restaurant, they have to stay an Italian restaurant. Down State legislation is pending that would increase the number of liquor licenses from 10 to 15. It would expand the downtown area. The legislation also raises the fee to \$25,000. This money goes to the State for the issuance of that license. As opposed to a Downtown Liquor License Committee, the process would be more of a City Council centric process. The City would provide Notice that applications are being received. City staff would review the applications and submit all to the Council with a recommendation. The Council can then make the recommendation to the ATC to issue a license. There is no rush on this. Maybe it can be discussed again in April. Page 4 contains guiding principles. He suggested Councilmembers review these to see if any changes should be made.

Councilmember Anderson – When the Committee was the group that issued these licenses, what was the process?

Attorney Lyp – There were different ways. When there were more licenses available, a restaurateur would come to the City and say they had a location and concept. The Economic Development Director would work with them and make sure they followed the guidelines. The Committee would vet the applicant. Then it would be presented to the Council.

Councilmember Cotton – The current area is 700? This does not sound as Council centric as he had hoped. The Council is competent to receive confidential requests or letters of interest as the Committee has been doing.

Attorney Patrick Lyp – It is 750. This doubles the amount. The same rule of non-contact was in place for the Committee. The process is to insure the Council is the decision makers. Any documents the Council wants to see they will be able to see.

Councilmember Reed – As Vice President, she would not make a decision based solely on what she thinks. They will talk to all Council members to see which ones they feel should be moved forward. That is the only fair way to do it.

Councilmember Costas – He envisions this being like the school board process. It seems to work. If a restaurant wants to sell, and the buyer wants to keep it the same, change it or move it, how does that play out?

Attorney Lyp – He referred to page 6 Sale of the Restaurant. If it stays the same and a new person is put in, then it requires Council approval and sign a new Written Commitments. If it is the same but moves to a different location, that should not cause an issue. When there is a change in concept, that could create some concern. It is a balancing act to see what the value is of the license and knowing what businesses will try to do.

Councilmember Costas – He asked about a person who has a 2-way license in another part of town. They want to move downtown and take advantage of a three-way license.

Attorney Lyp – That would be treated as a new applicant.

MOTION: Councilmember Schmidt moved to carry Ordinance No. 11, 2023 to a future meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

ORDINANCE NO. 12, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL EXCISE SURTAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE

Councilmember Schmidt moved that Ordinance No. 12, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 12, 2023.

Mike Jabo addressed the Council. This is customary for road rehabilitation season. These funds accumulate monthly. The appropriation amount is \$500,000.00. The funds are available to match funds with the projects.

Councilmember Cotton – He would like a projection of what work will be done.

Mike Jabo – He has not published that yet. He has not gotten confirmation from INDOT.

MOTION: Councilmember Schmidt moved to carry Ordinance No. 12, 2023 to the March 13, 2023 meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

ORDINANCE NO. 13, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL WHEEL TAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE

Councilmember Schmidt moved that Ordinance No. 13, 2023 be read a first time and considered on first reading. Councilmember Reed seconded the motion. Clerk-Treasurer Taylor read Ordinance No. 13, 2023.

Mike Jabo addressed the Council. This is the same as Ordinance No. 12, 2023. The appropriation amount is \$40,000.00.

MOTION: Councilmember Schmidt moved to carry Ordinance No. 13, 2023 to the March 13, 2023 meeting. Councilmember Reed seconded the motion. The motion passed with a 6-0 voice vote.

COMMUNITY UPDATE

Attorney Patrick Lyp discussed the Human Relations Council. He relayed a story about a citizen who was disabled and a heave in the sidewalk made it a challenge for him to get outside and walk. Within 48 hours of hearing about this, the situation was fixed. The citizen was appreciative. From that instance, the City looked at March as National Disability Awareness Month. The City is putting community educational material together. This is the first year but should be a wonderful opportunity for the community to learn about various challenges.

COUNCIL LIAISON

Councilmember Reed – 2023 School Board Appointment Schedule:

February 28 - Application available online

April 21st Noon – Application due online or at Clerk-Treasurers office

April 24th 5:00 pm. - If necessary, Executive Session of Council to reduce applicant pool to four

April 25-28 – Applicants notified of May 1st interview time. Questions sent to each applicant.

May 1- First round of interviews

May 2-8 - Questions from public due online

May 15 - Second round of interviews with questions submitted by public. City Council will vote to appoint School Board member following second interview.

This year's appointment must be a Democrat. There was discussion regarding how to determine an applicant is a Democrat.

PUBLIC COMMENTS

Mayor Murphy advised those who wish to speak to the Council, that any speaker who engages in personal attacks, and/or acts in an uncivil manner will be stopped and may be prohibited from future opportunities to address the Council.

Barb Domer – 614 Yellowstone. There has been no progress on the No Through Truck signs. This must be a procedural issue. She would like to know what criteria is used. Is it the price of real estate?

Mary Abraitus – 605 Yellowstone. Nothing has been done. Nothing has been acknowledged. There has not been a display of good judgment. There is nothing fair, ethical, honest, and most importantly trustworthy, a basic requirement for public officials. Her expectation and the City's role is to meet the needs to the community at the forefront. She referred to abuses and what can be considered as kickbacks.

Mayor Murphy advised he will not tolerate this type of language in this Chambers. The City has listened on this issue. They have engaged. They have given City staff opportunities to talk to them. She doesn't like the answer given. She is coming to complain. Which is her right. But making those kinds of accusations is untenable and will not be allowed in this Chamber.

The meeting adjourned at 7:29 p.m.

/s/ Holly Taylor, Clerk-Treasurer

ORDINANCE NO. 11, 2023**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, ADOPTING SECOND AMENDED CRITERIA FOR LICENSE ALLOCATION AND APPLICANT COMPLIANCE FOR A HISTORIC DOWNTOWN LIQUOR LICENSE**

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

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”).

WHEREAS, on **December 14, 2015**, the Common Council adopted Ordinance No. 29-2015 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.

WHEREAS, the Common Council wishes amend Resolution No. 15-2005 and Ordinance No. 29-2015 to be consistent with this ordinance.

WHEREAS, adopting this Ordinance approves the *Second Amended Criteria for License Allocation and Applicant Compliance* and dissolves the Valparaiso Downtown Alcoholic Beverage License Committee.

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 Second Amended Criteria for License Allocation and Applicant Compliance*. The Common Council hereby approves and formally adopts the *Second Amended Criteria for License Allocation and Applicant Compliance* attached as **Exhibit A** to this Ordinance. The *Second Amended Criteria for License Allocation and Applicant Compliance* 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 December 14, 2015.

Section 3. *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 4. *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 5. *Effective Date.* This Ordinance shall be in full force and effect from and after its adoption and the procedures required by law.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a _____ vote of all members present and voting, this ___ day of March, 2023.

Matthew R. Murphy, Mayor

ATTEST:

Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this ____ day of March, 2023 at the hour of _____ o'clock P.M.

Holly Taylor, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of March, 2023 at the hour of _____ o'clock P. M.

Matthew R. Murphy, Mayor

Second Amended Criteria for License Allocation and Applicant Compliance Updated March 13, 2023

I. **Background**

During the 2005 legislative session, the Indiana General Assembly enacted Senate Enrolled Act 282 (“Act”) which was codified at Ind. Code § 7.1-3-20-16(g). The Act permitted the Indiana Alcoholic and Tobacco Commission (“IATC”) to issue additional liquor licenses (one, two, or three-way) (“Downtown Licenses”) in the downtown Valparaiso area. Pursuant to the Act, the Valparaiso City Council (“Council”), as the fiscal body for the City, is responsible for making recommendations to IATC for locations that are eligible for Downtown Licenses.

During the 2015 legislative session, the Indiana General Assembly enacted certain amendments to the Act, which included provisions that: i) further clarified the prohibition on the transfer of Downtown Licenses; ii) required a holder of a Downtown License to execute Written Commitments with the City as to the “character and type” of restaurant; iii) afforded a greater oversight role to the City in the Downtown License renewal process and, iv) terminated a Downtown License if the holder ceases business operations for more than 6 months.

During the 2022-23 legislative session, the Indiana General Assembly enacted certain amendments to the Act, which included: i) increasing the number of available liquor licenses; ii) expanding the area where Downtown Licenses can be issued to 1,500 feet beyond the existing area designated by the National Register of Historic Places maintained under the National Historic Preservation Act of 1966; and, iii) raising the cost of the Downtown Licenses.

II. **Purposes and Goals**

The purpose behind the Act is to further the City’s downtown strategic plan by encouraging the location and operation of upscale restaurants in the downtown area. The City’s goal continues to be to provide a premier and diverse dining environment within the City’s downtown.

The Act also intends to assist small business owners, who might be unable to secure a conventional Liquor License (because of lack of availability and/or cost), but otherwise have the ability to successfully operate a restaurant in the downtown area. These business owners invest not only in their business but in our community. They are often active within the local business community, sit on civic boards, and more fully participate in the local community. This adds to the overall business vibrancy of Valparaiso.

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 a premier dining destination in Northwest Indiana.

b. Assist local, talented restaurant owners to achieve success by providing them the ability to offer a full line of liquor beverages to their patrons.

c. Use the license allocation program to encourage recipients to make improvements to their buildings, participate in unified marketing efforts, encourage a healthy and fun atmosphere in the downtown, and to generally improve downtown commercial activity.

III. **Current Status**

As of March 2023, nine Downtown Licenses have been issued. On a whole, the City has realized its original goals and the Downtown Licenses have contributed to new investment and the resurgence of the City's downtown. That said, maintaining the success will need the City's continued vigilance. Of most concern is maintaining the quality level of the restaurants and to avoid restaurants moving from dining focused establishment to bars that sell food. The holders of Downtown Licenses must strive to make their restaurants a destination location where food is the primary driver. Of almost equal concern is ensuring that the applicants who secured the Downtown Licenses operate the restaurants and do not attempt to sell/transfer their Downtown Licenses to individuals and entities that have not been properly vetted by the City and may not be able to maintain the restaurant's quality level.

IV. **Application/Renewal Process**

a. The application process is as follows:

1. The City will provide public notice that a District License is available and the City is prepared to receive and evaluate proposals. The notice will provide the deadline for submitting proposals and any special requirements. Material relating to the application process will be available on the City's webpage.

2. The Applicant should meet with the City Attorney to review the application requirements and the proposed/current location of the restaurant prior to submitting a proposal for consideration. All communications concerning the application process shall be made through the City Attorney. No direct communication will be made by the Applicant or others associated with the Applicant, to the Mayor, Council members, or City Staff.

3. The Applicant will file, consisted with process outlined in the notice, a completed Application for a Downtown License. The Application will be in the form promulgated by the City.

4. Timely filed applications will be reviewed by City Staff. An Applicant may be invited to attend a meeting with City Staff to discuss the application. Upon review, City Staff will provide a confidential written analysis of the applications to the Council. Upon review, the Council President and Vice President shall notify the Mayor as to which Applicants (if any), the Council would like to have make a presentation to the Council. The Council reserves the right to

limit public presentations to those Applicants it determines to be within the general parameters of the Guiding Factors. The Mayor and City Staff will coordinate having the Applicants appear at a Council meeting to present its proposal and to offer evidence to support its Application. Upon completion of the public meeting(s) and receipt of all requested information from the Applicant(s) that the Council believes is necessary to make an informed decision; the Council may issue a written recommendation to be provided to IATC. As part of the Application process, the Council may request that the Applicant accept certain requirements/conditions.

5. Any Council recommendation shall be subject to the Applicant executing a Written Commitment as required by Indiana law.

6. The Applicant, upon a favorable recommendation from the Council and execution of the approved Written Commitment, will move forward with IATC to secure its Downtown License.

7. If, in the opinion of the Council and/or the City's Attorney, the Applicant fails to adhere to the requirements of the Second Amended Criteria for License Allocation and Applicant Compliance Updated March 13, 2023; violates any requirements/conditions accepted as part of the Applicant's Application, and/or breaches any provision of the Written Commitments, the Council and/or the City's Attorney may object to the issuance of the Downtown License and/or take any other action, including legal enforcement, to seek compliance and/or revocation of the Downtown License.

b. The renewal process is as follows:

1. Under the terms of the 2015 legislation (IC 7.1-3-19-17), holders seeking a renewal of their Downtown License must forward a copy of all filings to the City.

2. Notwithstanding any other notice requirements established by rule, regulation and/or IATC, a holder of a Downtown License shall notify the City's Attorney or his designee, in writing, at least 45 days prior to the expiration of its Downtown License of its intent to seek renewal. This notice shall be in addition to any requirements under IC 7.1-3.19-17.

3. The City may, in its sole discretion, request that the holder of the Downtown License appear before the Council to address Council and/or public questions prior to IATC's action on the renewal of its Downtown License.

4. The City and/or the City's Attorney may appear before IATC to support, object, or otherwise participate in any proceeding.

5. If, in the opinion of the Council and/or the City's Attorney, the Applicant fails to adhere to the requirements of the Second Amended Criteria for License Allocation and Applicant Compliance Updated March 13, 2023; violates any requirements/conditions accepted as part of the Applicant's Application, and/or breaches any provision of the Written Commitments, the Council and/or the City's Attorney may object to the reissuance of the Downtown License and/or take any

other action, including legal enforcement, to seek compliance and/or revocation of the Downtown License.

V. **Guiding Factors in recommending a Downtown Liquor License**

a. **Corporate Condition and Operations.** The City will consider the Applicant's (1) financial and ownership strength, which may best be demonstrated by a business plan, (2) history of operation, (3) general reputation in the Valparaiso community and, if from other than Valparaiso, the Applicant's reputation in other communities, (4) the Applicant's 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 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.

b. **Restaurant Operations.** The City 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. **Although not a limiting factor, it is the stated preference of the City to not recommend a Downtown Liquor License to a Applicant that is presenting a concept substantially similar to an existing downtown restaurant.**

c. **Community Participation and Commitment.** The City will consider the Applicant's (1) commitment to the downtown area and the Valparaiso community and (2) the proposed/actual impact of the business on the downtown and Valparaiso.

d. **Location and Physical Elements.** The City 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 building, and (5) the expected timetable for work and business commencement.

e. **Dining Experience.** Consistent with the objectives and goals of the City, it is not the intention of the City to encourage the establishment and/or recommend to IATC, any restaurant establishment that focus, whether intentionally or otherwise, is on alcohol sales. Alcohol sales must compliment an upscale food menu and dining experience. Businesses that seek to establish a bar/restaurant environment have the option to seek a conventional Liquor License from IATC. **The City cannot stress more the importance of this factor.**

f. **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 relevant considerations, favorable and unfavorable, will be considered.

VI. Additional Requirements of Restaurants

- a. The Act provides that an Applicant is not eligible to obtain a liquor license 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. **DOWNTOWN LICENSES ARE NONTRANSFERABLE.**
- b. All restaurants must be fully non-smoking and in full compliance with the City's Smoking Ordinance.
- c. If ever established and applicable, holders will be full paying members of a downtown Business Improvement District.
- d. Holders will be full paying members in the Downtown Dining Marketing Fund. Monthly contributions shall not exceed **\$200 per month**. Holders shall at all times remain current in the payment of their dues to the Downtown Dining Marketing Fund.
- e. 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.
- f. The Holder/Applicant will enter into a Written Commitment with the City to comply with the rules and any conditions that the City places on the restaurant. Failure to abide by Written Commitment shall constitute grounds for the City to seek suspension/termination of Applicant's ability to offer alcohol in its restaurant.
- g. Upon request, Holder shall provide information and documentation to the City that is requested for the purpose of determining compliance with the Written Commitment.
- h. Holder acknowledges that the City has adopted rules for outdoor dining on public walkways/easements/property. The rules, in large part, balance the desire of providing outdoor dining options with the need to assure that all pedestrians have sufficient space to safely move in the downtown area. Holder agrees to abide by all such rules relating to outdoor dining.

VII. Compliance/Review/Enforcement

Successful Applicants that obtain Downtown Licenses from IATC are responsible for operating their restaurants in compliance with their Application, Written Commitments and supporting information presented to the Council. Holders shall not change the name, location, ownership and/or otherwise make substantial changes in the operation of their restaurants (i.e. change in type of restaurant and/or cuisine, etc.) without notifying the City Attorney and, if deemed necessary, obtaining the approval of the Council. Requests for approval of the above changes must be submitted in writing to the City Attorney. Each Applicant will designate one key individual, who will maintain a direct association with the City.

Successful Applicants for Downtown Licenses shall, upon request, be responsible for attending a meeting of the Council and providing a report concerning their operations. Applicants will be notified by the City Attorney in advance of the scheduling of a meeting. Applicants may be requested to provide documentation to the City in advance of the meeting including, but not limited to, alcohol/food sales, menu, hours of operation, documentation provided to IATC in support of a request for a renewal of the Downtown License.

VIII. Sale of Restaurant

The City has struggled with the issue of restaurant owners who wish to sell their restaurant. It was never the intent of the City that the Downtown Licenses would be transferred at a profit. Besides being an unearned windfall to the previous holder, it defeats one of the primary goals of the Downtown Liquor License program – make a Liquor License available to a restaurant entrepreneur at a nominal fee, so that funds that might have been needed to secure a Liquor License could be invested into the restaurant and food offerings. That said, the City appreciates that restaurant owners will, at some point, want to sell their business to new ownership and that, in certain circumstances, there may be value to the downtown to have the Downtown License held by another holder. In keeping with Purposes and Goals as well as of Guiding Facts of the Downtown License program contained herein, the City notes the following:

The City is willing to consider a request from a holder of a Downtown License to transfer to another entity if: i) the current holder is in good standing; ii) the current holder has operated their restaurant with a Downtown License for a minimum of **10 years**; iii) the proposed holder intends to maintain and operate the restaurant in a substantially similar manner; iv) the proposed owner submits an Application; v) the current holder and proposed owner provide documents and information requested by the City to substantiate that a substantial portion of the value of the Downtown License is not included in the purchase price; and, vi) the current holder and proposed owner follow all applicable rules relating to the issuance of a Downtown License – including appearing before the Council, if requested and expecting a revised Written Commitment.

Nothing in this provision shall be interpreted to suggest that a current holder has any right or the City has any obligation to approve (or even consider) a transfer and such shall be at the sole and absolute discretion of the City.

ORDINANCE #12, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL EXCISE SURTAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE

SECTION 1: BE IT ORDAINED, and the Common Council of the City of Valparaiso, Indiana, does hereby make the determination a need exists and that the following amount of money be and the same is hereby appropriated from the Municipal Excise Surtax Fund for the purpose and use here in after set forth, all for use during the current year of 2023, to-wit:

MUNICIPAL EXCISE SURTAX FUND

Other Services & Charges	\$500,000.00
Total	\$500,000.00

SECTION 2: Appropriations over and above those made during the budget process are allowed under Indiana Code 6-1.1-18-5 and as otherwise provided under Indiana law.

SECTION 3: The City Clerk-Treasurer is requested to provide notice, as outlined under Indiana Code 5-3-1, as to the meeting date and the opportunity of the public to participate in a Public Hearing. Such notice shall be published one time at least ten (10) days prior to the meeting in a Qualified Publication – as such term is defined under Indiana Code 5-3-1-0.7.

SECTION 4: The Public Hearing provided for in Section 3 shall be set for the March 13, 2023 meeting of the Common Council of the City of Valparaiso, at City Hall located at 166 West Lincolnway.

SECTION 5: After the Public Hearing is held in accordance with such notice as herein provided, the Council may approve the proposed appropriation.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage in the manner provided by law.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a _____ vote of all members present and voting, this _____ day of _____, 2023.

Matthew R. Murphy, Mayor

ATTEST:

Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this _____ day of _____, 2023 at the hour of _____ o'clock P.M.

Holly Taylor, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of _____, 2023 at the hour of _____ o'clock P. M.

Matthew R. Murphy, Mayor

ORDINANCE #13, 2023

AN ORDINANCE APPROPRIATING FUNDS IN THE MUNICIPAL WHEEL TAX FUND AND PROVIDING FOR PUBLICATION OF NOTICE

SECTION 1: BE IT ORDAINED, and the Common Council of the City of Valparaiso, Indiana, does hereby make the determination a need exists and that the following amount of money be and the same is hereby appropriated from the Municipal Wheel Tax Fund for the purpose and use here in after set forth, all for use during the current year of 2023, to-wit:

MUNICIPAL WHEEL TAX FUND

Other Services & Charges	\$40,000.00
Total	\$40,000.00

SECTION 2: Appropriations over and above those made during the budget process are allowed under Indiana Code 6-1.1-18-5 and as otherwise provided under Indiana law.

SECTION 3: The City Clerk-Treasurer is requested to provide notice, as outlined under Indiana Code 5-3-1, as to the meeting date and the opportunity of the public to participate in a Public Hearing. Such notice shall be published one time at least ten (10) days prior to the meeting in a Qualified Publication – as such term is defined under Indiana Code 5-3-1-0.7.

SECTION 4: The Public Hearing provided for in Section 3 shall be set for the March 13, 2023 meeting of the Common Council of the City of Valparaiso, at City Hall located at 166 West Lincolnway.

SECTION 5: After the Public Hearing is held in accordance with such notice as herein provided, the Council may approve the proposed appropriation.

SECTION 6: This Ordinance shall be in full force and effect from and after its passage in the manner provided by law.

PASSED by the Common Council of the City of Valparaiso, Indiana, by a _____ vote of all members present and voting, this _____ day of _____, 2023.

Matthew R. Murphy, Mayor

ATTEST:

Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this _____ day of _____, 2023 at the hour of _____ o'clock P.M.

Holly Taylor, Clerk-Treasurer

This Ordinance approved and signed by me this _____ day of _____, 2023 at the hour of _____ o'clock P. M.

Matthew R. Murphy, Mayor