

**COUNCIL ACTION FORM**

**SUBJECT: REVIEW LIQUOR LICENSE RENEWAL - CY'S ROOST**

**BACKGROUND:**

While most liquor license renewals are routine, occasionally the City Council must weigh challenges that a particular licensee has had in abiding by applicable laws. Since the Cy's Roost renewal falls into that category, staff first desires to share background with Council on how these situations have been handled in the past.

At the October 17, 2006 City Council meeting, the Council directed the Police Chief to convene a committee and establish criteria for evaluating alcohol violations in liquor-licensed establishments. Two meetings were held that month with the Criteria Team. Bar and restaurant owners, police, students and medical personnel were among the nineteen people present for one or both of these meetings.

There was agreement among those present that the following criteria were relevant to the liquor license renewal decision:

1. The number of fire code violations, such as over occupancy, during the 12 month renewal period.
2. The total number of citations issued and arrests made during the 12 month renewal period. Bars in the Campustown area have various maximum occupancy numbers. It would be difficult to set a specific number of violations that would automatically move the City Council to not renew a license because of this.
3. Level of cooperation between the bar managers and police. This would include, but not be limited to, addressing issues police officers observe that are causing criminal activity or have the potential to cause criminal activity, having all doors of the establishment staffed or monitored by camera, strobe, alarm, etc., and the use of ID swipe devices.
4. The number/percent of employees from the bar attending the monthly Police ID training during the 12 month renewal period. The target would be that 100 percent of employees would attend the training.
5. Nuisance calls in and around the bar that were not called in by the bar, but observed or reported to the police. Police continue to encourage bar management to call early if they observe problems developing.

6. The number of fake, altered or loaned driver's licenses or ID cards obtained by bar employees and then turned into the police during the 12 month renewal period. Iowa law requires bars turn such IDs over to the police.

A subsequent meeting was held on November 3, 2006, with staff at the Alcoholic Beverages Division (ABD) in Ankeny, IA. Present for that meeting were several city staff along with ABD administrators including the agency head, Lynn Walding.

This group discussed liquor license renewal criteria. Administrator Walding recommended that the City of Ames reconsider going back to issuing six month renewals if the City Council believes the bar should be renewed, but put on notice to improve. Six month renewals are done on a routine basis, either by the City or by the ABD in those situations where circumstances warrant closer scrutiny of the operation.

Administrator Walding indicated that there was no "hard standard" for license denial at the ABD level for minor on premise or underage violations. While acknowledging that "one or two" was probably not sufficient to make a persuasive case, a larger number would be a more reasonable criteria if it is supported by other evidence like number of IDs seized, level of cooperation with police, the outcome of compliance checks, and general criminal or alcohol-related activity in the vicinity of the establishment. He did note that the Division has used a hard standard of four violations in three years for "minor buys" or direct sales by the establishment to underage persons. Finally, he noted that other character issues such as delinquent tax payments should also be included in case presentations or consideration of renewals. The liquor license renewal criteria were reviewed with Administrator Walding. In general, discussion seemed to indicate that these criteria provided the kind of supporting context that would strengthen a decision to deny renewal.

In applying this process, the Ames Police Department prepares a review of police calls in anticipation of an establishment's annual license renewal. Those with few or no violations are addressed in a memorandum to the City Council. For those establishments that have a larger number of violations or other cause for concern, a Liquor License Renewal Criteria Form is completed.

The attached Liquor License Criteria Renewal Form has been completed for the license renewal of Cy's Roost, 121 Welch Avenue. **Based on the criteria, the Police Department is recommending that the City Council consider a six month renewal with the expectation that recent improvements in bar operations and reductions in citations will be institutionalized over the upcoming six months.**

#### **ALTERNATIVES:**

1. Deny the application for a twelve-month and instead approve a six month license renewal for Cy's Roost, contingent upon Cy's Roost filing an application for that period.
2. Approval a twelve month license renewal for Cy's Roost.

3. Do not approve a liquor license renewal for Cy's Roost.

**MANAGER'S RECOMMENDED ACTION:**

As indicated on the attached Liquor License Criteria Renewal Form, Cy's Roost's performance over the last year merits greater efforts by the licensee and closer scrutiny by the City.

Therefore, it is the recommendation of the City Manager that the City Council adopt alternative number 1, thereby approving the six month renewal. This renewal cycle would allow review of the licensee's effort to improve bar management, reduce overcrowding, and limit underage access to the premises.

It should be understood that the applicant can appeal any Council decision regarding liquor licensing to the State's Alcoholic Beverages Division.

<p style="text-align: center;"><b>Ames Police Department</b> <b>Liquor License Renewal Criteria Form</b></p>
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Business name: Cy's Roost

Address: 121 Welch Avenue

Review Period: 01-26-2009 to 01-26-2010

3 of 3: Number of quarterly alcohol meetings attended during twelve-month renewal period.

34 : Number of citations issued during twelve-month renewal period.

- 12 on premises with fake ID
- 17 on premises without fake ID – 3 were employees
- 2 possession of alcohol underage
- 1 after hours violation
- 1 failure to prevent minors from obtaining alcohol
- 1 noise violation

58 : Number of calls for service in and around the business during twelve-month renewal period.

- Disorderly Conduct – 12
- Other (Theft, Suspicious, Vandalism) – 11
- Public Intoxication – 10
- Alarms – 10
- Fight – 7
- Assault – 3
- Noise – 3
- Medical – 2

1 : Number of fire code violations during twelve-month renewal period.

- 1 warning for overcrowding on 04-17-2009 during VEISHEA

15 : Number of fake or altered IDs turned in during twelve-month renewal period.

- 15 in February 2009, 7 in April 2009
- 0 in 2010

92%: Percentage of employees who have attended police ID training during twelve-month renewal period.

List of any additional precautions employed by the business to assist in preventing underage on premise or consumption:

☐

Electronic ID handheld

☒

Additional Training – see narrative

☐

ALS (Alternative Light Sources

☐

Alarms

Other: \_\_\_\_\_

Incentives for confiscated DLs ☒ Yes ☐ No

- \$10 per ID paid to confiscating employee

Level of cooperation extended to police by bar employees:

☐

High

☒

Medium

☐

Low

- High Level of Cooperation – Responds to requests for improvements made by the Police Department or Inspections as soon as possible. Calls for assistance where appropriate before the situation gets “out of hand”. High attendance at ID training. Fake IDs turned over to Police Department.
- Low Level of Cooperation – Does not respond to reasonable requests made by the Police Department or Inspections. Lets problems get out of hand before calling for help. Low or no attendance at ID training. No effort to seize fake IDs.

Average Occupancy:

☐

High

☒

Medium

☐

Low

- High: At or near capacity each night of operation
- Medium: At capacity on some nights and fewer patrons on other nights
- Low: Rarely at capacity

Fire Code Occupancy

☐

High

☒

Medium

☐

Low

- High – 200 – 300 Fire Code Occupancy
- Medium – 100 – 200 Fire Code Occupancy
- Low – Under 100 Fire Code Occupancy

Fire Inspection Comments: none

Health and Sanitation Comments: Issues related to health and sanitation are promptly resolved by contractors employed by management.

Building Inspection Comments: none

Additional Comments: The issues outlined in this form relate specifically to management of the establishment. While Cy’s is among the popular Campustown drinking establishments, its record of performance in the past year is far out of line with its performance in the previous two renewal periods. Calls for service to Cy’s were very frequent in the spring 2009 semester. While calls for service decreased during the fall semester, work to limit access to underage persons is still necessary.

The numbers in the table provided below outline the number of violations for previous 12-month renewal period for the past three applications.

	2008	2009	2010
<b>On Premises – with fake ID</b>	1	2	12
<b>On Premises – no fake ID</b>	4	3	17
<b>Possession Underage Citations</b>	1	1	2
<b>Fake ID Citations</b>	1	0	0
<b>Noise Citations</b>	0	0	1
<b>After Hours Violations</b>	0	1	1

Additionally, the department has investigated two incidents of after hours liquor violations. In one case, the manager was cited for dispensing alcoholic beverages after hours. In the other, an employee had removed alcohol from the business after hours. In this case no citation was issued.

Bar management has always had a cooperative relationship with the Police Department. They have been proactively addressing some issues that have been identified during the past year. These include: employee alcohol consumption while on-duty, handling of disturbances inside the bar by employees, overcrowding, and making repairs to the facility to limit patio access to underage persons. In addition, the Party Response Team was invited to Cy's and provided training to bar employees as it related to compliance with city ordinances and state laws regulating their actions and operations.

In recent discussions with the owner, Andy White, it became clear that he may not have a clear understanding of all of the violations that occurred at Cy's. This is primarily a communications issue within his management structure. He is taking steps to address the issues with his management staff and is also installing cameras at the bar.

Police Department's liquor license renewal recommendation: <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> <b>CONDITIONAL</b>
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- Our recommendation is to approve an application for a 6-month license and to deny approval of a 12-month license application.

Report Submitted by : Lt. Jeff Brinkley