

**MINUTES
CITY OF JEFFERSON COMMON COUNCIL
TUESDAY, MAY 3, 2016**

The Tuesday, May 03, 2016 meeting of the City of Jefferson Common Council was called to order at 7:00 p.m. by Mayor Oppermann. Members present were: Ald. Peachey, Ald. Beyer, Ald. Miller, Ald. Horn, Ald. Brandel, and Ald. Krause. Absent: Ald. Roth and Ald. Lares. Also present were: City Administrator Freitag, City Attorney Brantmeier, City Engineer Pinnow and City Clerk/Deputy Treasurer Baumann.

PUBLIC PARTICIPATION

None.

AN ORDINANCE TO ADD §300-49 TO REGULATE ADULT-ORIENTED ESTABLISHMENTS

Ald. Horn introduced Proposed Ordinance #3-16 for its first reading.

**CITY OF JEFFERSON
ORDINANCE #3-16**

§ 300-49 AN ORDINANCE TO REGULATE ADULT-ORIENTED ESTABLISHMENTS

Section 1. Findings of Fact

- a) The Common Council finds that adult-oriented establishments, as defined and otherwise regulated by the City, require special zoning in order to protect and preserve the health, safety, and welfare of the City.
- b) Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Coleman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), the Common Council finds that there is convincing evidence that the secondary effects of adult-oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
- c) The Common Council intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
- d) It is not the intent of the Common Council to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which

addresses the secondary effects of adult-oriented establishments while providing an outlet for First Amendment protected activities.

- e) In order to minimize and control the secondary effects of adult-oriented establishments upon the City, it is the intent of the board to prevent the concentration of adult-oriented establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult-oriented establishments.
- f) Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Common Council finds that a geographic separation of adult-oriented establishments from alcohol beverage licensed premises is warranted.
- g) The Common Council defines “Adult-Oriented Establishment” as” adult arcade, adult bath house, adult body painting studio, adult bookstore, adult cabaret, adult motel, adult theater, and any commercial establishment presenting adult entertainment whether or not such entertainment is operated or maintained for a profit.

Section 2. Location of first amendment protected adult-oriented establishments

- a) The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult-oriented establishments, as defined and otherwise regulated by the City, are entitled to certain protections, including the opportunity to locate in the City. Therefore, if an adult-oriented establishment license may be granted by the City as a conditional use under §300-31, if all the requirements of this section of the zoning code are met and it is approved as a conditional use by the City in an industrial district. No other requirements of the zoning code need be satisfied, but for those required in order to obtain an adult-oriented entertainment license as a conditional use permit from the City.
- b) Adult-oriented establishments shall be located at least 500 feet from:
 - a. Any residential district line, playground lot line, or public park lot line;
 - b. Any structure used as a residence, place of religious worship, public or private school, or youth facility;
 - c. Any other structure housing an adult-oriented establishment;
 - d. Any structure housing an establishment which holds an alcohol beverage license.
- c) Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the adult-oriented establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in Section 2(b)(b, c, d) above.

- d) The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
- e) For adult-oriented establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the adult-oriented establishment.
- f) For any adult-oriented establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the adult-oriented establishment (excluding emergency exits).
- g) A licensed adult-oriented establishment is not disqualified from holding an adult-oriented establishment license by the location subsequent to the grant or renewal of its license of any of the establishments described in Section 2(b) above, within 500 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

Section 3. **Violations and Penalties. Any person who violates this section will be subject to a monetary forfeiture in the amount of \$500 for each violation. Each day that violation exists shall constitute a separate violation and be punishable as such. Penalties for a violation of this Chapter shall be described annually in Chapter 1, Article 1 of this code. The City may also seek an injunction or other relief allowed in law or equity.**

Section 4. This ordinance shall take effect after passage, publication and attestation as required by law.

Section 5. This is the second reading.

Ald. Horn, seconded by Ald. Brandel moved to recommend Proposed Ordinance #3-16. On call of the roll, motion carried unanimously.

AN ORDINANCE TO AMEND §300-31 OF THE CITY CODE TO ADD ADULT ORIENTED ESTABLISHMENT AS A CONDITIONAL USE IN THE INDUSTRIAL DISTRICT

Ald. Miller introduced proposed Ordinance #4-16 for its first reading.

**CITY OF JEFFERSON
ORDINANCE #4-16**

AN ORDINANCE TO AMEND § 300-31 OF THE CITY CODE TO ADD ADULT ORIENTED ESTABLISHMENT AS A CONDITIONAL USE IN THE INDUSTRIAL DISTRICT

Section 1. §300-31. Industrial and Agricultural Uses.

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

- A. Animal hospitals in the agricultural and industrial districts, provided that the lot area is not less than three acres and all principal structures and uses are not less than 100 feet from any residential district.
- B. Dumps, disposal areas, incinerators and sewage disposal plants in the agricultural and industrial districts. Municipal earth and sanitary landfill operations may be permitted in any district.
- C. Commercial raising, propagation, butchering or boarding of animals, such as dogs, mink, rabbits, foxes, goats, and pigs; commercial production of eggs; and the hatching, raising, fattening or butchering of fowl; pea vineries, creameries and condenseries in the Agricultural District; boarding of animals in the Limited Industrial District.
- D. Manufacturing and processing of abrasives, acetylene, acid, alkalis, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candles, carpeting, celluloid, cement, cereals, charcoal, coal tar, coffee, coke, cordage, dextrin, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickles, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lampblackening, size, starch, stove polish, textiles and varnish; manufacturing, processing and storage of building materials, dry ice, explosives, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar and yeast; manufacturing and bottling of alcoholic beverages; bag cleaning; bleacheries; canneries; cold storage warehouses; electric and steam generated plants; electroplating; enameling; forges; foundries; garbage incinerators; lacquering; lithographing; offal; rubbish or animal reduction; oil, coal and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving, in the MG Industrial District, provided that they are at least 600 feet from residential districts.
- E. Outside storage and manufacturing areas in the industrial districts. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen, completely preventing a view from any other property or public right-of-way, and shall be at least 600 feet from any residential district.
- F. Commercial service facilities, such as restaurants and fuel stations, in the industrial districts, provided all such services are physically and sales-wise

oriented toward industrial district users and employees, and other users are only incidental customers.

G. Multiple principal structures on a lot.

H. Postal services.

I. Telecommunicating structures and towers.

J. Uses consistent with Business Districts (BHN) including, but not limited to: offices, day cares, funeral homes, vehicle sales/service/repair, parking lots, and engine and electric motor repairs as a conditional use in the General or Limited Industrial Zoning District. A conditional use permit is not available for retail or commercial stores under this subsection.

K. In an Industrial District, adult oriented establishments.

Section 2. This Ordinance shall take effect upon passage, publication, and attestation as required by law.

Section 3. This is the second reading.

The motion was made by Ald. Miller, seconded by Ald. Brandel to recommend Proposed Ordinance #4-16. Motion carried unanimously on call of the roll.

CONSENT AGENDA

Ald. Beyer introduced Resolution No. 4.

**CITY OF JEFFERSON
RESOLUTION NO. 4**

BE IT RESOLVED, by the Common Council of the City of Jefferson, Wisconsin that the consent agenda for May 3, 2016 is hereby adopted.

The consent agenda for tonight includes:

- ◆ Vouchers Payable for May, 2016 in the amount of \$109,226.09.
Payroll Summary for April 15, 2016 in the amount of \$148,630.52.
- ◆ Council Minutes from the April 19, 2016 Meetings of the Common Council.
- ◆ 2016 Green Cemetery Disbursement.
- ◆ Licenses as Approved by the Regulatory Committee.
 - Operator's Licenses
 - Special Class B Licenses

Ald. Beyer, seconded by Ald. Horn moved to recommend Resolution No. 4. Motion carried unanimously on call of the roll.

PRESENTATION—A REPRESENTATIVE OF BAKER TILLY WILL BE PRESENT TO DISCUSS THE 2015 SEWER AND STORM UTILITY FINANCIAL STATEMENT AND AUDIT REPORT.

Jodi Dobson, CPA for Baker Tilly Virchow Krause, LLP presented to the council the 2015 Sewer and Storm Utility financial Statement and Audit report. She reported a most positive outlook on the condition of the Utility.

RESOLUTION TO ACCEPT THE 2015 SEWER AND STORM UTILITY FINANCIAL STATEMENT AND AUDIT REPORT

Ald. Peachey introduced Resolution No. 5.

**CITY OF JEFFERSON
RESOLUTION NO. 5**

BE IT RESOLVED by the Common Council of the City of Jefferson that the 2015 Storm and Sanitary Sewer Utility Financial Statements and Audit Reports are hereby accepted.

Ald. Peachey, seconded by Ald. Krause moved to recommend Res. No. 5. Motion carried unanimously on call of the roll.

RESOLUTION AUTHORIZING THE DESIGNATION OF GENERAL FUND FUND BALANCE AND REALLOCATION AND COMBINATION OF FUNDS

Resolution No. 6 was introduced by Ald. Krause.

**CITY OF JEFFERSON
RESOLUTION NO. 6**

BE IT RESOLVED by the Common Council of the City of Jefferson, Wisconsin that it herein authorizes the City Administrator to make the following adjustments to the FY 2015 Final Audit:

*Allocate \$70,000 into the Development Fund for the Community and Economic Development purposes, including, but not limited to: brand/image/marketing, website upgrade and special event banners.

*Allocate \$20,000 to the Capital Project Fund for City Hall Improvements, including, but not limited to: Council Chamber upgrades (desk and audio visual improvements), exterior awning repair/replacement and lower level door replacement.

*Allocate \$12,000 to the Capital Project Fund for Pedestrian Crossing Lights (Racine/Center Avenue and Milwaukee Street/Main Street).

Motion was made by Ald. Krause, seconded by Ald. Miller to recommend Resolution No. 6. On call of the roll, motion carried unanimously.

RESOLUTION AUTHORIZING SUBMITTAL OF AN ECONOMIC DEVELOPMENT ADMINISTRATION GRANT

Resolution No. 7 was introduced by Ald. Brandel.

**CITY OF JEFFERSON
RESOLUTION NO. 7**

WHEREAS, the City of Jefferson anticipates submitting an Economic Development Administration (EDA) Planning Grant; and

WHEREAS, preliminary conversations with the EDA indicate that funding of up to \$75,000 could be available to develop a city-wide economic recovery plan and strategy that would address a recent large plant closing and ways to move the city economy forward following this closing; and

WHEREAS, the Jefferson County Economic Development Consortium (JCEDC) has indicated that it will consider requesting EDA Planning Grant funding as well and would like to participate as a co-applicant with the City of Jefferson; and

WHEREAS, the City of Jefferson and JCEDC are required to provide matching funds on a dollar for dollar basis; and

WHEREAS, the City of Jefferson would be expected to provide \$50,000 in match funding and the JCEDC approximately \$10,000; and

NOW, THEREFORE BE IT RESOLVED, that the City of Jefferson, Wisconsin Common Council authorizes the submittal of an EDA Planning Grant Application in the amount of \$120,000 and anticipates that the JCEDC will be a co-applicant with the City on the grant request. It is further authorized that the City will contribute \$50,000 in grant match funding and the JCEDC will contribute \$10,000;

BE IT FURTHER RESOLVED, by the Common Council that funding for the City's grant match will be appropriated as follows:

- \$25,000 from the Economic Development Fund; and
- \$25,000 from Tax Increment District #5 Fund.

Ald. Brandel, seconded by Ald. Krause moved to recommend Res. No. 7. Motion carried unanimously on call of the roll.

RESOLUTION TO AUTHORIZE THE SALE OF GOODS OR SERVICES IN CITY RIGHT-OF-WAY FOR CRUISE NIGHTS: ZIGGY'S POPCORN WAGON, 3-D SOUND COMPANY AND THE HUMANE SOCIETY OF JEFFERSON COUNTY

Resolution No. 8 was introduced by Ald. Miller.

**CITY OF JEFFERSON
RESOLUTION NO. 8**

BE IT RESOLVED by the Common Council of the City of Jefferson, Wisconsin that Ziggy's Popcorn Wagon, 3-D Sound Company and The Humane Society of Jefferson County are hereby allowed to sell goods or services at the Jefferson VFW Rec. Center – 1420 S. Rockwell Ave. for the June 1, July 6, August 3, and September 7, 2016 Cruise Nights.

Motion was made by Ald. Miller, seconded by Ald. Brandel to recommend Resolution No. 8. On call of the roll, motion carried unanimously.

Ald. Peachey, seconded by Ald. Beyer moved to adjourn the May 3, 2016 meeting of the Common Council. On voice vote, motion carried unanimously.

The minutes of the May 3, 2016 meeting of the Common Council are uncorrected. Any corrections made thereto will be noted in the proceedings at which time the minutes are approved and referenced above.

Please Publish: ASAP

Need an affidavit

Not in the legal section