



# City of Racine

## Meeting Agenda - Final

City Hall  
730 Washington Ave.  
Racine, WI 53403  
www.cityofracine.org

### Public Safety and Licensing Committee

*Chairman David L. Maack, Vice Chair Q.A. Shakoor, II,  
Alderman Gregory Holding, Alderman Tim Hermes,  
Alderman Jim Kaplan*

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Monday, October 23, 2006

5:00 PM

City Hall, Room 205

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#### Call To Order

#### Approval of Minutes for the October 9, 2006 Meeting.

#### Public Comments

1. [06-2711](#) **Subject: (Direct Referral)** Change Order #4 on contract 27-05 (K5-034), Monument Square Replacement of one (1) Serviceberry tree damaged during storm.
2. [06-2626](#) **Subject:** Request the appearance of the following license holder for incidents at their establishments:

Total 24 Navpreet S. Manhani, Agent  
930 Washington Avenue

**Recommendation of the Public Safety & Licensing Committee of 10/09/06:** That the matter of Total 24 be deferred until the October 23, 2006 meeting.

**Fiscal Note:** N/A

3. [06-2625](#) **Subject: (Direct Referral)** Incident relating to City Haul Lounge on 10-4-06.

**Recommendation of the Public Safety & Licensing Committee of 10/09/06:** That the owner of the City Haul Lounge, 835 Washington Avenue, be requested to appear at the October 23, 2006.

**Fiscal Note:** N/A

4. [06-2621](#) **Subject: (Direct Referral)** Licensed Premise Report September, 2006.

DeMark's Bar, 1600 Albert Street - "Class B" License

**Recommendation of the Public Safety & Licensing Committee of**

**10/09/06:** That the owner of DeMark's Bar, 1600 Albert Street be requested to appear at the October 23, 2006 meeting.

**Fiscal Note:** N/A

5. [06-2600](#) **Subject:** The application of Peg & Lou's Junction Inn, Randall L. Larson, Agent, for a "Class B" Retail Fermented Malt Beverage and Intoxicating Liquor License for 1436 Junction Avenue. (3rd District)

6. [Ord.36-06](#) Ordinance No. 36-06

To amend Secs. 66-804 and 66-806 of the Municipal Code of the City of Racine, Wisconsin relating to Truancy.

The Common Council of the City of Racine do ordain as follows:

Part 1:

Sec. 66-804 of the Municipal Code of the City of Racine is hereby amended by adding the following at the end of the section:

"(10) Order the person to perform community service."

Part 2:

Sec. 66-806 of the Municipal Code of the City of Racine is hereby amended by adding the following at the end of the section:

"(3) Order the person to perform community service."

Part 3:

This ordinance shall take effect upon passage and the day after publication.

Passed by the Common Council:

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Approved:

\_\_\_\_\_

\_\_\_\_\_

Mayor

Attest:

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

FISCAL NOTE: N/A

Sponsors: David L. Maack

7. [Ord.37-06](#) Ordinance No. 37-06

To repeal and recreate Secs. 66-271, 66-272, 66-273, 66-275 and repeal Sec. 66-274 of the Municipal Code of the City of Racine, Wisconsin relating to Drug Paraphernalia.

The Common Council of the City of Racine do ordain as follows:

Part 1:

Section 66-271 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

**“Sec. 66-271. Definitions.**

(A) For the purposes of this division, “drug paraphernalia” means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, 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 ch. 961, Wis. Stats., in violation of this division. “Drug paraphernalia” includes, but is not limited to, any of the following:

(1) Kits used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

(2) Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or controlled substance analogs.

(3) Isomerization devices used, designed for use, or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.

(4) Testing equipment used, designed for use, or primarily intended for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances or controlled substance analogs.

(5) Scales and balances used, designed for use, or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, designed for use, or primarily intended for use in cutting controlled substances or controlled substance analogs.

(7) Separation gins and sifters used, designed for use, or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, designed for use, or primarily intended for use in compounding controlled substances or controlled substance analogs.

(9) Capsules, balloons, envelopes, and other containers used, designed for use, or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.

(10) Containers and other objects used, designed for use, or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

(11) Objects used, designed for use, or primarily intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

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. Bongs.

m. Ice pipes or chillers.

(B) "Drug paraphernalia" excludes:

(1) Hypodermic syringes, needles, and other objects used or intended for use in parenterally injecting substances into the human body.

(2) Any items, including pipes, papers, and accessories, that are designed for use or primarily intended for use with tobacco products.

(C) "Primarily" means chiefly or mainly."

Part 2:

Section 66-272 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

**"Sec. 66-272. Determination.**

(A) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) The proximity of the object, in time and space, to a direct violation of this Article.

(3) The proximity of the object to controlled substances or controlled substance analogs.

(4) The existence of any residue of controlled substances or controlled substance analogs on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this division; the innocence of an owner, or of anyone in control of the object, as to a direct violation of ch. 961. Wis. Stats., shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.

(6) Instructions, oral or written, provided with the object concerning its use.

(7) Descriptive materials accompanying the object that explain or depict its use.

(8) Local advertising concerning its use.

(9) The manner in which the object is displayed for sale.

(10) 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.

(11) The existence and scope of legitimate uses for the object in the community.

(12) Expert testimony concerning its use.

(B) In determining under this subchapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.

(C) In determining under this subchapter whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.”

Part 3:

Section 66-273 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

**“Sec. 66-273. Prohibited acts.**

(A) Possession of drug paraphernalia. No person may use, or possess with the primary 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 or controlled substance analog in violation of ch. 961, Wis. Stats.. Any person who violates this subsection may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(B) Manufacture or delivery of drug paraphernalia. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily 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 or controlled substance analog in violation of ch. 961, Wis. Stats.. Any person who violates this subsection may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

(C) Delivery of drug paraphernalia to a minor. Any person 17 years of age or over who violates subsection (B) by delivering drug paraphernalia to a person 17 years of age or under who is at least 3 years younger than the violator is guilty of a special offense.

(D) Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill, or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or primarily intended for use as drug paraphernalia in violation of this division.”

Part 4:

Section 66-274 of the Municipal Code of the City of Racine is hereby repealed.

Part 5:

Section 66-275 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

**“Sec. 66-275. Penalties.**

(A) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(A) or (D) shall forfeit not more than \$500, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 30 days.

(B) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(B) shall forfeit not more than \$1,000, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 90 days.

(C) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(C) shall forfeit not more than \$10,000, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 90 days.

(D) If the court finds a person under 17 years of age committed a violation under this division:

(1) The court shall suspend the juvenile’s operating privilege, as defined in s. 340.01 (40), Wis. Stats., for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

(a) For a first violation, a forfeiture of not more than \$50 together with the costs of prosecution or participation in a community service work or both.

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 together with the costs of prosecution or participation in a community service work or both.

(c) For a violation committed within 12 months of 2 previous violation or more, a forfeiture of not more than \$500 together with the costs of prosecution or participation in a community service work or both.

(2) Whenever the court suspends a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation, together with the notice of suspension stating that the suspension is for a violation of a local ordinance that strictly conforms to secs. 961.573 (2), 961.574 (2), or 961.575 (2), Wis. Stats.

(3) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license under ch. 343, Wis. Stats., the suspension under this subsection is effective on the date on which the juvenile is first eligible and applies for issuance or reinstatement of an operator's license under ch. 343, Wis. Stats.

(4) Stay of Order

(a) After ordering a penalty under subsection (D), the court, with the agreement of the juvenile, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this paragraph shall require the juvenile to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria under sec. 938.547 (4), Wis. Stats. and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an alcohol or other drug abuse assessment conducted under 1., above, or sec. 938.295 (1), Wis. Stats., recommends treatment.

3. Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this subdivision is subject to the approval of the juvenile's school board.

4. Participate in a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the court determines that participation in the teen court program will likely benefit the juvenile and the community.

b. The juvenile admits or pleads no contest in open court, in the presence of the juvenile's parent, guardian or legal custodian, to the allegations that the juvenile committed the violation specified in subsection (D).

c. The juvenile has not successfully completed participation in a teen court



program during the 2 years before the date of the alleged violation.

5. Report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center.

(b) If the approved treatment facility, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that the juvenile has submitted to an assessment under par. (a) and that the juvenile does not need treatment, intervention or education, the court shall notify the juvenile of whether or not the penalty will be reinstated.

(c) If the juvenile completes the alcohol or other drug abuse treatment program, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, the approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program shall, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notify the agency primarily responsible for providing services to the juvenile that the juvenile has complied with the order and the court shall notify the juvenile of whether or not the penalty will be reinstated.

(d) If an approved treatment facility, court-approved pupil assistance program, or court-approved alcohol or other drug abuse education program, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that a juvenile is not participating, or has not satisfactorily completed, a recommended alcohol or other drug abuse treatment program, a court-approved pupil assistance program, or a court-approved alcohol or other drug abuse education program, the court shall hold a hearing to determine whether to impose the penalties under subsection (D).

(5) Counting violations. For purposes of subsection (D), all violations arising out of the same incident or occurrence shall be counted as a single violation."

Part 6:

This ordinance shall take effect upon passage and the day after publication.

Passed by the Common Council:

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Approved: \_\_\_\_\_

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Mayor

Attest:

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City Clerk

Fiscal Note: N/A

Sponsors: David L. Maack, Gregory Holding, Tim Hermes, Jim Kaplan , Q.A. Shakoore and II

8. [06-2614](#) **Subject: (Direct Referral)** Policy on violations of restrictions by license holders and evaluating license applications.

**Recommendation of the Public Safety & Licensing Committee of 10/09/06:** That the item be deferred until the October 23, 2006 meeting.

**Fiscal Note:** N/A

9. [06-2617](#) **Subject: (Direct Referral)** Discussion of alcohol licenses that have not been used for one year.

**Recommendation of the Public Safety & Licensing Committee of 10/09/06:** That the item be deferred until the October 23, 2006 meeting, and the City Clerk will re-do the form to indicate when the applicants first applied.

**Fiscal Note:** N/A

10. [06-2644](#) **Subject: (Direct Referral)** Communication from the Purchasing Agent submitting the monthly report for the sale of Abandoned Vehicles, October 9, 2006.

11. [06-2713](#) **Subject:** Application for Operator's (Bartender's) Licenses.

**Miscellaneous Business**

**If you are disabled and have accessibility needs or need information interpreted for you, please contact City Clerk's Office at 636-9171, at least 48 hours prior to this meeting.**