

SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NUMBER: A-10

DATE: August 23, 2007

SUBJECT: Dancing and Live Music License Exemption Request
for Bubba's Roadhouse Inc. and Logger's Inn

CONTACT PERSON: Rick Cisar,  Director of Community Development

ISSUE:

The issue before the City Council is to consider requests from Bubba's Roadhouse Inc. (Attachment 1) and the Logger's Inn (Attachment 2) for an exemption from the License or Permit Requirements of SMC Chapter 5.12 Dancing and Live Music (Attachment 3).

BACKGROUND:

Chapter 5.12 Dancing and Live Music requires City Council approval for any place in the City that will have Dancing and Live Music. The only exemptions from this requirement are Schools and Churches, business, and organizations or groups that the City Council has granted an exemption too.

The City has not enforced this Chapter for several years and City Staff is not aware of any tavern, bar, club, or restaurant having a license issued under Chapter 5.12. It appears the intent of this Chapter was to address the concerns for Topless Dancing Establishments.

The City Attorney in his review of this Chapter, cautioned City Staff against citing anyone under this Chapter because it appears to restrain free speech and does not have adequate due process and other safeguards to be lawful. A Civil Action for violation of Civil Rights under Section 1983 also could be a genuine risk. The City Attorney is therefore recommending Chapter 5.12 be repealed.

The enforcement of excessive noise complaints from establishments having Dancing and Live Music is through the Sultan Police Department and regulated under Chapter 8.10 - Public Disturbance Noise - Section: 8.10.01 Subsection G Frequent, repetitive or continuous sound which emanates from a residence, structure or property, and created by audio sound equipment or social gatherings which unreasonably interferes with the peace, comfort, and repose of owners or occupants of neighboring residential properties.

FISCAL IMPACT:

Cost of processing exemption request.

RECOMMENDATION:

In consideration of the City's Attorney's Recommendation (1) approve the exemption requests for Bubba's Roadhouse Inc. and the Logger's Inn for the dates specified in their requests, and (2) direct City Staff to prepare an emergency Ordinance repealing Chapter 5.12 for consideration by the City Council at the September 13, 2007 Meeting.

COUNCIL ACTION:

DATE:

Memorandum

To: City of Sultan
CC: City Council/Rick Caesar
From: Bubba's Roadhouse Inc.
Date: 8/15/2007
Re: Request for exemption from SMC 5.12

To Whom It May Concern:

I am planning to have live entertainment and dancing on the following dates:

In August: 15th - 17th - 18th - 22nd - 24th - 25th - 29th - 31st

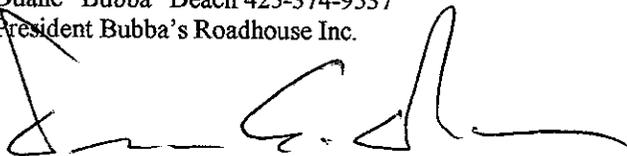
In September: 1st - 5th - 7th - 8th - 12th - 14th - 15th - 19th - 21st - 22nd - 26th - 28th - 29th

We typically have Karaoke every Wed & Saturday of the month, and a band every Friday. In light of recent initiatives within the city council to remove this Municipal Code I ask that I be exempt from it until then.

I also would like the approval of exemption in writing for my records to have on site at my establishment. If there is anything further needed from me please use the contact number below to reach me.

Thank you for your time and consideration in this matter,

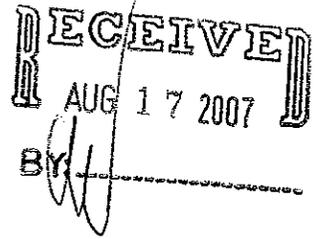
Duane "Bubba" Deach 425-374-9537
President Bubba's Roadhouse Inc.



CONFIDENTIAL

Logger's Inn

215 Main Street
Sultan, WA, 98294



August 16, 2007

To: City of Sultan

Dear Sir or Madam:

I would like to bring to your attention that there will be live music at the Logger's Inn tavern on two Saturdays, first on August 25th and the second on September 8th, and I am asking for permission to have live music past 12:00 AM on those nights.

Please feel free to call me if you have any questions or inquiries about the events.

Respectfully,



Leo Moreno
(425) 876-7677

Chapter 5.08

**BOWLING ALLEYS, POOL HALLS, AND
GAMING ROOMS**

Sections:

- 5.08.010 Unlawful acts.
5.08.020 Violation – Penalty.

5.08.010 Unlawful acts.

It is unlawful for any person, firm, or corporation conducting, operating, owning, maintaining, or in charge of, any billiard hall, bowling alley, pool hall, cardroom, gaming table or device, or similar room or place, within the city of Sultan, Washington, or any agent, servant or employee of any such person, firm, or corporation, to keep any billiard hall, bowling alley, pool hall, cardroom, or any similar place or room open for business, or to permit any person other than an owner, agent or employee to remain therein or be therein, at an earlier hour than 5:00 a.m. of any weekday, or between the hours of 1:00 a.m. and 5:00 a.m. of any Sunday. (Ord. 96 § 1, 1917)

5.08.020 Violation – Penalty.

Any person violating any provision of this chapter shall be fined in any sum not exceeding \$100.00. (Ord. 96 § 2, 1917)

Chapter 5.12

DANCING AND LIVE MUSIC

Sections:

- 5.12.010 Purpose.
5.12.020 License or permit – Required.
5.12.030 License or permit – Exemptions.
5.12.040 License or permit – Application – Contents.
5.12.050 License or permit – Application – Investigation.
5.12.060 License or permit – Terms and fees.
5.12.070 License or permit – Suspension or revocation.
5.12.080 Violation – Penalty.

5.12.010 Purpose.

The purpose of this chapter is to provide better control and policing of places where dancing and live music are conducted. (Ord. 349 § 1, 1976)

5.12.020 License or permit – Required.

It is unlawful for any establishment, business, organization or group of persons to have dancing or live music at any place in the city of Sultan without having first obtained a license or permit therefor as required in this chapter. (Ord. 349 § 2, 1976)

5.12.030 License or permit – Exemptions.

A. All schools and churches are specifically exempt from this chapter and need not obtain a license for dancing or to have live music.

B. Any establishment, business, organization or group of persons may request of the Sultan city council an exemption from this chapter.

C. The Sultan city council need not grant any exemption not specifically provided for in this chapter, but may at its complete discretion grant any establishment, business, organization or group of persons an exemption from this chapter. (Ord. 349 § 3, 1976)

5.12.040 License or permit – Application – Contents.

Applications for such license or permit shall be made on forms provided by the city clerk/treasurer providing for the name and address of the establishment, business, organization or group of persons, name of owner, name of manager, phone number of each, dates and times when dancing or live music will be anticipated and such other infor-

mation as the clerk/treasurer, city marshal or fire chief recommends and incorporates into said application. (Ord. 349 § 4, 1976)

Chapter 5.14**SIDEWALK VENDING***

(Expired)

*Code reviser's note: Ord. 824-03 added Chapter 5.14 SMC and expired on October 15, 2004.

5.12.050 License or permit – Application – Investigation.

It shall be the duty of the city marshal to make or cause to be made an investigation into the character of each applicant, or the manager or owner thereof, and report the results of such investigation to the Sultan city council. (Ord. 349 § 5, 1976)

5.12.060 License or permit – Terms and fees.

A. For single occurrence events where dancing or live music is anticipated, a permit shall be obtained from the city clerk/treasurer after the completion of the application mentioned in SMC 5.12.040, approval by the Sultan city council and the payment of \$25.00.

B. The permit shall be good for 24 hours from the time the dancing or live music is anticipated to begin.

C. For all other than single occurrence events, a license shall be obtained from the city clerk/treasurer after the completion of the application mentioned in SMC 5.12.040, approval of the Sultan city council and the payment of \$100.00.

D. A license shall be good for one year from the date of issuance.

E. Licenses shall not be prorated. (Ord. 349 § 6, 1976)

5.12.070 License or permit – Suspension or revocation.

A. At any time that any establishment, business, organization or group of persons having been licensed, shall operate in a manner which in the judgment of the city council is inconsistent with the best interests and welfare of the community, or upon the recommendation of the city marshal, for good cause shown, the council shall revoke or suspend such license or permit without notice for such period of time as they may deem appropriate.

B. In the event of a suspension or revocation of any license or permit, no part of the fee shall be refunded. (Ord. 349 § 7, 1976)

5.12.080 Violation – Penalty.

A violation of this chapter shall be a misdemeanor and punished accordingly. (Ord. 349 § 8, 1976)