

1/28/2004

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND SECTION 6-38 OF CHAPTER 6, ALCOHOLIC LIQUOR, TO MODIFY AND ADD FACTORS TO BE CONSIDERED BY CITY COUNCIL IN PROCESSING LIQUOR LICENSE APPLICATIONS, REPEAL CONFLICTING ORDINANCES, AND PRESCRIBE A PENALTY FOR VIOLATIONS.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 6-38 of Chapter 6 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

**Sec. 6-38. Processing of applications.**

(a) *Liquor committee/city department review.* A copy of any application submitted under this article shall be referred to the city council's liquor committee and may be referred to any city department for an investigation relating to its areas of responsibility and a report back to the city council if, in the discretion of the city council, such investigation is in the interest of the city residents or would assist the council in its review.

(b) *Determination.* After receiving the reports of the liquor committee and any department from which the city council has requested a report, the city council shall make a decision on the application. It shall determine whether to approve or disapprove the issuance or transfer of a license or the issuance of a dance, entertainment or dance-entertainment permit to the state liquor control commission and shall transmit its decision to the state liquor control commission and give notice of its decision promptly to the applicant, in writing.

(c) *Council decision.* Such decision of the city council to approve or disapprove of an application shall be wholly within its discretion and its determination as to what action will best promote the best interest of the city and its inhabitants. In reaching its decision, the council should consider all pertinent factors, including those listed in this subsection. By listing some of the factors to be considered, this subsection shall not be deemed to accord applicants (For purposes of the review factors listed below, "applicant" shall be considered to include all officers, partners, members and managers of the proposed business or the entity applying for the license.) for liquor licenses any more or greater due process rights than those existing under the laws of the state. The factors considered by the council shall include the following:

- (1) The possibility of a consequent significant cost burden on the city;
- (2) The council's perception of the attitude of city residents generally, as well as those in the immediate neighborhood of the premises;
- (3) Whether the value-property values or character of the adjoining neighborhood will be adversely affected;
- (4) Consistency with the building code, zoning ordinance, zoning map, land use plan, and master plan and the anticipated impact on nearby businesses and residences;

- (5) Proximity to residences, schools and churches, with consideration of any adverse effect the proposed establishment may have on such land uses;
- (56) Whether or not the location of the proposed licensed premises is, when considering the location of licensed locations already in existence, in the best interest of the city;
- (67) Whether it is in the best interest of the city to approve of the issuance of another liquor license at the time an application is before it for consideration;
- (78) Whether or not an applicant's business, whether existing or proposed, will generate at least 50 percent of its gross revenues from the sale of food for on-site consumption and whether the applicant's premises are or will be, prior to commencing liquor sales, equipped to serve the required volume of food sales;
- (89) Whether traffic and parking requirements generated by the proposed licensed premises will cause unnecessary congestion or inconvenience on the public highways;
- (910) The applicant's experience, if any, in conducting a business holding a license from the state liquor control commission.
- (11) The applicant's management experience and reputation in connection with the operation of other businesses or facilities;
- (12) The applicant's moral character, with special consideration given to any convictions for crimes involving moral turpitude, violence or alcoholic liquor violations by the applicant or those who are intended to manage the facility;
- (13) Crowd control;
- (14) Pedestrian and vehicle movement;
- (15) Input from residents and other business owners;
- (16) Number of similar licensed premises in the city;
- (17) Concentration and capacity of similar establishments;
- (18) The adequacy of the applicant's financial resources to establish and operate the proposed establishment;
- (19) Association or integration with multi-use development;
- (20) Substantial renovation of existing building or preservation or restoration of historic resources;
- (21) Public safety and policing requirements;
- (22) Business history and experience;
- (23) Proportion of floor area devoted to dining compared with bar area;

(24) Size of kitchen;

(25) Size of dance floor, if any;

(26) Character of the establishment (e.g., night club, hotel, restaurant, dance club); and

(27) Non-payment of taxes.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. Any person who shall be convicted of violating this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00, or by imprisonment not to exceed 90 days, or both, in the discretion of the court.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on \_\_\_\_\_, and shall be published prior thereto in the *Rochester Eccentric*.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on Wednesday, \_\_\_\_\_.

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Pat Somerville, Mayor  
City of Rochester Hills

CERTIFICATE

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof on Wednesday, \_\_\_\_\_.

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Beverly A. Jasinski, Clerk  
City of Rochester Hills