

## Chapter 6. ALCOHOLIC LIQUOR

### ARTICLE II. LICENSES AND PERMITS\*

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\*State law references: Liquor licenses, MCL 436.1501 et seq., MSA 18.1175(501) et seq.

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#### Sec. 6-31. Purpose.

(a) *New license application review.* The city council, having found that the best interest of the city residents is served if the number, location, character and physical facilities of establishments selling alcoholic liquors for consumption on the premises are controlled and regulated, establishes a procedure for review of applications for new licenses to sell alcoholic liquors for consumption on the premises and the approval or disapproval thereof.

(b) *Dance and/or entertainment permit requests.* The city council hereby establishes a procedure for the review of applications for new dance, entertainment or dance-entertainment permits and the approval or disapproval thereof, having further found that:

(1) The best interest of the city residents is served if the number, location, character and physical facilities of licensed establishments holding dance, entertainment or dance-entertainment permits are controlled and regulated; and

(2) Such interest is harmed if the premises are the site of disorderly conduct, are a public nuisance, or are in violation of the city's health and safety ordinances, building and fire codes, or the rules and regulations of the county health department.

(c) *Renewal objections; revocation requests.* The city council, having further found that the best interest of the city residents is harmed if establishments dispensing alcoholic liquors for consumption on the premises and/or if such establishments holding dance, entertainment or dance-entertainment permits are in violation of the city's health or safety ordinances, are the site of disorderly conduct, or are a public nuisance, hereby establishes a procedure and criteria for objections to renewal of such licenses and requests for revocation of such licenses and permits thereof based on such conditions and a procedure for notice and opportunity for hearing for the license and/or permit holder prior to any objection or request being filed with the state liquor control commission.

(Code 1976, § 3-09.01)

#### Sec. 6-32. Reservation of authority by council.

(a) *Determination of licensee or permittee.* No applicant for a liquor license or for a dance, entertainment or dance-entertainment permit has the right to the issuance of such license or permit, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of a license or permit.

(b) *Taking no action.* No applicant for a liquor license or for a dance, entertainment or dance-entertainment permit has the right to have such application processed, and the city council further reserves the right to take no action with respect to any application filed with the city council.

(c) *Issuance of additional licenses.* The council reserves the right to maintain a list of all applicants and to review the list when, in its discretion, it determines that the issuance of an additional liquor license is in the best interest of the city at large and for the needs and convenience of its citizens.

(Code 1976, § 3-09.04.07)

### **Sec. 6-33. Liquor license required.**

No person shall operate an establishment that sells alcoholic beverages for consumption on the premises unless the person has been approved for a liquor license by the city as set forth in this article and granted a liquor license by the state.

(Code 1976, § 3-09.02.01)

### **Sec. 6-34. Permits required.**

(a) *Entertainment or dance-entertainment.* An on-premises liquor licensee shall not allow dancing, monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing on the licensed premises, unless the on-premises licensee has been approved for an entertainment or dance-entertainment permit by the city as set forth in this article and granted an entertainment or dance-entertainment permit by the state.

(b) *Dance or dance-entertainment.* An on-premises licensee shall not allow dancing by customers or by customers and employees on the licensed premises, unless the on-premises licensee has been approved for a dance or dance-entertainment permit by the city as set forth in this article and granted a dance or dance-entertainment permit by the state.

(c) *Activities not prohibited.* This section shall not prohibit orchestra playing, piano playing, the playing of other types of musical instruments or singing. This does not apply to any publicly broadcast television transmission from a federally licensed station.

(Code 1976, § 3-09.02.02)

### **Sec. 6-35. Application for new license or transfer of license.**

Application for approval of a new liquor license or a transfer of a license to sell beer and wine or spirits shall be made to the city clerk in writing, signed by the applicant if an individual or by a duly authorized agent thereof if a partnership or corporation, and shall contain the following statements and information:

- (1) The name, age and address of the applicant if an individual; if a partnership, the persons entitled to share in the profits thereof; or, if a corporation, the objects for which organized, the names and addresses of its officers and directors, names and addresses of its stockholders, and the name of the manager or agent who will be conducting the business on behalf of the applicant, if such is the case.
- (2) The citizenship and place of residency of those persons identified in subsection (1) of this section.
- (3) A statement of any other business in which the applicant is engaged.
- (4) A financial statement of the applicant.
- (5) The location and description of the premises or place of business which is to be operated under such license.
- (6) A statement of whether the applicant or any person identified in subsection (1) of this section ever has made application for a license to sell beer and wine or spirits other than described in this application, and if so, the year in which the application was made, the location of the business and the disposition of the application.
- (7) A statement of whether the applicant or any of those persons listed in subsection (1) of this section has ever been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic beverages or has ever had a license revoked by the state liquor control commission.
- (8) A statement that the applicant will not violate any of the laws of the state or of the United States or any city ordinances in the conduct of its business.
- (9) The name and address of the fee owner of the premises and, if the applicant is not the fee owner, the nature and term of the applicant's right to occupy the premises.
- (10) A statement of the nature of other activities to be carried on at the premises, including but not limited to food sales, hotel/motel operations, recreational activities, contests involving patrons, and entertainment of any nature. If a dance, entertainment or dance-entertainment permit is required for any of the activities to be carried on at the premises, a separate application for the issuance of a dance, entertainment or dance-entertainment permit shall be made in accordance with this article.
- (11) A statement of whether any remodeling or new construction on the premises is intended for the use of the license and if so, its description, when work is to be started and when work is to be completed.
- (12) The application shall be accompanied by building and site plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans shall be sufficient to inform the council of

facilities for off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(Code 1976, § 3-09.03.01)

### **Sec. 6-36. Applications for dance and/or entertainment permits.**

(a) *Contents.* Application for approval of a dance, entertainment or dance-entertainment permit required by this article shall be made to the city clerk in writing, signed by the applicant if an individual or by a duly authorized agent thereof if a partnership or corporation, and shall contain the following statements and information:

(1) The location and description of the premises or place of business which is to be operated under such permit.

(2) A statement that there has been no material change in the facts represented in the licensee's application for a liquor license. If there has been a material change in the facts, the licensee shall provide the city with a revised application for a liquor license form, stating the type and date of such change.

(3) A statement of the type of permit being applied for--dance, entertainment or dance-entertainment--and a description of the type of activity to be carried on at the premises, including but not limited to monologues, dialogues, motion pictures, still slides, closed circuit television, contests, or other performances for public viewing and/or dancing by employees, customers or by customers and employees.

(4) A statement of whether any remodeling or new construction on the premises is intended for the use of the permit, and if so its description, when work is to be started and when work is to be completed.

(5) If any remodeling or construction on the premises is intended, the application shall be accompanied by building and site plans showing the entire structure and premises and, in particular, the specific areas where the permit is to be utilized. The plans shall be sufficient to inform the council of facilities for off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.

(6) The hours and days during which entertainment and/or dancing shall occur.

(b) *Entertainment agreement.* The applicant shall attach to such application, on a form to be provided by the city, a completed and signed entertainment agreement that will be executed by the city if the requested permit is duly approved. Such completed entertainment agreement shall be filed with the city clerk, and no application shall be processed unless accompanied by such entertainment agreement.

(c) *Change in type of activity.* If, at any time after the grant of a dance, entertainment or dance-entertainment permit, the type of activity as described in the application is changed, a new permit must be applied for as provided under subsection (a) of this section and a new entertainment agreement shall be filed with the clerk.

(Code 1976, §§ 3-09.03.02--3-09.03.04)

### **Sec. 6-37. Fees.**

At the time of filing an application for a license or permit as required in this article, the applicant shall pay the fees as provided in section 54-91, which shall be nonrefundable.

(Code 1976, § 3-09.02.03; Ord. No. 410, § 1, 3-19-1997)

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

(a) *Liquor technical review committee/city department review.* A copy of any application submitted under this article shall be referred to the liquor technical review 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 technical review 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 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, 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;
- (6) 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;

- (7) 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;
- (8) 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;
- (9) Whether traffic and parking requirements generated by the proposed licensed premises will cause unnecessary congestion or inconvenience on the public highways;
- (10) 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.

(Code 1976, §§ 3-09.04.01--3-09.04.04; Ord. No. 489, § 1, 5-19-2004; Ord. No. 518, § 2, 6-27-2007)

### **Sec. 6-39. Changes in application facts.**

If there is any material change in the facts represented in the application for a license or permit required by this article, the applicant shall promptly notify the city clerk of the change, in writing signed by the applicant. Any material change of the facts represented in the application shall be reviewed by the city council, which may withdraw its recommendation forwarded to the state liquor control commission, if it deems it appropriate, in its discretion.

(Code 1976, § 3-09.04.05)

#### **Sec. 6-40. Changes in ownership.**

Prior to change in ownership of the premises or the license required by this article, a copy of the application as approved shall be given to the new owner or license holder.

(Code 1976, § 3-09.04.06)

#### **Sec. 6-41. Revocation or nonrenewal.**

(a) *Notice of public hearing.* Under this article, before filing an objection to renewal or request for revocation of a license or request for revocation of a dance, entertainment or dance-entertainment permit with the state liquor control commission, the city council shall serve the licensee, by first class mail, mailed not less than ten days prior to hearing, with notice of a public hearing, which notice shall contain the following:

- (1) The nature of the action being considered by the council.
- (2) Reasons for the action being considered.
- (3) The date, time and place of the hearing.
- (4) A statement that the licensee may present evidence and testimony and confront adverse witnesses.

(b) *Criteria.* The city council shall recommend nonrenewal or revocation of a license or revocation of a dance, entertainment, or dance-entertainment permit upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, any of the following exist:

- (1) A violation of any applicable building, electrical, mechanical, plumbing or fire code; applicable zoning regulations; applicable public health regulations; applicable rules and regulations of the county health department; or any other applicable city Code provision.
- (2) Maintenance of a nuisance upon the premises.
- (3) A material change in those conditions, statements or representations contained in the written application by the licensee, upon which the city council based its recommendation for approval, when that change is found to be contrary to the best interest of the city residents, in the judgment of the city council.
- (4) A holder of a license or permit has been convicted of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.

(5) The premises do not or will not reasonably soon have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control where a nuisance does or will exist.

(6) A violation of any section of this chapter or of the rules and regulations of the liquor control commission.

(7) For a dance, entertainment or dance-entertainment permit, any breach of the entertainment agreement entered into between the licensee and the city as required in this chapter.

(c) *Findings and determination.* Following the hearing, the city council shall submit a written statement of its findings and determination to the licensee and the state liquor control commission.

(Code 1976, § 3-09.06)

Secs. 6-42--6-70. Reserved.