

CHAPTER 6 LIQUOR LICENSE

6.1 Definitions:

- (a) "License" means a liquor license issued by the Michigan Liquor Control Commission and for which the Village approval is required. It does not apply to off premise licenses for which Village input is requested and for which Village approval is not required.
- (b) "Person" means an individual, corporation, partnership, limited liability company, limited liability partnership or any other business entity.

6.2 Legislative Intent:

The Village Council acknowledges the difference which the law recognizes between applications for new licenses and the transfer, renewal or revocation of existing licenses. As to new licenses, this chapter is designated to provide a framework in which the Village Council can decide whether to approve or deny an application for a new license. This framework when followed will show a reviewing court that the Village's discretion was not exercised arbitrarily or capriciously. The Village Council recognizes that the issuance or denial of a license can be controversial and that litigation over the Village Council's decision can easily result.

The regulation of licenses and their impact on the land use goals of the Village are legislative decisions. The voters and legislative process are the methods which should be used to alter legislative decisions as long as the legislative decisions are not made in an arbitrary and capricious manner. It is hoped that a reviewing court will respect the function of the Village Council as well as the electoral process in evaluating the actions of the Village Council. The Village acknowledges that existing licensees have property rights in those licenses. Thus, for the transfer of existing licenses the Village has adopted with modification certain requirements recommended by the Michigan Municipal League. For the renewal or revocation of existing licenses, the Village has adopted a system in this chapter to meet procedural due process requirements.

6.3 Application for License – New and Transfer:

(a) Application

Application for a new license or to transfer an existing license shall be made to the Village Council in writing signed by the applicant, if an individual, or by a duly authorized agent thereof if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

- (1) The name, age and address of the applicant in the case of an individual or in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors and, if a majority interest in the stock of such corporation is owned by one person or his/her nominee, the name and address of such person.

- (2) The citizenship of the applicant, his/her place of birth and, if a naturalized citizen, the time and place of his naturalization.
- (3) The character of the business of the applicant including a description of what services will be provided to patrons and how intoxicating liquor will be offered in conjunction with those services. In the case of a corporation, a copy of the Articles of Incorporation shall also be provided.
- (4) The length of time the applicant has been in business of that character or in the case of a corporation, the date when its articles were approved by the state.
- (5) The location and description of the premises or place of business which is to be operated under such license.
- (6) A statement whether the application has made an application for a similar or other license on premises other than described in this application and the disposition of that application.
- (7) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this chapter or the laws of the State of Michigan.
- (8) A statement that the application will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the Village in conduct of its business.
- (9) 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 demonstrate adequate off street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control.
- (10) A copy of all financial information and documents provided to the Michigan Liquor Control Commission investigator regarding financial responsibility.

(b) Approval Standard for New License

In determining whether a new license should be issued, the Village Council shall consider the following factors:

- (1) Whether the applicant or, if a partnership or corporation, any member of the partnership or corporation, has been denied a license in the past seven (7) years and the reason for the denial.

- (2) Whether the application is complete and contains all of the information required by this chapter.
- (3) Whether the application shows adequate off street parking, lighting, refuse disposal facilities, landscaping/screening and noise control.
- (4) The impact of the proposed license and associated business on the occupants and owners of adjoining properties.
- (5) Whether the proposed license and associated business will adversely affect traffic safety.
- (6) Accessibility to the site from abutting roads.
- (7) The distance from public or private schools for minors.
- (8) Proximity of an inconsistent zoning classification.
- (9) Whether the license is likely to expand or intensify a business activity in a zoning district other than the local business district and highway business district. In determining whether the license is likely to expand or intensify a business activity, the Village Council shall consider such factors as whether the number of patrons will increase, whether there will be increased traffic to and from the applicant's business, whether new buildings or the expansion of existing buildings are likely and whether secondary growth is likely to result.

(c) Requirements for License – New and Transfer

Regardless of the Village Council's evaluation of the approval standards, no license shall be issued to:

- (1) A person whose license, under this chapter, has been revoked for cause
- (2) A person who at the time of the application or renewal of any license issued hereunder would not be eligible for such license upon a first application
- (3) A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued or to a person, corporation or co-partnership that does not have sufficient financial assets to carry on or maintain the business
- (4) A person on whose premises there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any other applicable Village ordinance

- (5) A person in situations where there are delinquent unpaid real estate taxes and/or personal property taxes relating to the real estate or business which has been used is used or will be used in conjunction with the license

- (6) A person where it is determined by a majority of the Village Council that the premises for which the license has been requested do not or will not within six (6) months after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control or where a nuisance does or will exist
 - (7) A person whose licensing activity will expand or intensify a non-conforming use under the Village Zoning Ordinance.
- (d) Terms of License: Approval of a license shall continue for as long as the Michigan Liquor Control Commission License continues subject to periodic review by the Village Council regarding continued compliance with the regulations of this chapter and any conditions of approval. Approval of a license shall be on the condition that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the action of the Village Council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any delay in the completion of such remodeling or construction may subject the license to revocation.
 - (e) Reservation of Authority: No applicant for a license has the right to the issuance of such license to him, her or it and the Village Council reserves the right to exercise reasonable discretion to determine whom, if anyone shall be entitled to the issuance of such license. If an application is incomplete, the license may be denied without a consideration of the merits of the application.
 - (f) License Hearing: The Village Council may act on an application for a new license or the transfer of an existing license at any regular or special meeting. The Village Council may hold a public hearing on any application when it is determined to be in the public interest. Following action on an application, the Village Council shall submit to the applicant a written statement of its findings and determination.

6.4 Objections to Renewal and Request for Revocation:

- (a) Procedure: Before filing an objection to the renewal or a request for the revocation of a license with the Michigan Liquor Control Commission, the Village Council shall serve a notice of hearing on the license holder. This notice of hearing shall be served by first class mail not less than ten (10) days prior to the hearing. The notice of hearing shall contain the following:
 - (1) Notice of proposed action
 - (2) Reasons for the proposed action
 - (3) Date, time and place of the hearing

- (4) A statement that the licensee may present evidence and testimony and question adverse witnesses

Following the hearing, the Village Council shall submit to the license holder and the Commission a written statement of its findings and determination.

- (b) **Criteria for Non-renewal or Revocation:** The Village Council shall recommend non-renewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, either of the following exists:

- (1) Violation of any of the requirements on licenses set forth in Section 4, Paragraph (c), (1) through (6) above; or
- (2) Maintenance of a nuisance upon the premises.

6.5 Severability:

Should any section or part of this chapter be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not have any effect on the validity of the remaining section or parts thereof of this chapter.