

CHAPTER 834

Liquor Licenses

<p>834.01 Intent; Application of Chapter. 834.02 License Applications; Transfers. 834.03 Conditions for Denial. 834.04 New Licenses; Selection of Applicants. 834.05 Conditions of Issuance. 834.06 Redevelopment Project Area Liquor Licenses.</p>	<p>834.07 Liquor License Registration Requirement 834.08 Annual Renewal; License Revocation; and Appeal. 834.09 Severability. 834.99 Penalty.</p>
--	--

CROSS REFERENCES

- Intoxicating liquors generally - see M.C.L.A. Secs. 436.1101 et seq.
- Sales on Sundays and municipal election days - see M.C.L.A. Sec. 436.19e
- DUI - see TRAF. 410.03(UTC 5.15 et seq.)
- Alcoholic beverages generally - see GEN. OFF. Ch. 608
- Intoxicated taxicab passengers - see B.R. & T. 866.07
- Alcoholic beverages in parks - see S.U. & P.S. 1064.09
- Alcoholic beverages in cemeteries - see S.U. & P.S. 1066.03

834.01 INTENT; APPLICATION OF CHAPTER.

The intent of this chapter is to provide uniform standards for the City's regulation of liquor licenses and for recommendations regarding State liquor license decisions. This chapter shall apply to all individuals, corporations or entities who wish to sell intoxicating liquors in the city, except those licenses issued to nonprofit and similar organizations pursuant to the special license provisions of the State Liquor Control Act.

(Ord. 169. Passed 7-2-84.)

834.02 LICENSE APPLICATIONS.

Applications for local approval of a new license to sell beer, wine or alcoholic liquor for consumption on the premises shall be made to the City Clerk. Such application shall be made in writing, signed by the applicant if an individual, or by a duly authorized agent thereof if a partnership or corporation. Such application shall contain:

- (a) In the case of an individual, the name, age and address of the applicant; in the case of a co partnership, the persons entitled to share in the profits thereof; and in the case of a corporation the names and addresses of the officers and directors, and if an aggregate of more than five percent of the stock of such corporation is owned by any one person or his or her nominee, the name and address of such person;
- (b) The nature and business of the applicant, and in the case of a corporation, the object for which it was formed;
- (c) The length of time such applicant has been in business of that nature, or, in the case of a corporation, the date when its certificate of incorporation was issued.
- (d) The location and description of the premises which are to be operated under such license;

LIQUOR LICENSES

- (e) If the business of the applicant is to be operated or conducted by a local manager or agent, the name and address of such manager or agent;
 - (f) A statement as to whether or not the applicant has, prior to this application, made application for a liquor license and the date, place and disposition of such application;
 - (g) A statement that the applicant has never been convicted of a felony and is not disqualified to receive approval for a license by reason of any matter or thing contained in this chapter or in the laws of the State;
 - (h) A statement that the applicant and the applicant's employees and agents will not violate any of the ordinances of the City or the laws of the State or of the United States in the conduct of its business;
 - (i) A statement that, if any of the information provided in the application or any attachment thereto changes during the term of the license or any renewal thereof, the applicant shall notify the City Clerk, in writing, within thirty days of such change;
 - (j) A statement as to whether or not dancing or entertainment is to be provided on the premises, and if entertainment is to be provided, a description of the type of such entertainment;
 - (k) An eight and one-half inch by eleven inch building and grounds layout diagram showing the entire structure, premises and grounds, 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, noise control, means of egress and, where appropriate, plans for screening.
 - (l) A nonrefundable application fee which shall be established by the City Commission in such amount as it deems appropriate from time to time to defray the costs of processing the application.
 - (m) Other information as required.
- (Ord. 169. Passed 7-2-84.)

834.03 CONDITIONS FOR DENIAL.

A liquor license application shall not be recommended for approval if any of the following conditions exist as to such application:

- (a) The premises are determined by the City Commission to be unsuitable for the activity proposed by the application, considering:
 - (1) The proximity of other premises licensed to sell beer, wine or alcoholic liquor for on-premises consumption;
 - (2) The lack of any other facilities or uses on the premises to be licensed which are compatible with a liquor license (e.g. restaurant, hotel);
 - (3) The distance from public or private schools for minors or places where minors congregate, such as parks;
 - (4) The proximity of an inconsistent zoning classification or land use;
 - (5) The Zoning Code and the City Plan;
 - (6) Traffic safety;
 - (7) Public safety;
 - (8) Accessibility to the site from abutting roads;
 - (9) The capability of roads, utilities and public services to accommodate the commercial activity; or

LIQUOR LICENSES

- (10) Such other relevant factors as the City Commission may deem appropriate.
- (b) It is determined by a majority of the City Commission that the premises do not or will not, within six months of the approval of the application by the Commission, or prior to the commencement of business, whichever occurs first, have adequate off-street parking, lighting, refuse disposal facilities, screening or noise or nuisance control. However, upon timely request and for good cause shown, the Commission may extend any deadline established by this subsection.
 - (c) Except for applications to transfer ownership only, any premises which do not or will not, within three months of the approval of the application by the Commission, comply with current applicable construction codes, fire codes, zoning regulations or public health regulations. However, upon timely request and for good cause shown, the Commission may extend any deadline established by this subsection.
 - (d) The applicant does not own the premises for which the approval is sought or does not have a lease therefore.
 - (e) The applicant is a law enforcing public official or any member of the Commission. No such official may be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of beer, wine or alcoholic liquor.
 - (f) A person named in the application is, at the time of application for such approval, transfer or renewal, delinquent in the payment of any taxes, fees or other charges owed to or collected by the City. Additionally, an entity with two or less members or partners either of whom are delinquent in the payment of any taxes, fees, or other charges owed to or collected by the City at the time of the application for approval, transfer, or renewal .
 - (g) Ad valorem taxes, charges, or assessments imposed by the City on the premises identified in the application or personal property associated with the premises identified in the application for approval, transfer, or renewal are delinquent.
 - (h) The applicant has had a license revoked for cause within the last two years.
 - (h) One or more of the members of a co-partnership do not qualify for approval of a license.
 - (i) One or more officers, managers or directors of a corporation, or a stockholder owning in the aggregate more than five percent of the stock of such corporation, are not eligible to receive approval for a license.
 - (i) If the applicant's place of business is operated or conducted by a manager or agent, such manager or agent does not possess the same qualifications required of the applicant.
 - (j) An applicant has been convicted of a violation of any Federal or State law concerning the manufacture or sale of alcoholic liquor.
 - (l) An applicant has made a false statement in the application procedure or has submitted an incomplete application.
 - (k) For a Redevelopment Project Area Liquor License, as provided for in MCL 436.1521a, the premises licensed will or is intended to regularly close later than 11 pm or serve liquor after 11 pm on any day. A premises will or is intended to “regularly close” within the meaning of this subsection if such business is intended to or will not admit new customers after 11 pm at least 5 days a week.
 - (l) Other relevant factors as the City Commission may deem appropriate.
- (Ord. 169. Passed 7-2-84. Ord. 839. Passed 7-16-09. Ord. 926, Passed 10-17-11)

834.04 NEW LICENSES; SELECTION OF APPLICANTS.

When any new liquor license is available for issuance, either by lapse of a current license or by

the authorization and allocation of additional licenses to the City, and where there exist more qualified applicants for such license than the number of new licenses available, the City Commission may choose for approval the most qualified applicant based upon the following criteria:

- (a) The location of the proposed new business and its desirability in light of its location, the preferability of locations in an existing business district as opposed to outlying locations, the surrounding land uses and its proximity to other premises licensed for on-premises consumption;
- (b) The experience of the applicant;
- (c) The other uses proposed to be included on the premises or in the development (e.g. restaurant, motel);
- (d) The cost and size of the overall project and the number of jobs to be created by the new business;
- (e) The relative suitability of the design and size of the new business to the property on which it is proposed to be located, as evidenced by the building and grounds layout diagram required to be submitted with the application;
- (f) The overall development or redevelopment of the City; and
- (g) Such other relevant factors as the City Commission may deem appropriate.

The City Commission may decide to not award a license until an application is submitted, which application meets the requirements of this chapter and best serves the goals and policies of the City.

(Ord. 169. Passed 7-2-84.)

834.05 CONDITIONS OF ISSUANCE.

Approval of a liquor license application shall be upon the condition that any necessary remodeling or new construction for the use of the license required by the City Commission or indicated on the building and grounds layout diagram submitted with the application be completed within six months of the approval of the license by the Commission, or prior to the commencement of business, whichever occurs first. The Commission may impose other reasonable conditions on the approval of an application, which conditions are related to the health, safety and welfare of the City.

(Ord. 169. Passed 7-2-84.)

834.06 REDEVELOPMENT PROJECT AREA LIQUOR LICENSES.

To the extent that they do not conflict with this section, all provisions of this Chapter shall apply to Redevelopment Project Area Liquor Licenses; if there is a conflict between a provision of this section and another provision contained in this Chapter, the provision of this section shall control, and the remaining, non-conflicting provisions of this Chapter shall survive.

- (a) A premises operating under a Redevelopment Project Area Liquor License, as provided for in Michigan Public Act 501 of 2006, shall:
 - (1) Regularly close no later than 12 a.m. A premises “regularly closes” within the meaning of this subsection if the premises does not admit new customers after 12 a.m. at least 5 days a week.
 - (2) Not serve liquor between the hours of 12 a.m. and 7:00 a.m., or other hours as otherwise prohibited by state law or Michigan Liquor Control Commission Promulgated Rule..

LIQUOR LICENSES

- (b) The provisions of this section shall not apply to Banquet Facility Permits or A Hotel or B. Hotel Licenses issued by the Michigan Liquor Control Commission as part of a Redevelopment Project Area Liquor License.
- (c) A licensee who violates this Section shall be responsible for a civil infraction and shall be fined \$500.00 for each offense.

(Ord. 839. Passed 7-6-09. Ord. 868. Passed 6-21-10. Ord. 898. Passed 12-20-10. Ord. 1008. Passed 7-21-14)

834.07 LIQUOR LICENSE REGISTRATION REQUIREMENT.

- (1) No liquor licenses issued by the Michigan Liquor Control Commission shall be operated unless the same has been issued a registration by the City Clerk. In the event of a transfer of a Michigan Liquor Control Commission Liquor License, the license holder shall obtain a registration from the City Clerk. In order to receive registration from the City Clerk, the license holder shall make application to the City Clerk for registration with a non-refundable fee in the amount established by resolution of the City Commission.
- (2) The holder of any liquor license currently in place upon the effective date of this ordinance shall be issued a registration by the City Clerk; and for such licenses currently in place, no fee shall be required.
- (3) All applications for registration shall contain the same information as required in Section 834.02 of these ordinances.
- (4) Conditions for denial of a registration shall be the same as those in Section 834.03 of these ordinances; provided, however, for those registrations that do not require City Commission approval, that the City Clerk shall determine if a condition for denial as outlined in Section 834.03 applies.
- (5) The City Clerk is authorized to issue a registration under this Section provided none of the conditions for denial are determined applicable; provided, however, that the City Clerk may only issue a registration for any on-premise consumption license upon adoption by the City Commission of a resolution authorizing the City Clerk to issue such registration.
- (6) In the case of any liquor license or subsidiary permit where City Commission approval is required by the Michigan Liquor Control Commission and the City Commission recommends approval, shall be issued a registration from the City Clerk.
- (7) If the City Clerk denies a registration under this ordinance, the City Clerk shall provide written notice, by first class mail, to the address indicated on the application of such denial and the reasons for the denial. The notice of denial shall indicate that the City Clerk's denial may be appealed as provided for in this Section. The City Clerk shall provide a copy of Chapter 834 of the Traverse City Code of Ordinances with the notice of denial.
- (8) Conditions for revocation of a registration shall be the same as those of denial as provided for in this Section of these ordinances; provided, however, for those registrations that do not require City Commission approval, that the City Clerk shall determine if a condition for revocation as outlined in Section 834.07 applies.
- (9) If the City Clerk revokes a registration under this ordinance, the City Clerk shall provide written notice, by first class mail, to the address indicated on the application of such revocation and the reasons for the revocation. The notice of revocation shall indicate that the City Clerk's revocation may be appealed as provided for in this Section. The City

Clerk shall provide a copy of Chapter 834 of the Traverse City Code of Ordinances with the notice of revocation.

- (10) Denial or revocation by the City Clerk of a registration under this Section may be appealed to the City Manager within thirty (30) calendar days following the date of the notice of denial from the City Clerk. Such appeal shall clearly state the basis for appeal. The City Manager shall investigate the reasons for the City Clerk's denial of the registration and shall decide the appeal within thirty (30) calendar days following the date the appeal was received by the City Manager. The City Manager's decision on the appeal shall be final. If the City Manager's decision is to overrule the City Clerk's denial or revocation of the registration and grant the registration, the City Clerk shall issue such registration, which registration shall take immediate effect.
- (11) The Liquor License registration shall be prominently displayed on the premises.
(Ord. 1023. Passed 5-4-15.)

834.08 ANNUAL RENEWAL; LICENSE REVOCATION; AND APPEAL.

- (1) The City Clerk shall annually convene a meeting of the Chief of Police and appropriate officials before February 1 to review on-premises liquor licenses to determine whether or not to object to the Michigan Liquor Control Commission's renewal of liquor licenses under its authority as set forth in MCL 436.1502(2). Investigations and recommendations as to each renewal request shall be undertaken and provided by the Police Department, Fire Department, appropriate building and zoning officials, and others deemed appropriate. Any recommendation to object to the renewal of a liquor license shall be made in writing to the City Manager.
- (2) Upon a determination of a violation of the conditions set forth in this section, the City Manager will notify the licensee of the specific violation(s) and afford the licensee an opportunity to come into compliance with this Section. Licensee must reach compliance in that time established by the City Manager, but in no event more than ten days after notification to licensee by city of such violation. Absent compliance within that time established the City Manager may then forward the recommendation for revocation or objection to renewal to the City Commission who shall hold a hearing as set forth in this section prior to the recommendation for revocation or objection to renewal of the liquor license for any of the following reasons:
 - (a) Failure to comply with all standards and plans and conditions established and approved at the time of issuance of the license or at a time of later city approval.
 - (b) Failure to timely pay all personal property taxes and all real property taxes or have delinquent any personal property tax or real property taxes or obligation due and payable to the City or Light & power as of the date of the annual review.
 - (c) Repeated violations of state law.
 - (d) Violations of this chapter or other city ordinance, executive order, administrative order or policy by the licensee.
 - (e) Maintenance of a nuisance upon or in connection with the licensed premises, including but not limited, to any of the following:
 - i. Violations of the building code, electrical code, fire prevention code, mechanical code, plumbing code, health code or other applicable code.
 - ii. Violation of the zoning ordinance.
 - iii. A pattern of patron conduct in the neighborhood of the licensed premises,

which is a violation of the law or disturbs the peace, order, and tranquility of the neighborhood including types of police, fire or medical services related to the licensed premises.

- iv. Failure to maintain the grounds and exterior of licensed premises, including litter, debris, or refuse blowing or being deposited upon adjoining properties.
 - v. Entertainment on the licensed premises without a permit or entertainment that disturbs the peace, order and tranquility of the neighborhood of the licensed premises
 - vi. Any advertising, promotion or activity in connection with the licensed premises that causes, creates or contributes to disorder, disobedience of rules, ordinances or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.
 - vii. Numerous police contacts with the licensed premises or the patrons of the premises.
- (f) Repeated reports that the licensee is serving minors or intoxicated persons.
 - (g) Failure by the licensee to permit the inspection of the licensed premises by the city's employees, agents and/or representatives in connection with the enforcement of this chapter.
- (3) Prior to filing with the Michigan Liquor Control Commission an objection to the renewal of a liquor license or a recommendation for the revocation of a liquor license, the City shall do the following:
- (a) Serve written notice on the license, which shall include:
 - i. Notice of the proposed action and the reasons for the action.
 - ii. Date, time and location of hearing on the matter and a statement that at the hearing, the licensee may present evidence and arguments on its behalf, confront witnesses and may be represented by a licensed attorney.
 - iii. A statement requiring the licensee to notify the city attorney's office at least three days prior to the hearing date if they intend to contest the proposed action, and to provide the names of witnesses known at the time who will testify on their behalf.
 - (b) The hearing may be conducted by the City Commission as a whole or the City Commission may delegate to a hearing officer the function of holding the hearing. The hearing officer shall thereafter submit his or her findings and recommendations to the Commission. The licensee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing and make a transcript of such testimony.
 - (c) The City Commission shall make a written resolution as to its findings and determination and mail same to licensee and the Michigan Liquor Control Commission.

(Ord. 839. Passed 7-16-09.)

834.09 SEVERABILITY.

If any provision of this Chapter is declared invalid by a court, such decision shall not affect the validity of this Chapter or any part other than the part declared to be invalid.

LIQUOR LICENSES

834.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)