

CODIFIED ORDINANCES OF TRAVERSE CITY
PART EIGHT
BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

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CHAPTER 802

Licenses and Permits Generally

802.01 Licenses. 802.99 Penalty.
802.02 Permits.

CROSS REFERENCES

Outdoor advertising licensing and permits - see M.C.L.A. Sec. 117.4i
Coordinated collection of State license fees - see M.C.L.A. Sec. 205.1
Liability insurance for municipalities - see M.C.L.A. Sec. 691.1409
Bicycle licenses - see TRAF. 420.01 et seq.
Dog licenses - see GEN. OFF. 610.05(b)
Building permits - see B. & H. 1440.04, 1440.05
Licensing of contractors - see B. & H. 1446.01

802.01 LICENSES.

- a) Required. No person shall engage in the operation, conduct or carrying on of any trade, profession, business or privilege for which a license is required by this Business Regulation and Taxation Code without first obtaining such license from the City in the manner provided in this section. (1976 Code Sec. 23.01)
- b) Application. Unless otherwise provided, an application for a license shall be made to the City Clerk, upon forms provided by him or her, and the applicant shall state under oath or affirmation such facts as may be required for or be applicable to the granting of such license. (1976 Code Sec. 23.02)
- c) Payment of Fees. The fees required for the issuance of any license shall be paid at the office of the City Clerk before the granting of the license. (1976 Code Sec. 23.03)
- d) Bond and Insurance. All required bonds shall be subject to the approval of the City Attorney. Where policies of insurance are required, such policies shall be approved as to substance and form by the City Attorney, and satisfactory evidence of coverage shall be filed with the City Clerk before the license is issued. (1976 Code Sec. 23.04)
- e) Certification. In all cases where the certification of any City or State officer is required prior to the issuance of any license by the City Clerk, such certification must be presented to the City Clerk before such license is issued. (1976 Code Sec. 23.05)
- f) Denial of Issuance or Approval to Debtors of City. No license shall be issued, nor shall approval be granted, where Municipal approval is required for any State or Federal license, to any person who is indebted to the City upon any claim, tax or account which is more than sixty days delinquent. (1976 Code Sec. 23.06)
- g) Term. Unless otherwise provided, the license year shall begin on July 1 of each year and shall terminate at 12:00 midnight on June 30 of the following year. Where this chapter permits the issuance of a license for a period of less than one year, the effective date of such license shall commence with the date of issuance. (1976 Code Sec. 23.07)
- h) Exhibition. Every licensee shall carry his or her license upon his or her person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted. However, where such trade,

profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, the license shall be exhibited at all times in some conspicuous place in the place of business. The licensee shall exhibit the license when applying for a renewal and upon the demand of any police officer or person representing the issuing authority. (1976 Code Sec. 23.08)

- i) Transfer. Unless otherwise provided, no license shall be transferable unless specifically authorized by action of the City Commission. (1976 Code Sec. 23.09)
- j) Suspension and Revocation.
 - a. Authority. Any license issued by the City may be suspended by the City Manager for cause or if conditions precedent to the granting of the license are not complied with.
 - b. Hearings. The licensee shall have the right to a hearing before the City Commission on any such action of the City Manager, provided a written request therefor is filed with the City Clerk within ten days after receipt of the notice of suspension. The Commission may confirm such suspension or revoke or reinstate any such license. The action taken by the Commission shall be final.
 - c. Cause defined. "Cause," as used in this subsection, means and includes the doing or omitting of any act, or permitting any condition to exist, in connection with any trade, profession, business or privilege for which a license is granted or any premises or facilities used in connection therewith, which act, omission or condition is:
 - i. Contrary to the health, morals, safety or welfare of the public;
 - ii. Unlawful, irregular or fraudulent in nature;
 - iii. Unauthorized or beyond the scope of the license granted;
 - iv. Forbidden by these Codified Ordinances or any duly established rule or regulation of the City applicable to the trade, profession, business or privilege for which the license has been granted; or
 - v. The result of failure to continuously comply with all conditions required as precedent to the approval of the license. (1976 Code Sec. 23.10)

802.02 PERMITS.

- a) Required; Issuance.
 - 1. No person shall perform any act for which a permit is required by this Business Regulation and Taxation Code without first obtaining a written permit therefor in the manner provided in this section.
 - 2. The issuance of a permit shall be contingent upon fulfillment of the requirements specified in this Business Regulation and Taxation Code or by subsequent regulations established by the City Manager and approved by the City Commission. (1976 Code Sec. 24.01)
- b) Application. Unless otherwise provided, an application for a permit shall be made to the City Clerk, upon forms prescribed by him or her, and the applicant shall answer upon oath, if requested, all questions put to him or her concerning the application. (1976 Code Sec. 24.02)
- c) Payment of Fees. Applications shall be accompanied by the fees and deposits required, which fees and deposits will be returned to the applicant if a permit is not issued. (1976 Code Sec. 24.03)

- d) Bond and Insurance. When an applicant is required to furnish a bond, the form of the bond shall be approved by the City Attorney. The obligation shall be such that the City is held free from all liability from accidents or injuries to persons or property arising out of the work or action for which the permit is issued. In lieu of a bond, the applicant may furnish one or more policies of insurance giving the same protection as called for in the bond. Any such policy of insurance shall be approved as to form and substance by the City Attorney. (1976 Code Sec. 24.04)
- e) Liability. The terms of the application shall be such that the applicant agrees to hold the City free and harmless from all liability which may be imposed on it, to reimburse the City for any legal liability that may be adjudged against it and to reimburse the City for all expenses of litigation in connection with the defense of claims, as such liability and claims may arise because of the issuance of the permit or because of negligence in the performance of the work for which the permit was issued. (1976 Code Sec. 24.05)
- f) Rejection of Application. The City Clerk shall not be required to issue any permit if, in his or her judgment, the public interest and the interests of the City are not fully protected. (1976 Code Sec. 24.06)
- g) Expiration. Each permit shall show the date of expiration. (1976 Code Sec. 24.07)
- h) Exhibition. Every person receiving a permit shall keep the permit at the place where the operation is being performed at all times when the operation is in progress and until it is completed. Such permit shall be exhibited upon the demand of any City official. (1976 Code Sec. 24.08)
- i) Transfer. Unless otherwise provided, no permit shall be transferable unless specifically authorized by action of the City Commission. (1976 Code Sec. 24.09)
- j) Suspension and Revocation.
 - 1. Authority. Any permit issued by the City may be suspended by the City Manager for cause or if conditions precedent to the granting of the permit are not complied with, or may be suspended or revoked for cause by the City Manager or the issuing authority.
 - 2. Hearings. The holder of the permit shall have the right to a hearing before the City Commission on any such action of the City Manager or issuing authority, provided a written request therefor is filed with the City Clerk within ten days after receipt of the notice of suspension or revocation. The Commission may confirm such suspension or revocation or revoke or reinstate any such permit. The action taken by the Commission is final.
 - 3. Cause defined. "Cause," as used in this subsection, has the same meaning as set forth in Section 802.01(j)(3). (1976 Code Sec. 24.10)

802.99 PENALTY

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

CHAPTER 806

Auctioneers

806.01	Intent.	806.06	Application for Permit; Fee.
806.02	Registration Required.	806.07	False Bidding or Pretending to Buy
806.03	Application for Registration; Fee.	806.08	Appearance Tickets.
806.04	Bond.	806.09	Civil Infraction.
806.05	Permit Required.	806.99	Penalty.

CROSS REFERENCES

Auctions and auctioneers - see M.C.L.A. Secs. 446.26 et seq.
 Sale of property recovered by police - see ADM. 252.01
 Sale of abandoned vehicles - see TRAF. 410.03(UTC 2.5a)
 Pawnbrokers - see B.R. & T. Ch. 846
 Secondhand stores - see B.R. & T. Ch. 856

806.01 INTENT

It is in the interest of the public morals and welfare to regulate auctions and auctioneers for the preventing of deceit, misrepresentation and fraud in the selling of goods, wares, merchandise and personal property.

806.02 PERMIT REQUIRED.

No person shall conduct an auction without first obtaining an Auction Permit from the City Clerk. This Chapter shall not apply to any public auction or sale made or conducted by a public officer or to an auction sale conducted solely for charitable purposes where none of the proceeds are paid to the auctioneer.
 (Ord. 942, Passed 5/21/12)

806.03 APPLICATION FOR PERMIT; FEE.

An applicant for an Auction Permit shall file with the City Clerk an application and such information as shall be required by the City Clerk and pay a fee in an amount established by resolution of the City Commission. Any applicant for an auction permit shall request a permit from the City Clerk no later than three (3) days prior to holding the auction. The applicant shall provide such information as shall be required by the City Clerk the applicant shall state on the application whether the auction sale shall be with our without reservation.
 (Ord. 942, Passed 5/21/12)

806.04 BOND.

Before an Auction Permit is issued, the applicant for such permit shall furnish to the City Clerk a surety bond in an amount established by resolution of the City Commission, which surety bond shall be conditioned for the due observance, during the time of the permit, of the laws of the State and City. Any person aggrieved by the action of any such permit shall have a right of action on the surety bond for the recovery of money or damages, or both.
 (Ord. 942, Passed 5/21/12)

806.05 FALSE BIDDING OR PRETENDING TO BUY.

At any auction sale, no person shall act as "bidder" or what is commonly known as a "capper", "booster" or shiller" or offer to make any false bid, or offer any false bid or pretend to buy any article sold or offered for sale at any sale by auction.
(Ord. 942, Passed 5/21/12)

806.06 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.
(Ord. 942, Passed 5/21/12)

806.07 CIVIL INFRACTION.

A person who violates this Chapter is responsible for a civil infraction.
(Ord. 415, Passed 2/6/95. Ord. 942, Passed 5/21/12)

806.08 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)
(Ord. 942, Passed 5/21/12)

Chapter 810

Business Registration

EDITOR'S NOTE: Chapter 810, Business Registration, was mistakenly included in the codification process by the previous codifying company, although the ordinance had never been enacted. It has now been removed from the Traverse City Code of Ordinances. (8-23-1995)

CHAPTER 814

Common Carriers

814.01 License required; insurance. 814.99 Penalty.
814.02 Exceptions.

CROSS REFERENCES

Power to regulate - see M.C.L.A. Sec. 91.1

Powers and jurisdiction of State Public Service Commission - see M.C.L.A. Sec. 460.6

Presumption of vehicle weight - see TRAF. 410.03(UTC 2.59)

Business licenses generally - see B.R. & T. 802.01

CHAPTER 814 – COMMON CARRIERS

Repealed.

(Ord. 852. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 818

Dance Halls

818.01	Public dance hall defined.	818.05	Hours of operation.
818.02	License required.	818.06	Appearance tickets.
818.03	Conditions for issuance; certifications.	818.99	Penalty.
818.04	Exceptions.		

CROSS REFERENCES

Minor children under age seventeen in; ordinances - see M.C.L.A. Sec. 750.141

Alcoholic beverages in dance halls - see M.C.L.A. Sec. 750.464a

Roller skating rinks and other amusement businesses - see B.R. & T. Ch.852

CHAPTER 818 – DANCE HALLS

Repealed.

(Ord. 853. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 822

Food Vendors

- 822.01 License required.
- 822.02 Inspections.
- 822.03 Appearance tickets.
- 822.99 Penalty.

CROSS REFERENCES

- Vending machines; sales tax exemption - see M.C.L.A. Sec. 205.54g
- Municipal inspection - see M.C.L.A. Sec. 288.25
- Ice cream - see M.C.L.A. Secs. 288.321 et seq.
- Frozen desserts defined - see M.C.L.A. Sec. 288.322
- Solicitors - see B.R. & T. Ch. 862
- Transient Merchants - see B.R. & T. Ch. 863

(EDITOR'S NOTE: Chapter 822 was repealed by Ordinance 389, passed July 5, 1994. See Chapters 862 and 863 for code sections covering food vendors.)

CHAPTER 826

Garbage and Rubbish Collectors

- 826.01 License required.
- 826.02 Collection vehicles and containers.
- 826.99 Penalty

CROSS REFERENCES

- Garbage and refuse generally - see M.C.L.A. Secs. 46.171 et seq., 123.241 et seq., 123.361 et seq.
- Municipal authority - see M.C.L.A. Secs. 123.301 et seq.
- Garbage and rubbish on public property - see GEN. OFF. 668.03
- Garbage containers in trailer and tourist camps - see B.R. & T. 836.04
- Garbage and rubbish collection and disposal - see S.U. & P.S. Ch. 1060
- Garbage and rubbish in parks - see S.U. & P.S. 1064.04
- Combustible waste - see F.P. 1610.03

826.01 LICENSE REQUIRED.

No person shall engage in the business of taking, carrying away and disposing of garbage, rubbish or ashes from dwellings or commercial establishments, or of transporting such garbage, rubbish or ashes along or upon public streets or alleys, without first obtaining a license therefor from Grand Traverse County. (1976 Code Sec. 8.041; Ord. No. 451. Passed 8-4-97.)

826.02 COLLECTION VEHICLES AND CONTAINERS.

No license for taking, carrying away and disposing of garbage, rubbish or ashes shall be granted unless the licensee carries the material in vehicles or containers which are so constructed as to prevent the garbage, rubbish or ashes from leaking, sifting, blowing away or otherwise escaping therefrom or dropping to the surface of the street or alley. Such vehicles shall be subject to the approval of the Health Department.

826.99 PENALTY.

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

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>834.07 834.08 834.09 834.99</p>	<p>Liquor License Registration Requirement Annual Renewal; License Revocation; and Appeal. Severability. Penalty.</p>
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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;

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- (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

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- (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..

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- (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.)

CHAPTER 836

Lodging Houses, Hotels, Motels, Tourist Cabins and Temporary Camps

836.01	License required.	836.05	Linen.
836.02	Certification.	836.06	Register.
836.03	Plumbing and sewers.	836.07	Appearance tickets.
836.04	Garbage receptacles.	836.99	Penalty.

CROSS REFERENCES

Hotels; boarding and lodging houses - see M.C.L.A. Secs. 427.1 et seq.

Tourist homes - see B.R. & T. Ch. 868

Application of rental housing regulations to lodging houses - see B. & H. 1482.16

Smoke detectors in lodging houses - see F.P. 1610.14(b)

CHAPTER 836 – LODGING HOUSES, HOTELS, MOTELS, TOURIST CABINS AND TEMPORARY CAMPS

Repealed.

(Ord. 854. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 840

Mechanical Amusement Device Arcades

840.01	Definitions.	840.05 License fee.
840.02	License required.	840.06 Appearance tickets.
840.03	Floor plan.	840.07 Enforcement.
840.04	Conditions for license issuance.	840.99 Penalty.

CROSS REFERENCES

Opening or attempting to open coin-operated devices - see M.C.L.A. Secs. 750.113, 752.811, 752.812

Slugs - see M.C.L.A. Secs. 752.801 et seq.

Licenses in general - see B.R. & T. Ch. 802

Shooting galleries - see B.R. & T. Ch. 860

CHAPTER 840 – MECHANICAL AMUSEMENT DEVICE ARCADES

Repealed.

(Ord. 855. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 842

Commercial Motion Picture, Television, Radio and Production Film Activities

842.01 Purpose.	842.05 Application.
842.02 Definitions.	842.06 Investigation.
842.03 Permit Required.	842.07 Savings Clause.
842.04 Permit Not Required.	842.08 Severability.

842.01 PURPOSE.

The purpose of this Chapter is to:

- (1) Provide for the protection and reasonable management of City property.
- (2) Allow for reasonable regulation of City property and City rights-of-way in order to more effectively preserve the health, safety and welfare of the public.
- (3) Promote continued and diverse economic growth in the City.
- (4) Enable the City to compete fairly and effectively in the world marketplace for economic development opportunities that will provide for and protect the health, safety, and welfare of the citizens of the City.
- (5) Enable the City to recover the cost of providing services to production films.

(Ord. 863. Passed 3-15-10.)

842.02 DEFINITIONS

As used in this chapter:

- (a) *Expenses* shall mean all direct costs of wages, including a pro rata percentage of the employees benefits, vehicles and equipment and expendable items incurred by the City, or private person or corporation operating at the request or direction of the City, when providing services to a production company, and which expenses are attributable to a production film. Included in such costs are administrative expenses, attorney fees, testing, preparation of reports and other costs directly attributable, or as a result of, the Production Film.
- (b) *Low Impact Production Film* shall mean Production Film activities that:
 - (1) Do not impede the public's use of or travel in the right-of-way;
 - (2) Do not require the use of any City resources, including personnel;
 - (3) Will occur for less than a four-hour period in one calendar day;
 - (4) Do not involve more than five persons on the Set; and
 - (5) Do not place more than five pieces of film equipment upon city right-of-way; provided, however, that no equipment may be placed on a City street.
 - (6) Do not use pyrotechnics or flame.
- (c) *Production Film* shall mean single media or multimedia entertainment content created in whole or in part in the City for distribution or exhibition to the general public by any means and media in any digital media format, film, or video tape, including but not limited to, a motion picture, a documentary, a television series, a television miniseries, a television special, interstitial television programming, long-form television, interactive

television, music videos, interactive games, video games or commercials. Production film also includes any trailer, pilot, video teaser, or demo created primarily to stimulate the sale, marketing, promotion, or exploitation of future investment in a production film.

- (d) *Production Company* shall mean an entity in the business of producing Production Film.
- (e) *Set* shall mean a place where a Production Film is created in whole or in part in any format and includes scenery and props.

(Ord. 863. Passed 3-15-10. Ord. 978. Passed 8-5-13)

842.03 PERMIT REQUIRED.

- (a) No person shall use any public right-of-way, or any public property, or facility for the purpose of producing, broadcasting, taking or making any Production Film unless such person shall have first made application to the City Clerk for and obtained, as prescribed in this Chapter, a permit for each instance.
- (b) The provisions of this Chapter shall not apply to the following:
 - 1. Current news productions, which includes reporters, photographers, or camera persons for a newspaper, news service, broadcasting station, or similar entity, including a documentary production, engaged in the broadcasting of news events in substantially the same manner with substantially the same impact;
 - 2. Production Films which are conducted at or by the direction of the City;
 - 3. Video or multimedia broadcast or transmission of a live performance within a live entertainment; or
 - 4. Private events filmed or photographed for non-commercial purposes, such as private parties or weddings.
- (c) Once a permit is issued, signs as defined in these ordinances located on a permitted Set shall be considered scenery and props rather than signs and shall be permitted while the film permit is in effect.
- (d) Once a film permit expires, the owner of any set on which a prohibited sign is located shall remove the sign or signs.

(Ord. 863. Passed 3-15-10.)

842.04 PERMIT NOT REQUIRED

A permit is not required for Low Impact Production Films.

(Ord. 863. Passed 3-15-10.)

842.05 APPLICATION

A film permit application shall contain the following:

- (a) Production Company identification and contact information.
- (b) Name and synopsis of the production.
- (c) Location identification and description of production film activities to take place at each location, including any requested alterations to normal traffic flow, such as intermittent street closure, intermittent lane closure or complete street closure.
- (d) Dates and times of production.
- (e) A processing fee in the amount established by resolution of the City Commission to reimburse the City for the expenses associated with evaluating the application and establishing conditions for approval.

- (f) A statement of experience in the business; and if any experience in producing films in other communities, at least three references; and if no previous experience or experience in less than three communities, the balance of references shall be provided by professionals in the field that can attest to the competency of the applicant.

(Ord. 863. Passed 3-15-10.)

842.06 INVESTIGATION.

- (a) Investigation of Application. The City Manager or designee shall be charged with investigating and processing any application submitted under this Chapter. Upon receipt of the application for a permit required by this article, the City Manager or designee shall forward the application to the appropriate public officials as deemed necessary. Such officers, departments and officials shall review and investigate matters relevant to the application and within a time frame established by the City Manager shall report their findings and recommendations to the City Manager or designee.
- (b) Imposition of Conditions. The City Manager or designee shall, at a minimum, require the following, as conditions of a production film permit:
 1. Security personnel. The permittee shall employ at its own expense such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the location of the filming activity and for the preservation of order and protection of property in and around the site of the filming activity. No permit shall be issued unless the Police Chief or designee is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the production filming.
 2. Notification. The permittee shall notify affected residents, occupants and businesses, in advance of the filming, and as instructed by the City Manager or designee, of the duration and location of filming activities, including information about planned special effects, road and lane closures, “no parking” requests, sidewalk usage and the time that any barricades will be placed on the street and/or sidewalk.
 3. Access. Production vehicles may not block parking lot access drives, fire hydrants, or be parked in fire lanes, and must allow a minimum of 20 feet of clearance between vehicles parked on either side of the road for emergency response vehicles to pass.
 4. Base Camps. Base camps may not be located on a public street. Only the necessary production vehicles, such as grip vehicles used for lighting and/or electricity, may be parked on a public street, if necessary, at the filming location. Crew parking, honeywagon, catering, and other non-essential production vehicles shall be at a predetermined location.
 5. Insurance. As a condition of issuing a permit under this Chapter, the permittee shall furnish insurance to be determined by the City Clerk but in no event in an amount less than one million dollars (\$1,000,000), on an occurrence form basis, naming the City as additional insured, to protect the City against claims for personal injury, wrongful death and property damage and shall indemnify the City claims for personal injury and for any damage to City property arising out of the permittee’s activities. An additional minimum of five million dollars (\$5,000,000) of general liability insurance shall be required in the event motor

vehicles, aircraft, helicopters, explosives or pyrotechnics are used in the production activity. Such insurance shall be evidenced by the standard General Special Endorsement Form or the Certificate of Insurance in form acceptable to the City. The applicant shall also submit verification that adequate worker's compensation insurance coverage is maintained.

6. Bonding. Before the issuance of a permit, a bond may be required at the discretion of the City Manager.
 7. Fire Protection. The permittee shall at its expense take adequate steps as determined by the Fire Chief to ensure protection.
 8. Hold Harmless. The permittee shall agree to hold harmless the City in a form acceptable to the City prior to the issuance of a permit.
 9. Other Conditions. Prior to the issuance of a permit, the City Manager or designee may impose any other conditions reasonably calculated to ensure compliance with the requirements of this Chapter and to protect the health, safety, welfare and property of attendants or of citizens of the City, including a limitation on the duration of the permit and the location of the production film activities.
- (c) Issuance of Permits. Approval shall be valid for six months. In processing an application for a permit required by this Chapter, the City Manager or designee may issue a permit as provided for in this Chapter, after review of the application and such other information as may be otherwise obtained, if he/she finds that:
1. The conduct of such activity will not unduly interfere with the use and enjoyment of neighboring property or unduly interfere with traffic or pedestrian movement or endanger public safety and that no streets will be completely closed to traffic for an unreasonable period of time. Adequate advance notice of any street closure shall be given.
 2. The conduct of such activity will not unduly interfere with normal governmental or City operations, threaten to result in damage or detriment to public property, or result in the City incurring costs or expenditures in either money or personnel not reimbursed in advance by the applicant.
 3. The activity does not propose to include obscene matter or an obscene performance and will not involve conduct in violation of law, rules or regulations.
 4. At the determination of the City Manager or designee as well as the Police, Fire and other departments whose approval is deemed necessary by the City Manager or designee, that the condition of such activity will not constitute a fire hazard or other type of hazard and all property safety precautions are being taken as determined by the heads of the aforementioned departments or their designees.
 5. The permit shall not authorize the production of a film that in any manner requires the use of property owned by or under control of the City in violation of 2008 Public Act 84, which prohibits such use when it includes obscene matter or an obscene performance or that requires that individually identifiable records be created and maintained for every performer as provided in 18 USC 2257.
 6. The applicant fails to comply with any or all requirements of this Chapter or with any other applicable provision of law or state, local or federal rule or regulation.
- (d) Extension of Permits. Time extensions may be authorized by the City Manager or designee provided that the conditions in (c) are met.
- (e) Revocation of Permits.

1. The City Manager or designee may revoke a permit issued pursuant to this Chapter whenever the permittee, its employee or agent fails, neglects or refuses to fully comply with any or all provisions and requirements set forth in this Chapter, including the conditions imposed upon issuance of the permit, or with any or all provisions, regulations, ordinances, statutes or other law incorporated by reference in this chapter.
 2. The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.
 3. A permit shall automatically be revoked if riotous, disorderly, obscene, or otherwise unlawful conduct occurs at a filming location or if an assembly exceeds one hundred and twenty-five (125) percent of the estimated attendance, as indicated on the application for a permit. In such instances, the premises may be closed by the Police Department and the assembly disbursed.
- (f) Appeal of City Manager Decision. Any decision of the City Manager or designee may be appealed to the City Commission and may be modified, reversed or affirmed. Such appeal shall be filed within ten (10) business days of the decision and the City Commission shall hear such appeal at its next regularly scheduled meeting.

(Ord. 863. Passed 3-15-10.)

842.07 SAVINGS CLAUSE.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Chapter takes effect are saved and may be consummated according to the law enforced when they are commenced.

(Ord. 863. Passed 3-15-10.)

842.08 SEVERABILITY.

The various parts, sections and clauses of this Chapter are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be affected.

(Ord. 863. Passed 3-15-10.)

CHAPTER 844

Medical Marihuana Cultivation Facility

844.01	Purpose.	844.05	Procedure for Application
844.02	Definition	844.06	License Fee
844.03	License Required	844.07	Inspections
844.04	Conditions for Issuance	844.08	Revocation of License
844.09	Complaints; Appeals		

844.01 PURPOSE

The purpose of this Chapter is to license and regulate medical marihuana cultivation facilities to the extent they are permitted under the Michigan Medical Marihuana Act. The City does not intend that licensing and regulation under this chapter be construed as a finding that such businesses are legal under state or federal law. Although some specific uses of medical marihuana are allowed by the Michigan Medical Marihuana Act, marihuana continues to be classified as a Schedule 1 controlled substance under federal law and as such, growing, distributing, and possessing marihuana, other than as part of a federally authorized research program, as well as other activities as set forth in federal law is a violation of federal law. By requiring a license and compliance with requirements as provided in this Chapter, the City intends to protect to the extent possible the public health, safety, and welfare of the residents of and visitors to the City that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a medical marijuana cultivation facility. (Ord. 918. Passed 6-20-11)

844.02 DEFINITION.

- (a) "Owner" means any person who has equitable or legal title to any portion of the premises.
- (b) "Medical Marihuana Cultivation Facility" as used in this Chapter has the same meaning as defined in the Zoning Ordinance, Section 1320.07. (Ord. 881. Passed 8-16-10)

844.03 LICENSE REQUIRED.

No person shall operate a Medical Marihuana Cultivation Facility without first obtaining a license therefore as required by this chapter. (Ord. 881. Passed 8-16-10)

844.04 CONDITIONS FOR ISSUANCE.

A Medical Marihuana Cultivation Facility license shall be issued subject to the following conditions, which conditions, are in addition to conditions contained elsewhere in these Codified Ordinances:

- (a) A Medical Marihuana Cultivation Facility shall be inspected at the time of application; shall be compliant with applicable Building, Electrical, Fire, and Plumbing Codes; and shall be inspected yearly by the Police Chief or its designee.
- (b) The Application shall contain a diagram of the Medical Marihuana Cultivation Facility demonstrating the number of facilities within the premises to be utilized for cultivation of Medical Marihuana and compliance with the requirements of the Zoning Ordinance for a Medical Marihuana Cultivation Facility.

- (c) If the Applicant is not the Owner of the premises upon which the Medical Marihuana Cultivation Facility, the application shall include the Owner's consent to the use of the premises as a Medical Marihuana Cultivation Facility. (Ord. 881. Passed 8-16-10)

844.05 PROCEDURE FOR APPLICATION

Any person wishing to operate a Medical Marihuana Cultivation Facility shall file a Medical Marihuana Cultivation Facility license application with the City Clerk.

(Ord. 881. Passed 8-16-10)

844.06 LICENSE FEE

The annual license fee shall be established by resolution of the City Commission. (Ord. 881. Passed 8-16-10)

844.07 INSPECTIONS.

A Medical Marihuana Cultivation Facility shall meet all conditions of this chapter and other applicable ordinances and laws.

(Ord. 881. Passed 8-16-10)

844.08 REVOCATION OF LICENSE.

A license shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe any of the following has occurred:

- (a) The Medical Marihuana Cultivation Facility has received a citation for a violation of the provisions of this chapter, the Traverse City Code, any statute of the State of Michigan, or federal law.
- (b) The Applicant has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.
- (c) The Owner or Operator of, or any person occupying the Medical Marihuana Cultivation Facility has violated any provision of this Chapter, the Traverse City Code, any statute of the State of Michigan, or federal law, which violation has been documented by a written complaint certified by the City Clerk pursuant to §844.08.
- (d) The Medical Marihuana Cultivation Facility has been conducted in a manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the property owner in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void. (Ord. 881. Passed 8-16-10)

844.09 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that the Owner, Operator, or person occupying the Medical Marihuana Cultivation Facility has violated any provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the property owner, together with a notice that an investigation will be made as to the truth of the complaint. The property owner shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation within twenty-one (21) days from the date of notice. If the City

MEDICAL MARIHUANA CULTIVATION FACILITY

Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, the applicant or holder of a permit may appeal to the City Manager within twenty-one (21) days from the date of the action appealed from. The City Manager shall hold a hearing and make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial or revocation are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk shall be sustained and the applicant may appeal the City Manager's decision to the City Commission within twenty-one (21) days from the City Manager's determination. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction. (Ord. 881. Passed 8-16-10.)

CHAPTER 846

Pawnbrokers

846.01 License required; nonissuance to felons.

846.03 Display of name

846.02 Records

846.99 Penalty

CROSS REFERENCES

Usury - see M.C.L.A. Sec. 438.31

Secondhand and junk dealers - see M.C.L.A. Secs. 445.401 et seq.

Pawnbrokers generally - see M.C.L.A. Secs. 445.471 et seq., 446.201 et seq.

Licenses in general - see B.R. & T. Ch. 802

Secondhand stores - see B.R. & T. Ch. 856

846.01 LICENSE REQUIRED; NONISSUANCE TO FELONS.

No person shall engage in the business of a pawnbroker without first obtaining a license therefor. No such license shall be issued to any person who has been previously convicted of a felony. (1976 Code Sec. 23.181)

846.02 RECORDS.

All pawnbrokers shall keep accurate and comprehensive records of all goods purchased and sold, including the names of the persons from whom such goods are purchased and to whom such goods are sold. (1976 Code Sec. 23.182)

846.03 DISPLAY OF NAME.

Every licensed pawnbroker shall place his or her name or the name of his or her firm with the words "Licensed Pawnbroker" in large, legible characters over the outside of the door of his or her place of business.

(1976 Code Sec. 23.183)

846.99 PENALTY.

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

CHAPTER 848

Pet Shops

848.01	Pet shop defined.	848.04	Soundproof buildings.
848.02	License required.	848.99	Penalty.
848.03	Sanitation.		

CROSS REFERENCES

Animal diseases generally - see M.C.L.A. Secs. 287.707 et seq.

Animals generally - see M.C.L.A. Secs. 287.701 et seq., 750.49 et seq., 752.21 et seq.; GEN. OFF. Ch. 610

Injuring animals - see S.U. & P.S. 1064.03

Animals in parks - see S.U. & P.S. 1064.11

Animals in cemeteries - see S.U. & P.S. 1066.03

CHAPTER 848 – PET SHOPS

Repealed.

(Ord. 856. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 852

Roller Skating Rinks and Other Amusement Businesses

852.01	License required; conditions for issuance.	852.03	Appearance tickets.
852.02	Approvals.	852.99	Penalty.

CROSS REFERENCES

Carnival rides; inspection, licensing, regulation and safety devices - see M.C.L.A. Secs. 408.651 et seq.

Masks and disguises - see M.C.L.A. Sec. 750.396

Mechanical amusement device arcades - see B.R. & T. Ch. 840

Shooting galleries - see B.R. & T. Ch. 860

CHAPTER 852 - ROLLER SKATING RINKS AND OTHER AMUSEMENT BUSINESSES

Repealed.

(Ord. 857. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 856

Secondhand Stores

856.01	Definitions.	856.04 License fee.
856.02	License required.	856.05 Appearance tickets.
856.03	Conditions for issuance.	856.99 Penalty.

CROSS REFERENCES

Secondhand dealers - see M.C.L.A. Secs. 445.401 et seq.
Pawnbrokers - see M.C.L.A. Secs. 455.471 et seq., 446.201 et seq.; B.R. & T. Ch. 846
Licenses in general - see B.R. & T. Ch. 802
Solicitors - see B.R. & T. Ch. 862
Transient traders - see B.R. & T. Ch. 870

856.01 DEFINITIONS.

As used in this chapter:

- A. "Materials" means articles incidental to the operation of a secondhand store, including, but not limited to, crates, boxes, bags, discarded goods or refuse.
- B. "Secondhand goods" means household articles that have been sold before and used one or more times. Secondhand goods are goods that have been previously owned by someone other than the manufacturer or dealer. Household articles shall not include vehicles, farm machinery, boats or business machinery.
- C. "Secondhand store" means any permanent place in which a substantial portion of the business is devoted to the sale of secondhand goods for profit or fundraising for charitable purposes. (Ord. 195. Passed 3-17-86.)

856.02 LICENSE REQUIRED.

No person shall have and operate a secondhand store without first obtaining a license therefor. Such license is required in addition to any other required State or Municipal license. (Ord. 195. Passed 3-17-86.)

856.03 CONDITIONS FOR ISSUANCE.

- A. Goods or materials on the premises of a secondhand store shall not be stored, allowed to rest upon or protrude over any public street, alley, walkway or curb, or become scattered or blown off the business premises.
- B. The area on the premises where goods or materials are kept shall be indoors or enclosed, except for entrances and exits, with a solid wood or masonry vertical wall or fence of a minimum height of six feet measured from ground level. Entrances and exits shall not be wider or more numerous than reasonably necessary for the conduct of the licensed business.
- C. Deposits or donations of goods and materials are not permitted during periods when the secondhand store is not open for business. Receiving areas shall be posted with a single notice, not less than one square foot nor greater than two square feet in total area, stating that goods are to be left during business hours only. (Ord. 195. Passed 3-17-86.)

856.04 LICENSE FEE.

SECONDHAND STORES

Each application for a license or renewal of a license under this chapter shall be accompanied by payment of a license fee per calendar year or any portion of a year if the license is in effect for only part of a year. Such license fee shall be nonrefundable. The City Commission shall, by resolution, establish the amount of the license fee.

(Ord. 195. Passed 3-17-86.)

856.05 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 360. Passed 5-17-93.)

856.99 PENALTY.

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

CHAPTER 858

Self-Service Laundry and Dry Cleaning Facilities

858.01 Attendant required.

858.99 Penalty.

CROSS REFERENCES

Dry cleaners and launderers generally - see Mich. Adm. Code Sec. R325.17101 et seq.

Opening or attempting to open coin-operated devices - see M.C.L.A. Secs. 750.113, 752.811, 752.812

Slugs - see M.C.L.A. Secs. 752.801 et seq.

Licenses in general - see B.R. & T. Ch. 802

CHAPTER 858 – SELF-SERVICE LAUNDRY AND DRY CLEANING FACILITIES

Repealed.

(Ord. 858. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

Chapter 860

Shooting Galleries

860.01	License Required.	860.03	Hours of Operation.
860.02	Certifications.	860.99	Penalty

CROSS REFERENCES

Weapons and explosives – see General Offenses. Ch. 690.

Licenses in general – see B.R. & T. Ch. 802

Mechanical amusement device arcades – see B.R. & T. Ch. 840

Roller skating rinks and other amusement businesses – see B.R. & T. Ch. 852

860.01 LICENSE REQUIRED

No Person shall conduct, maintain, or operate any shooting gallery which is open to the public without first obtaining a license therefor. (1976 Code Sec. 23.221)

860.02 CERTIFICATIONS

No shooting gallery license shall be granted except upon certification by the Police Chief, the Fire Chief, and the Health Department that the public peace, health and safety will not be jeopardized thereby. (1976 Code Sec. 23.222)

860.03 HOURS OF OPERATION

Shooting galleries shall not operate and shall be closed to the public between 11:00 p.m. and 7:00 a.m. of the following day on weekdays and between 11:30 p.m. Saturday and 7:00 a.m. Monday. (1976 Code Sec. 23.223)

860.99 PENALTY

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

CHAPTER 862

Solicitors

862.01	Intent.	862.11	Hours in residential areas.
862.02	Definitions.	862.12	Revocation.
862.03	Permit required; exception.	862.13	Manner of soliciting; duties of solicitors.
862.04	Filing false application.		
862.05	Duration; transferability.	862.14	Complaints; appeals.
862.06	Solicitation permit application.	862.15	Other permits or licenses.
862.07	Investigation of residential area Solicitor.	862.16	Pushcarts or pedal carts.
		862.17	Appearance tickets.
862.08	Solicitation permit fees.	862.18	Civil infraction.
862.09	Solicitors distributing food.		
862.10	Permit issuance or denial.		

CROSS REFERENCES

Power to license - see MCL 91.1

Hawkers and transient merchants generally - see MCL 445.371

Solicitors in parks - see S,U & PU Sec. 1064.17

862.01 INTENT.

Regulation of all types of solicitation are sufficiently connected to the City's interest in preventing crime, preventing fraud, and protecting citizens' quiet enjoyment and peace, especially in residential areas where there exists a significant connection among evening solicitation, evidence of nighttime crime and disruption of citizens' quiet enjoyment and peace to limit hours of solicitation in residential neighborhoods, while leaving ample alternative channels of communication open to solicitors. The City has no other less restrictive means available to achieve these objectives. (Ord. 387. Passed 6-20-94. Ord. 585. Passed 11-4-02.)

862.02 DEFINITIONS.

As used in this chapter:

(a) *Solicitor* shall mean any person who requests money, credit, property, financial assistance

or other thing of value, by personal interview or otherwise, on the plea or representation that such money, credit, property, financial assistance or other thing of value, or the net proceeds over reasonable expenses thereof, will be used for a charitable, religious, patriotic,

civic, educational or philanthropic purposes.

(b) *Person* shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, church, religious sect or denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

(c) *Structure* shall mean tents, push carts, trailers, stands, wagons, vehicles, booths or any other material or thing that occupies space whether portable or fixed.

(Ord. 387. Passed 6-20-94, Ord 920. Passed 7-15-11)

862.03 PERMIT REQUIREE; EXCEPTION.

SOLICITORS

- (a) Required. No person shall solicit without a permit from the City Clerk authorizing such solicitation. Permits shall bear the name and address of the person soliciting, type of permit, type and location of soliciting and a statement that the permit does not constitute an endorsement by the City of the purpose of the solicitation or of the person or group conducting the solicitation. Such permit, or a copy thereof, shall be carried by a solicitor. Such solicitation shall comply with this Code, State laws and regulations and the conditions of the permit.
- (b) Exceptions. The following activities are exempt from this chapter:
- (1) Solicitations made to a congregation or group in attendance at one location and made by the person or organization inviting the individuals composing the congregation or group;
 - (2) Solicitations made in books, magazines, periodicals, newspapers and other similar publications or through the mail;
 - (3) Solicitations made over the radio, television or telephone;
 - (4) The distribution of handbills or leaflets where the individual distributing them does not accept payments, orders or contributions;
 - (5) Any person qualifying as a "transient merchant" shall be excluded from the definition of a solicitor and the regulations contained in this Chapter.

(Ord. 387. Passed 6-20-94.)

862.04 FILING FALSE APPLICATION.

No person shall knowingly file or cause to be filed an application and a document supporting an application containing one or more false statements.

(Ord. 387. Passed 6-20-94.)

862.05 DURATION; TRANSFERABILITY.

A permit may be issued for up to one calendar year. The permit issued under this Chapter is non-transferable; provided, however, that this shall not prevent any solicitor from using any number of representatives and provided, further, that the City Clerk shall require that each representative shall wear a facsimile copy of such permit while engaged in solicitation or a standard identifiable uniform.

(Ord. 387. Passed 6-20-94.)

862.06 SOLICITATION PERMIT APPLICATION.

Every person desiring to solicit is required to make written application for a permit from the City Clerk. An application shall be made upon a form provided by the City Clerk. The applicant shall truthfully state, in full, the information requested on the application, such as:

- (a) Type of organization (e.g., religious, charitable, educational, citizen group, civic, patriotic or philanthropic);
- (b) Name, address, telephone number and headquarters of the person applying for the permit;
- (c) The names, addresses and phone number of the person or persons who will be in direct charge of conducting the solicitations;
- (d) The purposes for which such solicitation is to be made and the approximate number of representatives who will be soliciting;
- (e) An outline of the method or methods to be used on conducting the solicitations;
- (f) Location of areas in which soliciting will be conducted;
- (g) The time when such solicitation shall be made, giving the proposed dates for the beginning and ending of such solicitations and the hours of the day thereof;

SOLICITORS

- (h) Such other information as may be required by the City Clerk to determine the kind or character of the proposed solicitation and whether such solicitation is in the interest of, and not adverse to, the public welfare;
- (i) If applicable, a copy of a State permit to solicit funds or an exemption certificate;
- (j) The date or approximate date of the last permit issued under this chapter.
(Ord. 387. Passed 6-20-94.)

862.07 INVESTIGATION OF RESIDENTIAL AREA SOLICITOR.

Upon receipt of an application for license to solicit in a residential area, the City Clerk shall conduct an investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good. No license shall be issued without approval of the City Clerk. (Ord. 769. Passed 8-20-07. Ord. 1027. Passed 9-8-15)

862.08 SOLICITATION PERMIT FEES.

An application for a solicitor's permit shall be accompanied by a fee. Such fee shall be established by resolution of the City Commission. No fee shall be charged to citizen groups and religious groups. (Ord. 387. Passed 6-20-94.)

862.09 SOLICITORS DISTRIBUTING FOOD.

No permit shall be issued to a solicitor distributing food until the applicant and any vehicle and equipment used by such applicant are approved by the Health Department. (Ord. 387. Passed 6-20-94.)

862.10 PERMIT ISSUANCE OR DENIAL.

No permit may be issued to, nor may any soliciting be conducted by:

- (a) Any person who has made a false material statement in the application for the permit.
- (b) Any person who has been convicted of a violation of this chapter or whose solicitation permit has previously been revoked by the City.
- (c) Any person who has been convicted of a felony or a dangerous misdemeanor.
- (d) Any person soliciting in the C-4 District on private property utilizing a tent or other structure or shelter made from soft fabric like material without first demonstrating that the tent or other structure will be properly secured and stable, is flame retardant, and capable of withstanding strong winds. (Ord. 387. Passed 6-20-94, Ord. 920. Passed 7-15-11. Ord. 1027. Passed 9-8-15)

862.11 HOURS IN RESIDENTIAL AREAS.

No person shall engage in soliciting in residential areas prior to 9:00 a.m or after 9:00 p.m. or sunset, whichever is earlier, on any weekday or Saturday, or at any time on a Sunday, New Years Day, Presidents Day, Memorial Day, Martin Luther King Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day. (Ord. 387. Passed 6-20-94.)

862.12 REVOCATION.

A permit shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a permitted solicitor:

- (a) Has violated any of the provisions of this chapter, the Traverse City Code, or any statute of the State of Michigan.
- (b) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such a permit.

SOLICITORS

- (c) Has violated any of the provisions of this chapter, which violation has been documented by a written complaint certified by the City Clerk, pursuant to Section 812.12.
- (d) Has conducted solicitation that is in any manner adverse to the protection of the public health, safety or welfare of the City of Traverse City.

Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the registered solicitor in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the permit shall become null and void. (Ord. 387. Passed 6-20-94.)

862.13 MANNER OF SOLICITING; DUTIES OF SOLICITORS.

No solicitor shall:

- (a) Solicit upon a premises in defiance of a posted notice stating "No Solicitors or Transient Merchants" or "No Solicitors".
- (b) Fail to immediately and peacefully depart from premises when requested to do so by the occupant.
- (c) Fail to accurately reveal all information contained in the application for a solicitation permit and all information required to be revealed by State law to any person requesting such information. Failure of a solicitor to reveal such information shall be grounds for the revocation of the permit pursuant to Section 862.11 or the denial of future solicitation permits pursuant to Section 862.09.
- (d) Fail to identify himself or herself and the name of the organization represented.
- (e) Fail to prominently wear the identification badge issued by the City Clerk.
- (f) Solicit in a park as defined by Chapter 1064.
- (g) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property which is used by pedestrians or persons operating motor vehicles. A solicitor shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten (10) minutes.
- (h) If issued a license after the effective date of this amendment, leave a structure on private property in the C-4 District between the hours of 12 a.m. and 6 a.m., or leave such unattended for more than 2 hours.
- (i) Solicit in a public area less than one block away from where a City-authorized street fair, public festival, farmer's market or event is being conducted, except with the permission of the sponsor.
- (j) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention.
- (k) Represent that the granting of a permit under this Chapter is an endorsement by the City.
- (l) Fail to follow all provisions of State laws and regulations, City ordinances and conditions of the solicitation permit. (Ord. 387. Passed 6-20-94, Ord. 920. Passed 7-15-11)

862.14 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a solicitor has violated any provision of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the solicitor, together with a notice that an investigation will be made as to the truth of the complaint. The solicitor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this section, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk or the filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to the City Commission. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction. (Ord. 387. Passed 6-20-94.)

862.15 OTHER PERMITS OR LICENSES.

A permit obtained under this chapter shall not relieve any person of the responsibility for obtaining any other license, permit or authorization required by any other ordinance, statute or administrative rule. (Ord. 387. Passed 6-20-94.)

862.16 PUSHCARTS OR PEDAL CARTS.

Pushcarts are restricted to sidewalks in the residential districts unless otherwise prohibited by local ordinance. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all City streets in accordance with the Michigan Vehicle Code. Motor vehicles are permitted on all streets in accordance with the Michigan Vehicle Code. Any solicitor using a motor vehicle or pedal cart in a street, when stopped, shall place the vehicle parallel to and within twelve inches of the curb and shall depart from such place as soon as the sale has been completed. (Ord. 387. Passed 6-20-94.)

862.17 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 387. Passed 6-20-94.)

862.18 CIVIL INFRACTION.

A person who violates this Chapter is responsible for a civil infraction and subject to a fine of not less than \$100 nor more than \$500. (Ord. 387. Passed 6-20-94.)

CHAPTER 863

Transient Merchant

863.01 Intent.	863.10 License Issuance or Denial.
863.02 Definitions.	863.11 Revocation.
863.03 License Required; Exceptions.	863.12 Manner of Transient Merchant; Duties of Transient Merchants.
863.04 Filing False Application.	863.13 Complaints; Appeals.
863.05 Duration; Transferability	863.14 Other Licenses or Permits.
863.06 Transient Merchant License Application.	863.15 Push Carts or Pedal Carts.
863.07 Transient Merchant License Fees.	863.16 Appearance Tickets.
863.08 Investigation of Residential Area Transient Merchant; Waiting Period.	863.17 Civil Infraction.
863.09 Hours in Residential Areas	

CROSS REFERENCES

Street performers - see BR & T Ch. 864
Power to license - see MSA 5.1740
Hawkers and peddlers generally - see MSA 19.691, et seq
Secondhand stores - see BR & T Ch. 856
Transient Merchants in parks - see S, U & PS Ch. 1064
Solicitors - see BR & T Ch. 862

863.01 INTENT

Regulation of all types of transient merchants is sufficiently connected to the City's interest in preventing crime, preventing fraud, and protecting citizens' quiet enjoyment and peace, especially in residential areas where there exists a significant connection among evening vending in residential areas, evidence of nighttime crime and disruption of citizens' quiet enjoyment and peace to limit hours of vending in residential neighborhoods, while leaving ample alternative channels of communication open to transient merchants. The City has no other less restrictive means available to achieve these objectives.
(Ord. 386. Passed 6-20-94. Ord. 612. Passed 10-20-03. Ord. 949. Passed 7-16-12)

863.02 DEFINITIONS

As used in this chapter:

- A. Transient Merchant shall mean any person offering, exposing for sale or making available for a price, or donation, making sales and delivering articles to purchasers, or taking or attempting to take orders for sale of goods, foodstuffs, or services of any kind, for immediate or future delivery or performance, whether or not such person has, carries or exposes for sale a sample of the subject of such sale or whether or not he or she is collecting advance payments on such sale, by any of the following means:
1. Traveling by foot, wagon, automotive vehicle, or other conveyance, from place to place, house to house, or street to street, carrying, conveying or transporting such goods, wares, merchandise or foodstuffs;
 2. Hiring, leasing or occupying any building or structure for the exhibit or sale of such goods, foodstuffs, or services, while not on the City tax rolls, including a

person who associates temporarily with a local merchant or dealer, which building or structure is not otherwise used for that purpose;

3. Offering out of doors such goods, foodstuffs or services from a stationary cart, stand, wagon, automotive vehicle or from one's person.
- B. Person shall mean any individual, firm, co-partnership, corporation, company, association, or joint stock association, society, organization or league, and includes any trustee, receiver, assignee, subcontractor, agent or other similar representative thereof.
- C. Structure shall mean tents, push carts, trailers, stands, wagons, vehicles, booths or any other material or thing that occupies space whether portable or fixed.
- D. Vending shall operate as a verb for the activities attributed to Transient Merchant in the definition of this ordinance.

(Ord. 386. Passed 6-20-94, Ord. 919. Passed 7-15-11. Ord. 949. Passed 7-16-12)

863.03 LICENSE REQUIRED; EXCEPTIONS.

- A. Required. No person shall be a transient merchant without a license from the City Clerk authorizing such vending. Licenses shall bear the name and address of the person vending, term of license, type and location of vending, a picture, and a statement that the license does not constitute an endorsement by the City of the purpose of the vending or of the person or group conducting the vending. Such license shall be carried by a transient merchant. Such vending shall comply with this Code, State laws and regulations and the conditions of the license. No Transient Merchant license in the residential districts shall be granted except upon approval of the Chief of Police.
- B. Exceptions. The following activities are exempt from this chapter:
 1. Vending made in books, magazines, periodicals, newspapers and other similar publications or through the mail;
 2. Vending made over the radio, television or telephone;
 3. Vending by persons under twelve years of age where all proceeds are retained by such transient merchant. No adult or business shall hire or subcontract such transient merchant in an attempt to evade the provisions of this Chapter;
 4. Distributing handbills or leaflets where the distributor of them does not accept payments, orders or contributions;
 5. Vending between merchants where neither merchant is the ultimate consumer of goods or services involved or the ultimate donor of the gifts involved;
 6. Any person qualifying as a "solicitor" shall be excluded from the definition of a transient merchant and the regulations contained in this Chapter;
 7. Persons who have express City Commission approval.

(Ord. 386. Passed 6-20-94. Ord. 949. Passed 7-16-12)

863.04 FILING FALSE APPLICATION.

No person shall knowingly file or cause to be filed an application or a document supporting an application containing one or more false statements.

(Ord. 386. Passed 6-20-94.)

863.05 DURATION; TRANSFERABILITY.

Licenses may be issued for up to one calendar year. The license issued under this Chapter is non-transferable.

(Ord. 386. Passed 6-20-94.)

863.06 TRANSIENT MERCHANT LICENSE APPLICATION.

Every person desiring to be a transient merchant is required to make written application for a license from the City Clerk. An application shall be made upon a form provided by the City Clerk.

The applicant shall truthfully state, in full, the information requested on the application, such as:

- (a) The applicant's name, telephone number, address of present place of residence, length of residence at such address and business address if other than the residence address;
- (b) Birthdate of applicant;
- (c) The name, telephone number and address of the person by whom the applicant is employed or whom the applicant represents and the length of time of such employment or representation;
- (d) A description sufficient for identification of the subject matter and method of the vending in which the applicant will engage;
- (e) The period of time for which the license is applied;
- (f) The locations of all areas in which vending will be conducted; and
- (g) The date, or approximate date, of the last license issued under this Chapter;
- (h) A statement as to whether or not a license issued to the applicant (or organization) represented under this chapter has ever been revoked, and if so, the reason for the revocation;
- (i) A statement as to whether or not the applicant has ever been convicted of a felony under the laws of the State or any other State or Federal law;
- (j) Driver's license or personal identification number;
- (k) Copy of Michigan sales tax license or Michigan Department of Treasury written approval;
- (l) A 2" x 2" color photograph of the head and shoulders of the applicant;

(Ord. 386. Passed 6-20-94. Ord 949. Passed 7-16-12. Ord. 997. Passed 6-16-17)

863.07 TRANSIENT MERCHANT LICENSE FEES.

An application for a transient merchant's license shall be accompanied by a fee. Such fee shall be established by resolution of the City Commission and is non-refundable unless canceled in person with the City Clerk in advance of the day for which cancellation is sought. No fee shall be charged to:

- a) City of Traverse City merchants and representatives engaging in year-around business in the City and who are listed on the City's tax rolls or who are exempt from property taxes, or those new businesses who do not qualify for the City tax roll but have a year lease for a permanent location.
- b) Any honorably discharged veteran who is a resident of this State and who has obtained a Veteran's License from a County Clerk within the State of Michigan.
- c) Persons 12 years of age to and including 17 years of age where all proceeds are retained by the person. No adult or business shall hire or subcontract such persons in an attempt to evade the provisions of this Chapter.

(Ord. 386. Passed 6-20-94. Ord. 806. Passed 7-21-08. Ord. 949. Passed 7-16-12)

**863.08 INVESTIGATION OF RESIDENTIAL AREA TRANSIENT MERCHANT;
WAITING PERIOD.**

Upon receipt of an application for license to be a transient merchant in a residential area, the Police Chief shall conduct an investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good. No license shall be issued without the approval of the Police Chief. No license shall be issued under this chapter until a period of seventy-two hours has elapsed from the time of application, such period of time to be used by the Traverse City Police Chief for proper investigation of each application.
(Ord. 386. Passed 6-20-94. Ord. 949. Passed 7-16-12)

863.09 HOURS IN RESIDENTIAL AREAS

No person shall engage in vending in residential areas prior to 9:00 a.m. or after 9:00 p.m. or sunset, whichever is earlier, on any weekday or Saturday, or at any time on a Sunday, New Years Day, Presidents Day, Memorial Day, Martin Luther King Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.
(Ord. 386. Passed 6-20-94. Ord. 949. Passed 7-16-12)

863.10 LICENSE ISSUANCE OR DENIAL

No license shall be issued to, nor shall any vending be conducted by:

- a) Any person who has made a false material statement in the application for the license.
- b) Any person who has been convicted of a violation of this chapter or whose solicitation permit or transient merchant license has previously been revoked by the City.
- c) Any person who has been convicted of any crime involving moral turpitude, breach of the peace or is a menace to health, safety or the general welfare of the public.
- d) Any person vending in the C-4 District on private property utilizing a tent or other structure or shelter made from soft fabric like material without first demonstrating that the tent or other structure will be properly secured and stable, is flame retardant, and capable of withstanding strong winds.

(Ord. 386. Passed 6-20-94, Ord. 919. Passed 7-15-11. Ord. 494. Passed 7-16-12)

863.11 REVOCATION.

A license shall be revoked by the City Clerk if, upon receipt of written information or upon the Clerk's own investigation, the Clerk has reason to believe a licensed transient merchant:

- (a) Has violated any of the provisions of this chapter, the Traverse City Code, or any statute of the State of Michigan.
- (b) Has made a false material statement in the application or has otherwise become disqualified for the issuance of such a license.
- (c) Has violated any provision of this Chapter, which violation has been documented by a written complaint certified by the City Clerk pursuant to Section 863.14.
- (d) Has conducted vending that is in any manner adverse to the protection of the public health, safety or welfare of the City of Traverse City. Immediately upon such revocation, written notice thereof shall be given by the City Clerk to the licensed transient merchant in person or by certified mail addressed to his or her place of business or residence address set forth in the application. Immediately upon the giving of such notice, the license shall become null and void.

(Ord. 386. Passed 6-20-94. Ord. 494. Passed 7-16-12)

863.12 MANNER OF VENDING; DUTIES OF-TRANSIENT MERCHANT.

No transient merchant shall:

- a) Conduct as a transient merchant upon a premises in defiance of a posted notice stating "No Solicitors or Peddlers", "No Peddlers" or "No Solicitors" or "No Transient Merchants".
- b) Fail to immediately and peacefully depart from premises when requested to do so by the occupant.
- c) Fail to accurately reveal all information contained in the application for a transient merchant license and all information required to be revealed by State law to any person requesting such information. Failure of a transient merchant to reveal such information shall be grounds for the revocation of the license pursuant to Section 863.12 or the denial of future solicitation permits or transient merchant licenses pursuant to Section 863.11.
- d) Fail to identify himself or herself and the name of the organization represented.
- e) Fail to prominently wear the picture identification badge issued by the City Clerk.
- f) Conduct business in a park as defined by Traverse City Code, Chapter 1064.
- g) Occupy a stationary location on a public street, sidewalk, parkway, park, parking lot or any other public property which is used by pedestrians or persons operating motor vehicles. A transient merchant shall be presumed to have occupied a stationary location if he or she has conducted business in any such public place for a period in excess of ten (10) minutes.
- h) If issued a license after July 25, 2011, leave a structure on private property in the C-4 District between the hours of 12 a.m. and 6 a.m., or leave such unattended for more than 2 hours.
- i) Vend in a public area less than one block away from where a City-authorized street fair, public festival, farmer's market or event is being conducted, except with the permission of the sponsor.
- j) Use or employ any flashing lights on any vehicle, or any other device for the purpose of attracting attention to any goods, wares or merchandise which the transient merchant proposes to sell.
- k) Represent that the granting of a license under this Chapter is an endorsement by the City.
- l) Fail to follow all provisions of State laws and regulations, City ordinances and conditions of the transient merchant license.
- m) Sell food other than pre-packaged food.

(Ord. 386. Passed 6-20-94, Ord. 919. Passed 7-15-11. Ord. 949. Passed 7-16-12. Ord. 1028. Passed 9-8-15)

863.13 COMPLAINTS; APPEALS.

If a written complaint is filed alleging that a transient merchant has violated any provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the transient merchant together with a notice that an investigation will be made as to the truth of the complaint. The transient merchant shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a license is denied or revoked by the City Clerk, or

if a written complaint is certified pursuant to this section, the applicant or holder of a license may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of the City Clerk or the filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to the City Commission. Review by the City Commission shall be under the same standards of review as the determination by the City Manager and shall be in accordance with rules of procedure established by the City Commission. The City Commission's decision may be reviewed by a court of competent jurisdiction.

(Ord. 386. Passed 6-20-94. Ord. 949. Passed 7-16-12)

863.14 OTHER LICENSES OR PERMITS.

A license obtained under this Chapter shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by any other ordinance, statute or administrative rule.

(Ord. 386. Passed 6-20-94.)

863.15 PUSHCARTS OR PEDAL CARTS.

Pushcarts are restricted to sidewalks in the residential districts unless otherwise prohibited by local ordinance. Pedal carts are restricted to sidewalks in the residential districts and are permitted on all City streets in accordance with the Michigan Vehicle Code. Motor vehicles are permitted on all streets in accordance with the Michigan Vehicle Code. Any transient merchant using a motor vehicle or pedal cart in a street, when stopped, shall place the vehicle parallel to and within twelve inches of the curb and shall depart from such place as soon as the sale has been completed.

(Ord. 386. Passed 6-20-94. Ord. 949. Passed 7-16-12)

863.16 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 386. Passed 6-20-94.)

863.17 CIVIL INFRACTION.

A vendor who violates this Chapter is responsible for a civil infraction and subject to a fine of \$500 per day.

(Ord. 386. Passed 6-20-94. Ord. 1030. Passed 1-19-16.)

CHAPTER 864

Street Performers

864.01	Intent.	863.06	Exclusion of public areas.
864.02	Definitions.	863.07	Revocation of permit.
864.03	Street performer permit.	863.08	Complaints; appeals.
863.04	Street performer permit application; fee.	863.09	Appearance tickets.
863.05	Rules and regulations.	863.10	Civil infraction.

CROSS REFERENCES

Transient Merchants- see BR & T Ch. 863
 Power to license - see MSA 5.1740
 Hawkers and transient merchants generally - see MSA 19.691, et seq
 Secondhand stores - see BR & T Ch. 856
 Transient Merchants in parks - see S, U & PS Ch. 1064
 Solicitors - see BR & T Ch. 862

864.01 INTENT.

Street performers provide a public amenity that enhances the character of the City. The City seeks to encourage such performances in a manner consistent with the overall public interest. The City also recognizes that street performers seek to and do draw crowds to their performances. This can create serious safety problems by impacting the ability of pedestrians to move safely on sidewalks and through crosswalks by impeding the response time of safety personnel. It can also impact access to and egress from businesses. Cognizant that street performers are engaged in First Amendment activities, this chapter imposes reasonable time, place and manner restrictions on street performers to the extent necessary to ensure the safety of performers, their audiences and the general public and to prevent unreasonable interference with residents' enjoyment of peace and quiet in their homes or the ability of businesses to conduct business. (Ord. 603. Passed 6-16-03.)

864.02 DEFINITIONS.

As used in this chapter:

1. **Festival** means a City-authorized street fair or other public event.
2. **Perform/Performance** means a live, public presentation or exhibition which includes, but is not limited to, the following activities: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading aloud, puppetry, sidewalk art, reciting, and performing of any sort.
3. **Performer** means a person conducting activities defined as a Performance under this Chapter.
4. **Public areas** means public sidewalks, parks, playgrounds and other pedestrian areas.

(Ord. 603. Passed 6-16-03, Ord. 1015. Passed 3-16-15)

864.05 RULES AND REGULATIONS.

- (a) **Locations.** Performances may take place in the following locations:

STREET PERFORMERS

- (1) In public areas, except within 100 feet of an elementary and/or secondary school, library, or church while in session, a hospital at any time, and except public areas excluded by the City Manager or his or her designee in the case of an emergency.
 - (2) In public areas where a City-authorized street fair, public festival, farmer's market or event is being conducted, with the permission of the sponsor. Otherwise, at least one block away from such street fair or public festival, farmer's market or event.
- (b) **Times.** Performances may take place at the following times:
- (1) Monday through Saturday between 7:00 a.m. and 10:00 p.m.
 - (2) Sunday, between 12:00 noon and 10:00 p.m.
- (c) **Contributions.** A performer may request contributions or money or property at a performance. Contributions may be received in any receptacle, such as an open musical instrument case, box or hat.
- (d) **Prohibitions.** No performer shall:
- (1) Perform within ten feet of:
 - A. Any bus stop or street corner or a marked pedestrian crosswalk or
 - B. The outer edge of any entrance of any business, including, but not limited to doors, vestibules, driveways, outdoor dining area entries and emergency exits during the hours that any business on the premises is open to the public or to persons having or conducting lawful business within those premises.
 - (2) Perform less than 50 feet from another performer or group of performers.
 - (3) Perform in any area excluded by the City Commission in Section 864.06.
 - (4) Perform in any area prohibited by the City Manager or his or her designee in the case of an emergency.
 - (5) Use:
 - A. Any knife, sword, torch, flame, axe, saw, animal or other object, thing or being that can cause serious bodily injury to any person, or engage in any activity, such as, acrobatics, tumbling or cycling that can cause serious bodily injury to any person.
 - B. Any amplification device.
 - C. Any generator, wet cell battery with removable fill caps, or any other power source that poses a fire or public safety hazard.
 - D. Any connection to or maintenance of an electrical cord to an adjacent building or to a City power source.
 - (6) Litter his or her performance site. The performer shall be responsible for clean-up of all litter at the performance site.
 - (7) Prevent the public from utilizing any public benches, waste receptacles, or other street furniture during the performance.
 - (8) Cause less than a five foot contiguous sidewalk width being kept clear for pedestrian passage.
 - (9) Perform with more instruments, props, equipment, merchandise or other items than the performer can reasonably transport or remove at one time.
 - (10) Leave his or her instruments, props, equipment, merchandise or other items unattended.

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- (11) Offer for sale or make available for a price or donation any items. Performers who wish to offer items for sale must obtain a transient merchant's license according to Traverse City Code Chapter 863.
- (12) Perform in contravention of the allowable noise levels established by Chapter 652 of this Code.
- (13) Block or obstruct a curb cut.
- (14) Block or obstruct the free and safe movement of pedestrians. If a sufficient crowd gathers to observe a performer such that the passage of the public through a public area is blocked or obstructed, a police officer or fire official may disperse that portion of the crowd that is blocking or obstructing the passage of the public. If a performer cannot conduct a performance in a location without blocking or obstructing the passage of the public, a police officer or fire official may cause the performer to leave the location, but shall not prevent the performer from occupying another location in compliance with this Chapter.

(Ord. 603. Passed 6-16-03. Ord. 770. Passed 8-20-07, Ord. 1015. Passed 3-16-15)

864.06 EXCLUSION OF PUBLIC AREAS.

- (a) **Specific areas.** The following specific public areas are excluded from performances by decision of the City Commission based upon evidence presented to the City Commission during its deliberations on the adoption of this chapter:
 - (1) Due to pedestrian and traffic congestion and other safety issues, sidewalks along Front Street on both sides in the 100, 200 and 300 blocks, except for performances in conjunction with a festival.
 - (2) Due to pedestrian and traffic congestion and other safety issues, bridges and riverwalks, parking areas and parking facilities.
- (b) **Other Areas.** The City Commission may by resolution exclude other specific areas from performances upon a determination that exclusion is necessary to protect the public health, safety, and welfare.
- (c) **Emergency designation.** A public area may be temporarily excluded from performances by the City Manager or his or her designee in the case of an emergency. The area shall be excluded from performance for the duration of the emergency.

864.09 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCLA 764.9c(2)); (MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 603. Passed 6-16-03.)

864.10 CIVIL INFRACTION.

A person who violates this Chapter is responsible for a civil infraction and subject to a fine of not less than \$200 nor more than \$500.

(Ord. 603. Passed 6-16-03.)

Chapter 865

Mobile Food Vending

865.01	Intent	865.09	Parking Beyond Limits
865.02	Definitions		Allowed by City Ordinance
865.03	Permit Required		and Order
865.04	Duration; Non-Transferability	865.10	Impoundment
865.05	Application	865.11	Other Permits
865.06	Fees	865.12	Revocation
865.07	Investigation by the Chief	865.13	Complaints; Appeals
	Of Police	865.14	Appearance Tickets
865.08	Requirements	865.15	Civil Infraction

865.01 INTENT.

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of Traverse City, while providing a framework under which such businesses operate, this ordinance is established. (Ord. 963. Passed 5-6-13)

865.02 DEFINITIONS.

- (a) *Mobile Food Vending* shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in Mobile Food Vending.
- (b) *Mobile Food Vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.
- (c) *Vendor* shall mean any individual engaged in the business of Mobile Food Vending; if more than one individual is operating a single stand, cart or other means of conveyance, then Vendor shall mean all individuals operating such single stand, cart or other means of conveyance.
- (d) *Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

(Ord. 963. Passed 5-6-13)

865.03 PERMIT REQUIRED.

No vendor shall engage in Mobile Food Vending without a permit from the City Clerk authorizing such vending. The City Clerk shall prescribe the form of such permits and application for such permit. All permits shall be prominently displayed on the mobile food vending unit. No vending through a Mobile Food Vending Unit of food and/or other human

consumables shall be permitted unless it meets the definition of Mobile Food Vending as defined by this ordinance. (Ord. 963. Passed 5-6-13)

865.04 DURATION; NON-TRANSFERABILITY.

Permits may be issued by the City Clerk for a calendar year from the date of issuance. Any permit issued under this Chapter is non-transferable. (Ord. 963. Passed 5-6-13)

865.05 APPLICATION.

Every vendor desiring to engage in Mobile Food Vending shall make a written application to the City Clerk for a permit under this Chapter. The applicant shall truthfully state, in full, all information requested by the City Clerk and be accompanied by a fee established by resolution of the City Commission. Additionally, the applicant shall provide all documentation, such as insurance, as required by the city. (Ord. 963. Passed 5-6-13)

865.06 FEES.

An application for a permit under this Chapter shall be accompanied by a fee in the amount established by resolution of the City Commission. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the City Clerk. No fee shall be charged to any honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such to the City Clerk. If operating on non-city property, no fee shall be charged to a business which is on the city's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Chapter. (Ord. 963. Passed 5-6-13)

865.07 INVESTIGATION BY THE CITY CLERK.

For Mobile Food Vending within residential areas, approval must be given by the City Clerk prior to issuance of a permit by the City Clerk. (Ord. 963. Passed 5-6-13. Ord. 1026. Passed 9-8-15)

865.08 REQUIREMENTS.

Any vendor engaging in Mobile Food Vending shall comply with the following requirements:

1. Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.
2. If operating on city-owned or controlled property, may only locate on such property as established in a resolution adopted by the City Commission. If parked on public streets, vendors shall conform to all applicable parking regulations.
3. Not operate on public property within one block of a city-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
4. Not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
5. Not use loud music, amplification devices or "crying out" or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City.
6. Comply with the city's Noise Ordinance, Sign Ordinance and all other City

ordinances.

7. Comply with all applicable federal, state and county regulations.
8. May have one portable sign that is six square feet, with no dimension greater than 3 feet and no height (with legs) greater than 4 feet, located within five feet of the unit; and under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle safety.
9. Within residential areas, a mobile food vendor may only operate between the hours of 9 a.m. and 9 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 7 a.m. and 11 p.m. On private property within Commercial Area, a mobile food vendor may only operate between the hours of 6:00 a.m. and 3 a.m. Other restrictions regarding hours of operation may be established by resolution of the City Commission.
10. No Mobile Food Vending Unit may be left unattended for more than 2 hours; and any Mobile Food Vending Unit not in operation shall be removed between the hours of 11 p.m. and 7 a.m. in commercial areas and 9 p.m. to 9 a.m. in residential areas. This subsection applies to Mobile Food Vending Units operating on city-controlled property only.
11. Not represent the granting of a permit under this Chapter as an endorsement by the city.
12. Shall not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any city street, alley, or sidewalk except in a safe manner.

(Ord. 963. Passed 5-6-13, Ord. 988. Passed 1-21-14)

865.09 PARKING BEYOND LIMITS ALLOWED BY CITY ORDINANCE AND ORDER.

Any Mobile Food Vending Unit with a valid Mobile Food Vending License may park in a city-controlled parking space for durations as authorized by the permit; and such Mobile Food Vending Unit shall not be restricted to the hours where parking would otherwise be allowed in the particular parking space. Provided, however, that no Mobile Food Vending Unit shall park in a city-controlled parking space if parking is prohibited altogether. Any Mobile Food Vending Unit parked in a metered parking space with a valid Mobile Food Vending License shall activate the meter at all times while parked by depositing the appropriate sum of money into the parking meter. (Ord. 963. Passed 5-6-13)

865.10 IMPOUNDMENT.

Any equipment associated with food vending that are not in compliance with this Chapter and left on public property may be impounded at the owner's expense. (Ord. 963. Passed 5-6-13)

865.11 OTHER PERMITS.

A permit obtained under this Chapter shall not relieve any vendor of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute or administrative rule. (Ord. 963. Passed 5-6-13)

865.12 REVOCATION

The City Clerk shall revoke the permit of any vendor engaged in Mobile Food Vending who ceases to meet any requirement of this Chapter or violates any other federal, state or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the City Clerk shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void. (Ord. 963. Passed 5-6-13)

865.13 COMPLAINTS; APPEALS.

If a written complaint is filed with the City Clerk alleging a Food Vendor has violated the provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this Chapter, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of City Clerk or filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to a court of competent jurisdiction. (Ord. 963. Passed 5-6-13)

865.14 APPEARANCE TICKETS.

The Police Chief and sworn officers of the Police Department, or such other officials as designated by the City Manager are authorized to issue and serve appearance tickets with respect to a violation of this Chapter pursuant to Michigan law. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 963. Passed 5-6-13)

865.15 CIVIL INFRACTION.

A vendor who violates this Chapter is responsible for a civil infraction and subject to a fine of \$500 per day. Provided, however, that the fine for parking violations shall be those as outlined in Chapter 488 of these codified ordinances. (Ord. 963. Passed 5-6-13. Ord. 970. Passed 6-3-13)

CHAPTER 866

Taxicabs

866.01 Definitions.

866.02 Limousine License Required

CROSS REFERENCES

Carrying passengers; locking of doors - see MCLA Secs. 256.531, 256.532

Application for registration of taxicabs - see MCLA Sec. 257.217

Discrimination - see MCLA Secs. 750.146, 750.147

Uniform Traffic Code/Motor Vehicle Code - see TRAF. Ch. 410

866.01. DEFINITIONS

As used in this Chapter:

“Taxicab” means a motor vehicle with a taximeter, engaged in the business of carrying passengers for hire and not operated on a fixed route.

“Michigan Limousine License” means the license issued under the Michigan Limousine Transportation ACT (MCL 257.1901 et al)
(Ord. 944, Passed 5/21/12)

866.02. LIMOUSINE LICENSE REQUIRED

No business or person shall engage in the business of operating a taxicab or other vehicles for hire without possessing a valid Michigan Limousine License.
(Ord. 944, Passed 5/21/12)

(Editor’s Note: The original Chapter 866 was repealed in its entirety at the May 21, 2012 City Commission Meeting with an effective date of July 1, 2012; Ordinance Amendment 943.)

CHAPTER 867

Pedicab Public Transportation

867.01	Purpose.	867.10	Standards to be met.
867.02	Definitions.	867.11	Conditions for denial.
867.03	License required.	867.12	Transfers.
867.04	Procedure for application.	867.13	Renewals.
867.05	Investigation by City officials.	867.14	Display of license.
867.06	Approval by the Police Chief.	867.15	Insurance.
867.07	City Commission approval.	867.16	Other licenses and permits.
867.08	Information on Application	867.17	Revocation.
	for license.	867.18	Appearance tickets.
867.09	Fee.	867.19	Civil infractions.

CROSS REFERENCES

Taxicabs - see Chapter 866

Bicycles - see Chapter 420

867.01 PURPOSE.

The purpose of this chapter is to encourage the development of alternative public transportation, such as pedicabs, and to provide uniform regulation thereof for the health, safety and welfare of the public.

867.02 DEFINITIONS.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

“**City**” means the City of Traverse City.

“**City Manager**” means the City Manager or his designee.

“**Pedicab**” mean a chauffeured, non-motorized vehicle which is propelled by pedals, operating for hire.

867.03 LICENSE REQUIRED.

No person, firm or corporation shall operate a pedicab for public transportation without first obtaining a license therefor as provided in this chapter.

867.04 PROCEDURE FOR APPLICATION.

Any person, firm or corporation desiring to operate a pedicab for public transportation business shall file an application for a license with the City Clerk. The City Clerk shall provide forms for applications.

867.05 INVESTIGATION BY CITY OFFICIALS.

Upon receipt of an application for a license or an application for renewal, the City Clerk shall request an investigation by City officials to determine conditions related to the health, safety and welfare of the City.

867.06 APPROVAL BY THE POLICE CHIEF.

No license or renewal thereof shall be granted without approval of the routes and the vehicle by the Police Chief as to the following:

- (a) The route shall not encompass any area prohibited by Executive Order of the City Manager.
- (b) Each vehicle shall be equipped with headlights, taillights, reflectors and a slow moving vehicle sign.

867.07 CITY COMMISSION APPROVAL.

Upon completion of investigation, the City Clerk shall either issue the license or to deny the license. If the license is denied, the reasons for denial shall be given to the applicant in writing.

(Ord. 941, Passed 5/21/12)

867.08 INFORMATION ON APPLICATION FOR LICENSE.

Each application shall contain the following information:

- (a) The name of the person, corporation or other entity applying.
- (b) The name and address of each of the principal officers of the corporation, if the applicant is a corporation. If the applicant is not a corporation, the names and addresses of the partners, trustees, owners or other persons controlling the entity shall be given.
- (c) A description of the methods, procedures and equipment proposed to be used.
- (d) A map of the City showing locations of proposed routes or methods of operation and showing locations of any proposed stations, places to keep vehicles, stands or pick up points.
- (e) Identification and photograph of the pedicab or pedicabs.
- (f) Names, addresses and ages of all drivers.

867.09 FEE.

A non-refundable application fee shall be established by resolution of the City Commission. Licensing fees and related fees will be established by resolution of the City Commission.

867.10 STANDARDS TO BE MET.

A license shall be issued to an applicant that meets the following standards, and no licensee shall remain in business unless it continues to meet these standards:

- (a) No hazards to traffic or public safety will be created by the proposed operation. The addition of more traffic to a busy street or highway will not by itself be deemed to create a traffic hazard.
- (b) The operation will not appear to be designed to defraud any person.

- (c) There will be notices in each vehicle and in each waiting room or station owned or operated by the business, stating the charges and routes or methods of operation.
- (d) There are no conditions for denial.

867.11 CONDITIONS FOR DENIAL.

An application shall not be approved, renewed or may be revoked if any of the following conditions exist:

- (a) The applicant is in violation of any City ordinance or State law.
- (b) The applicant is in default to the City, including being delinquent in the payment of any taxes, fees or other City charges.
- (c) The applicant has been convicted of a violation of any Federal, State or City law concerning public transportation.
- (d) The applicant has made a false statement in the application procedure or has submitted an incomplete application or has not fulfilled a promise made with or in the application.
- (e) A standard listed in this Chapter cannot or is not being met.

867.12 TRANSFERS.

No license or interest therein shall be transferred directly or indirectly without the consent of the City Clerk. Transfers shall be construed and processed as a new application for license.

(Ord. 941, Passed 5/21/12)

867.13 RENEWALS.

All pedicab licenses shall expire on December 31 of each year. The license holder, at the expiration of any license year, shall be entitled to a renewal of the license for the ensuing year by the City Clerk upon compliance with this Chapter. The license holder shall submit an application for renewal, and such information as shall be required by the City.

867.14 DISPLAY OF LICENSE.

The operator of each pedicab shall immediately possess and display, upon request, the license or a legible copy thereof to any law enforcement officer, City official or citizen. Failure to possess or immediately display such license shall be grounds for suspension. A person who does not possess a license and who is unable to immediately display such license shall not be allowed to operate a pedicab.

867.15 INSURANCE.

Before issuing the license, the licensee shall submit proof and shall maintain comprehensive general liability insurance listing the City as an additional insured. The amount of such insurance shall be determined by the City Clerk.

867.16 OTHER LICENSES AND PERMITS.

A license obtained under this chapter shall not relieve any person of the responsibility for obtaining any other permit, license or authorization required by another ordinance, statute of administrative rule.

867.17 REVOCATION.

The City Clerk or Police Chief may immediately suspend the license for cause or noncompliance with this chapter. Suspensions may be appealed to the City Manager. The City Manager may revoke any license for cause or noncompliance with this chapter following a hearing before the City Manager.

867.18 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended. MCL 764.9c(2); MSA 28.868(3)(2). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

867.19 CIVIL INFRACTION.

A person who violates this chapter is responsible for a civil infraction.

CHAPTER 868

Tourist Homes

868.01	Definitions.	868.05	License fee.
868.02	License required.	868.06	Inspections.
868.03	Conditions for issuance.	868.07	Lapse of operation.
868.04	Notice of license application.	868.99	Penalty.

CROSS REFERENCES

Lodging houses, hotels, motels, tourist cabins and temporary camps - see MCLA Secs. 427.1 et seq.; B.R. & T. Ch. 836

Application of rental housing regulations to tourist homes - see B. & H. 1482.16

Smoke detectors in lodging houses - see F.P. 1610.14(b)

868.01 DEFINITIONS.

As used in this chapter:

- (a) "Owner" means any person who has equitable or legal title to any premises, dwelling or dwelling unit.
- (b) "Tourist home" means a single-family building owned and occupied by a person renting out not more than three rooms for compensation to persons who do not stay for more than seven consecutive days.
(Ord. 245. Passed 2-1-88.)

868.02 LICENSE REQUIRED.

No person shall operate a tourist home without first obtaining a license therefor as required by this chapter. Only an owner shall be allowed to hold a license under this chapter.

(Ord. 245. Passed 2-1-88.)

868.03 CONDITIONS FOR ISSUANCE.

A tourist home license shall be issued subject to the following conditions, which conditions, are in addition to conditions contained elsewhere in these Codified

Ordinances:

- (a) The home is occupied and operated by the owner and is a single-family residential dwelling.
- (b) A guest room shall not be located in the basement.
- (c) Not more than three occupants per room shall be allowed.
- (d) A person who does not reside at the home shall not be employed to assist in the conduct of a tourist home, except as usual for a single-family residence.
- (e) The home shall not be used by the public or paying guests for the hosting of receptions, private parties or the like.
- (f) A list shall be maintained of all guests and their places of residence.
- (g) A fire escape plan shall be developed and graphically displayed in each guest room.
(Ord. 245. Passed 2-1-88.)

868.04 NOTICE OF LICENSE APPLICATION.

Upon receipt of a completed tourist home license application, the City Clerk shall notify all persons to whom real property is assessed within 300 feet of the proposed tourist home location. There shall be a fourteen-day period for comment to the City Clerk regarding the proposed operation, which comment period shall be stated in the notice.
(Ord. 245. Passed 2-1-88.)

868.05 LICENSE FEE.

The annual license fee shall be established by resolution of the City Commission.
(Ord. 245. Passed 2-1-88.)

868.06 INSPECTIONS.

A tourist home shall meet all conditions of this chapter and other applicable ordinances and laws. There shall be an annual inspection of the premises by the City.
(Ord. 245. Passed 2-1-88.)

868.07 LAPSE OF OPERATION.

The active operation of a tourist home shall not lapse for more than nine months.
(Ord. 245. Passed 2-1-88.)

868.08 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of this chapter is responsible for a municipal civil infraction.
(Ord. 657. Passed 12-6-04.)

868.99 PENALTY.

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

CHAPTER 870

Vacation Home Rentals

870.01	Definitions.	870.05	License Fee.
870.02	License Required.	870.06	Inspections.
870.03	Conditions for Issuance.	870.07	Revocation of License.
870.04	Procedure for Application.	870.08	Complaints; Appeals.

CROSS REFERENCES

General Provisions and Definitions - TC Code Section 1320.07
Rental Housing Regulations - TC Code Section 1482

CHAPTER 870 – VACATION HOME RENTALS

Repealed.

(Ord. 859. Passed 01-18-10.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 876

Yard Sales

876.01	Definitions.	876.05	Exceptions to chapter.
876.02	Duration and frequency.	876.06	Appearance tickets.
876.03	Signs.	876.99	Penalty.
876.04	Publication of requirements.		

CROSS REFERENCES

Secondhand dealers - see M.C.L.A. Secs. 445.401 et seq.; B.R. & T. Ch. 856

Junk yards - see M.C.L.A. Secs. 445.451 et seq.

Solicitors - see B.R. & T. Ch. 862

Transient traders - see B.R. & T. Ch. 870

876.01 DEFINITIONS.

As used in this chapter:

"Goods" means any goods, warehouse merchandise or other property capable of being the object of a sale regulated under this chapter.

"Yard sale" means all sales entitled "yard sale," "lawn sale," "garage sale," "attic sale,"

"rummage sale" or "flea market sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82.)

876.02 DURATION AND FREQUENCY.

No person shall conduct a yard sale in the City more than twice within a twelve month period, and no such sale shall be conducted for a period exceeding three consecutive calendar days.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82.)

876.03 SIGNS.

The following rules will apply to the display of any sign displayed for the purpose of advertising a yard sale:

Yard sale signs are permitted in all zoning districts.

(a) Any sign displayed for the purpose of advertising a yard sale must conform with the regulations of Traverse City Code Chapter 1476.

(b) Yard sale signs may be displayed during the sale period only.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82; Ord. 714. Passed 10-16-06)

876.04 PUBLICATION OF REQUIREMENTS.

Not less than annually, the City Clerk shall publish an advertisement in a newspaper of general circulation in the City, which advertisement will clearly define the rules and regulations contained in this chapter.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82.)

876.05 EXCEPTIONS TO CHAPTER.

YARD SALES

This chapter shall not apply to or affect:

Persons selling goods pursuant to an order or process of a court of competent jurisdiction;

Persons acting in accordance with their powers and duties as public officials; or

Persons selling or advertising for sale items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82.)

876.06 APPEARANCE TICKETS.

The Police Chief and the appointed officers of the Police Department, or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (M.C.L.A. 764.9c(2); M.S.A. 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

(Ord. 358. Passed 5-17-93.)

876.07 CIVIL INFRACTION.

A person who violates this chapter is responsible for a civil infraction.

(Ord. 421. Passed 5-15-95.)

876.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 62. Passed 7-17-78; Ord. 140. Passed 8-2-82. Ord. 422. Passed 5-15-95.)

CHAPTER 880

Tax Exemptions

880.01 Title.	880.07 Payment of service charge.
880.02 Findings; purpose.	880.08 Duration.
880.03 Definitions.	880.09 Termination. (Repealed)
880.04 Class of housing developments to which chapter is applicable.	880.10 Severability.
880.05 Establishment of annual service charge.	880.11 Retention of tax exempt status of certain housing developments previously granted such status.
880.06 Resolution; contractual effect.	

CROSS REFERENCES

Tax limit - see CHTR. Sec. 80

Exemptions - see MCL Secs. 141.632, 141.642, 141.652, 141.654, 141.655

Assessment of taxes - see ADM. 230.05

Low Income Housing Tax Exemption - Ch. 881

880.01 TITLE.

This chapter shall be known and may be cited as the Special Needs Housing Tax Exemption Ordinance

(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.02 FINDINGS; PURPOSE.

It is acknowledged that it is a proper public purpose of the State and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401 et seq.; MSA 116.114(1) et seq.). The City is authorized by such Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under the Act at any amount it chooses not to exceed the taxes that would be paid but for the Act. It is further acknowledged that such housing for persons of low income is a public necessity, and as the City will be benefitted and improved by such housing, the encouragement of the same by providing certain real estate tax exemptions therefor is a valid public purpose; further, that the continuance of the provisions of this chapter for tax exemption and the service charge in lieu of taxes during the periods hereinafter contemplated are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance thereon.

(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.03 DEFINITIONS.

As used in this chapter:

- (a) **"Act"** means the State Housing Development Authority Act, being Act 346 of the Public Acts of 1966, as amended.
- (b) **"Authority"** means the Michigan State Housing Development Authority.
- (c) **"Contract rents"** are as defined by the U.S. Department of Housing and Urban Development in regulations promulgated pursuant to the U.S. Housing Act of 1937, as

amended by the Housing and Community Development Act of 1974, and as further amended.

- (d) **"Housing development"** means a development which contains a significant element of housing for persons of low income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines improve the quality of the development as it relates to housing for persons of low income.
 - (e) **"Mortgage loan"** means a loan to be made by the Authority to the sponsor for the construction and permanent financing of the housing development.
 - (f) **"Persons of low income"** means households in which the total income of the occupants, as determined by rules of the United States Department of Housing and Urban Development, does not exceed sixty percent (60%) of the median income of Grand Traverse County.
 - (g) **"Persons with Special Needs"** means Persons of Low Income with a mental illness, disability as defined by the Persons with Disabilities Civil Rights Act, MCL 37.252 et seq., being 2000 PA 1 & 2, HIV/AIDS, substance abuse dependence, long term health disorders, and victims of domestic violence and sexual abuse and such other similar special needs as the City Commission may determine.
 - (h) **"Sponsor"** means persons or entities which have applied to the Authority for a mortgage loan to finance a housing development.
 - (i) **"Utilities"** means fuel, water, sanitary sewer service and/or electrical service.
- (Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.04 CLASS OF HOUSING DEVELOPMENTS TO WHICH CHAPTER IS APPLICABLE.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be non-profit housing corporations that exclusively provide housing for persons with Special Needs of the Grand Traverse Area constructed after the effective date of this Chapter, which developments are financed or assisted pursuant to the Act.

(Ord. 22. Passed 6-20-77. Ord. 513. Passed 10-16-00. Ord. 615. Passed 12-01-03.)

880.05 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

Housing Developments for Persons with Special Needs and the property on which they shall be constructed shall be exempt from all property taxes commencing on the thirty-first day of December in the year in which the notice required under §15a(1) of the Act is filed with the City Assessor. The City, acknowledging that the Sponsor and the Authority have established the economic feasibility of the Housing Development, in reliance upon the enactment and continuing effect of this ordinance and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes will accept payment of an annual service charge in lieu of all property taxes in an amount equal to four percent of the difference between contract rents actually collected and utilities.

(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.06 RESOLUTION; CONTRACTUAL EFFECT.

A Resolution of the City Commission granting tax exempt status, as herein provided, (hereafter called the "Resolution") shall be adopted for each Housing Development qualified under the terms and provisions of this Chapter, except the Housing Developments identified in Section 880.11 of this Chapter. Notwithstanding the provisions of Section 15(a)(5) of the Act to the

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contrary, a contract to provide tax exemption and accept payments in lieu of taxes as previously described will be effectuated by and between the City and the Sponsor, with the Authority as third party beneficiary thereunder, by adoption of such a Resolution by the City Commission and the filing of notice required under §15a(1) of the Act with the City Assessor.
(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.07 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes as determined in this chapter and the Resolution described in Section 880.06, shall be payable in the same manner as general property taxes are payable to the City. The service charge shall be delinquent if not paid by the date after which property taxes incur interest and penalty. If delinquent, the service charge shall be subject to the same collection proceedings, liens, and remedies by the City, County, and State Treasurers as are delinquent real property taxes.

(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03.)

880.08 DURATION

Unless terminated as herein provided, or as may be provided in the Resolution, the tax exempt status of a Housing Development approved for such status by Resolution of the City Commission and by this chapter shall remain in effect and shall not terminate so long as the mortgage loan remains outstanding and unpaid or the Authority has any interest in the property, provided that construction of the housing development commences within one year from the effective date of the contract effectuated by this chapter or the effective date of the Resolution of the City Commission approving the Housing Development for tax exempt status, or the Resolution shall be void and of no effect.

(Ord. 22. Passed 6-20-77. Ord. 615. Passed 12-01-03)

880.09 TERMINATION.

(Ord. 615. Passed 12-01-03. Repealed Ord. 617. Passed 1-5-04.)

880.10 SEVERABILITY.

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this ordinance as a whole or any section or provision of this ordinance other than the section or provision so declared to be unconstitutional or invalid.

(Ord. 615. Passed 12-01-03.)

880.11 RETENTION OF TAX EXEMPT STATUS OF CERTAIN HOUSING DEVELOPMENTS PREVIOUSLY GRANTED SUCH STATUS.

Notwithstanding the provisions of this Chapter to the contrary, the following Housing Developments are of the class of Housing Developments to which this Chapter applies:

- (a) **Fern Street Living Center**. The housing development identified as the Fern Street Living Center Non-Profit Housing Corporation, as sponsor, in connection with said sponsor's mortgage loan from the Authority to erect, own and operate a housing development identified as the "Fern Street Living Center" on certain property located at 803, 805, 809 and 811 Fern Street (property tax code identification number 28-51-111-111-10 and 28-51-111-111-20). To serve persons of low income, it is determined that the Fern Street Living Center is of the class of

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housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes pursuant to this Chapter. All other provisions of this Chapter shall apply to the Fern Street Living Center and its sponsor. Notwithstanding the provisions of Section 880.06 to the contrary, the provisions of this Chapter constitute a contract between the City and the Sponsor, with the Authority as third party beneficiary thereunder, and the effective date of the contract is March 21, 1994.

(b) **Kelley Street Living Center.** The housing development identified as the Kelley Street Living Center Non-Profit Housing Corporation, as sponsor, in connection with said sponsor's mortgage loan from the Authority to erect, own and operate a housing development identified as the "Kelley Street Living Center" on certain property located at 924 Kelley Street (property tax code identification number 28-51-474-023-00). To serve persons of low income, it is determined that the Kelley Street Living Center is of the class of housing developments to which the tax exemption shall apply, and for which a service charge shall be paid in lieu of such taxes pursuant to this Chapter. All other provisions of this Chapter shall apply to the Kelley Street Living Center and its sponsor. Notwithstanding the provisions of Section 880.06 to the contrary, the provisions of this Chapter constitute a contract between the City and the Sponsor, with the Authority as third party beneficiary thereunder, and the effective date of the contract is December 21, 1998.

(c) **Foundation for Mental Health.** The housing development identified as the Foundation for Mental Health Grand Traverse/Leelanau, as sponsor, in connection with said sponsor's mortgage loan from the Authority to erect, own, and operate a housing development identified as the Twelfth Street Non-Profit Housing Corporation on certain property located at 318/320 West Twelfth Street (property tax code identification number 28-51-830-010-00). To serve persons of low income, it is determined that the Twelfth Street Non-Profit Housing Corporation is of the class of housing developments to which the tax exemption shall apply, and for which a service charge shall be paid in lieu of taxes pursuant to this chapter. All other provisions of this chapter shall apply to the Twelfth Street Non-Profit Housing Corporation and its sponsor. Notwithstanding the provisions of Section 880.06 to the contrary, the provisions of this chapter constitute a contract between the City and the Sponsor, with the Authority as third party beneficiary thereunder, and the effective date of the contract is October 16, 2000. (Ord. 381. Passed 3-21-94. Ord. 470. Passed 12-21-98. Ord. 514. Passed 10-16-00. Ord. 615. Passed 12-1-03. Ord. 616. Passed 1-5-04.)

CHAPTER 881

Low Income Housing Tax Exemption

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|------------------------------------------------|------------------------------------------|
| 881.01 Title. | 881.07 Resolution; contractual effect. |
| 881.02 Purpose. | 881.08 Payment of annual service charge. |
| 881.03 Definitions. | 881.09 Duration. |
| 881.04 Class of housing developments. | 881.10 Termination. |
| 881.05 Establishment of annual service charge. | 881.12 Severability. |
| 881.06 Limitation on service charge. | 881.13 Inconsistent ordinances. |

CROSS REFERENCES

- Tax limit - see CHTR. Sec. 80
- Taxation generally - see CHTR. Ch. IX
- Continuation of taxes - see CHTR. Sec. 173
- Tax exemptions generally - See Ch. 880
- State Housing Development Authority Act - see MCLA 125.1401
- Exemptions - see MCLA Secs. 141.632, 141.642, 141.652, 141.654, 141.655
- Municipal tax rates - see MCLA Secs. 211.107a, 211.203
- Assessment of taxes - see ADM. 230.05

881.01 TITLE.

This chapter shall be known as the "Low Income Housing Tax Exemption".
(Ord. 431. Passed 12-4-95.)

881.02 PURPOSE.

It is acknowledged that it is a proper purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing for a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act of 1966 (1966 PA 346, as amended; MCL 125.1401 et seq.; MSA 16.114(1) et seq.). The City is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act, at any amount it chooses, not to exceed the taxes that would be paid but for this Act. It is further acknowledged that such housing for persons of low income is a public necessity and as the City will be benefitted and improved by such housing, that the exemption for such housing is a valid public purpose and that the continuance of the provisions of this Ordinance for tax exemption and the service charge in lieu of taxes during the periods contemplated in this Ordinance are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such Ordinance and service charge. The tax exemption established in §15a of the Act shall not apply to any class of housing projects unless designated by ordinance. This ordinance shall not affect the tax exemption currently enjoyed by any housing development within the City. (Ord. 431. Passed 12-4-95.)

881.03 DEFINITIONS.

As used in this chapter:

LOW INCOME HOUSING TAX EXEMPTION

- (a) "Act" means the State Housing Development Authority Act, being Act No. 346 of the Public Acts of 1966 of the State of Michigan, as amended.
- (b) "Annual shelter rents" means the total collections during an agreed annual period from Persons of Low Income who occupy a Housing Development representing rents or occupancy charges, exclusive of charges for gas, electricity, heat, water and sanitary sewage service or other utilities furnished to the occupants.
- (c) "Authority" means the Michigan State Housing Development Authority.
- (d) "Housing development" means a development which contains a significant element of housing for Persons of Low Income and such elements of other housing, commercial, recreational, industrial, communal, and educational facilities as the Authority determines improve the quality of the development as it relates to housing for Persons of Low Income.
- (e) "Mortgage loan" means a loan to be made by the Authority to the Sponsor for the construction and permanent financing of the Housing Development.
- (f) "Persons of low income" means households in which the total income of the occupants, as determined by rules of the United States Department of Housing and Urban Development, does not exceed sixty percent (60%) of the median income of Grand Traverse County.
- (g) "Sponsor" means persons or entities which have applied to the Authority for a mortgage loan to finance a Housing Development and their successors and assigns in relation to the Housing Development.

(Ord. 431. Passed 12-4-95.)

881.04 CLASS OF HOUSING DEVELOPMENTS.

It is determined that the class of Housing Developments to which the tax exemption under this Ordinance shall apply shall be Housing Developments constructed after the effective date of this Chapter which receive financing from a federally-aided or Authority-aided mortgage or advance or grant from the authority; which contain a mixture of at least thirty percent dwelling units for occupancy by Persons of Low Income and not more than seventy percent of other dwelling units for households in which the total income exceeds sixty percent of the median income for Grand Traverse County for the duration of the tax exemption.

(Ord. 564. Passed 6-3-02. Ord. 566. Passed 6-17-02.)

881.05 ESTABLISHMENT OF ANNUAL SERVICE CHARGE.

Housing Developments for Persons of Low Income and the property on which they shall be constructed shall be exempt from all property taxes commencing on the thirty-first day of December in the year in which the notice required under §15a(1) of the Act is filed with the local assessor. The City, acknowledging that the Sponsor and the Authority have established the economic feasibility of the Housing Development, in reliance upon the enactment and continuing effect of this ordinance and the qualification of the Housing Development for exemption from all property taxes and a payment in lieu of taxes will accept payment of an annual service charge for public services in lieu of all property taxes.

(Ord. 431. Passed 12-4-95.)

881.06 LIMITATION ON SERVICE CHARGE.

Notwithstanding Section 881.05, the service charge to be paid each year in lieu of taxes for that part of the Housing Development which is exempt and which is occupied by other than Persons of Low Income shall be equal to the full amount of the taxes which would be paid on that portion of the Housing Development if the Housing Development were not tax exempt.

(Ord. 431. Passed 12-4-95.)

881.07 RESOLUTION; CONTRACTUAL EFFECT.

A Resolution of the City Commission granting tax exempt status, as herein provided, (hereafter called the "Resolution") shall be adopted for each Housing Development qualified under the terms and provisions of this ordinance. The amount of the annual service charge for that part of the Housing Development which is occupied by Persons of Low Income shall be established in the Resolution. Notwithstanding the provisions of §15a(5) of the Act to the contrary, a contract to provide tax exemption and accept payments in lieu of taxes as previously described will be effectuated by and between the City and the Sponsor, with the Authority as third-party beneficiary under the contract, by adoption of such a Resolution by the City Commission and the filing of the notice required under §15a(l) of the Act with the local assessor.

(Ord. 431. Passed 12-4-95.)

881.08 PAYMENT OF ANNUAL SERVICE CHARGE.

The annual service charge in lieu of taxes as determined under this ordinance and the Resolution described in Section 881.07, shall be payable in the same manner as general property taxes are payable to the City. The service charge shall be delinquent if not paid by the date after which property taxes incur interest and penalty. If delinquent, the service charge shall be subject to the same interest and penalty as delinquent real property taxes and shall be subject to the same collection proceedings, liens, and remedies by the City, County and State Treasurers as are delinquent real property taxes.

881.09 DURATION.

Unless terminated as herein provided, or as may be provided in the Resolution, the tax exempt status of a Housing Development approved for such status by Resolution of the City Commission shall remain in effect and shall not terminate so long as the mortgage loan for such Housing Development remains outstanding and unpaid, or for such period as the Authority or other governmental entity has any interest in the property. However, the construction of such Housing Development must commence within one year from the effective date of the Resolution of the City Commission approving the Housing Development for tax exempt status, as provided in this ordinance or the Resolution shall be void and of no effect.

(Ord. 431. Passed 12-4-95.)

881.10 TERMINATION.

A tax exempt status pursuant to this chapter and the Resolution shall automatically be void and of no effect if any monies due as a service charge required by the Resolution or thereunder, are delinquent for more than ten days after written notice of such delinquency is given to the Sponsor by mail unless a greater time to cure is established in the Resolution.

(Ord. 431. Passed 12-4-95.)

881.11 SEVERABILITY.

LOW INCOME HOUSING TAX EXEMPTION

The various sections and provisions of this chapter shall be deemed to be severable, and should any section or provision of this chapter be declared by any court of competent jurisdiction to be unconstitutional or invalid, the same shall not affect the validity of this ordinance as a whole or any section or provision of this ordinance other than the section or provision so declared to be unconstitutional or invalid.

(Ord. 431. Passed 12-4-95.)

881.12 INCONSISTENT ORDINANCES.

All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are superseded by this ordinance to the extent necessary.

(Ord. 431. Passed 12-4-95.)