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CITY OF EAST LANSING
STATEMENT OF POLICY
ON
ALCOHOLIC BEVERAGE LICENSES FOR CONSUMPTION ON THE PREMISES
AND ENTERTAINMENT LICENSES
Amendments to Policy Adopted
December 17, 1968

Section 1 - General Statements:

1.1 Chapter 18 "ALCOHOLIC BEVERAGES" of the East Lansing City Charter provides:

"It shall be unlawful for any person directly or indirectly, himself or by his clerk, agent or employee, to manufacture, sell, keep for sale, give away or furnish any vinous, malt, brewed, fermented spirits or intoxicating liquors or any mixed liquor or beverages, any part of which is intoxicating, or keep a saloon or any other place where any such liquors are manufactured, sold, stored for sale, given away or furnished in the said City: Provided, however, that the provisions of this act shall not apply to druggists or registered pharmacists, in selling any such liquors under and in compliance with the restrictions and requirements imposed upon them by the general laws of the state."

The provisions of this Section shall not apply to:

- (a) Hotels or motels where there are more than fifty (50) sleeping rooms and where there is a public dining room and general kitchen on the premises for the accommodation of more than fifty (50) diners.
- (b) Restaurants for the accommodation of more than fifty (50) diners.
- (c) The sale of packaged alcoholic beverages where the same are not consumed on the premises.
- (d) "Clubs" licensed under the provisions of the Michigan Liquor Control Act (Act 8 of 1933, as amended).
- (e) Establishments, located in areas hereinafter annexed to the City of East Lansing, which were duly licensed by the State of Michigan for the sale of alcoholic beverages prior to the date of annexation.

- 1.1(1) For purposes of this policy, "restaurant" shall mean an establishment, the primary purpose of which is to cook or prepare and serve food for consumption on the premises and whose printed menu consists of at least ten (10) food items for service to more than fifty (50) patrons on the premises at any one time.
- 1.1(2) For new licenses issued on or after 9/5/1989 and for licenses which are transferred to another party or location after 1/1/1994, a licensed establishment shall be deemed a "restaurant" within the meaning of this policy resolution only if it is continually operated according to the following performance standards:
- (a) There shall at all times be maintained and provided culinary facilities to cook or prepare food for, and tables and seating areas to accommodate dining on the premises by not less than fifty (50) patrons at any time.
 - (b) The proprietor shall make available a varied menu of food items consisting of not less than ten (10) such food items cooked or prepared on the premises.
 - (c) Not more than 50% of the gross floor area open to the general public shall be used for purposes other than seating for diners consisting of tables, chairs, booths and necessary aiseways. Public restroom facilities shall not be considered in this determination.
 - (d) During any ninety (90) day period no more than 50% of the gross revenues of the establishment shall be derived from the sale of alcoholic beverages. Admission charges or cover charges which exceed 10% of the establishment's gross revenues shall be considered as derived from the sale of alcoholic beverages for purposes of determining the percentage of sales of alcoholic beverages. Sales of food or alcoholic beverages to hotel or motel guests for consumption within their private rooms shall not be considered in determining the sales ratios.
 - (e) This section and Section 1.1(3) shall not apply to transfers under the following circumstances:
 - i) Where there is no change in control by the license holder, but a change in corporate or business form, such as the following:

- a) Change from an S Corporation to a C Corporation
- b) Change from a C Corporation to an S Corporation
- c) Change from partnerships or sole-proprietorship to a corporation or change from a corporation to a partnership where there is no change in percentage of ownership.
- d) Adding or substituting new partners or shareholders, so long as the majority shareholder or partner maintains control of the liquor license.
- e) Transfer to a child, brother, sister, or spouse of the person possessing the liquor license.

ii) Where necessitated by the death or divorce of a partner or minority shareholder.

1.1(3) For all new licenses issued on or after 9/5/1989 or transfers after 1/1/1994, the licensee shall, as a condition of said license, agree to provide to the City Manager reports and business records, in the form and manner required by an administrative order to be published by the City Manager and approved by the City Council, to permit the City to review and determine continued compliance with the requirement and performance standards of section 1.1(2) of this policy and Chapter 18 of the City Charter. A licensee's failure to provide such records or information shall be cause for revocation or non-renewal of the license.

1.1(4) The terms which are defined in the Michigan Liquor Control Act, MCLA 436.1 et seq. and the Michigan Liquor Control Commission Rules, R436.1001, et seq. shall have the same meaning when used in this policy statement.

1.2 Applicants for a new liquor license or entertainment license are asking the people, through their duly constituted representatives, for a permit to conduct an alcoholic beverage or entertainment establishment. No applicant, person or firm has any vested interest or "right" to a license. As no one has a "right" to a license, any consideration given to applicants must be secondary to the requirements of the community-at-large. It shall be the responsibility of the City Council to

evaluate each application on an individual basis and to determine that each license is in the best interest of the City.

1.3 Application for new license or entertainment license.

Application: Applications for license to sell beer and wine or spirits or an entertainment license shall be made to the City Council in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statement and information:

1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the information regarding the corporation and its shareholders as required by the Michigan Liquor Control Commission.
2. The citizenship of the applicant, his or her place of birth, and, if a naturalized citizen, the time and place of his or her naturalization.
3. The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date which its charter was issued.
5. The location and description of the premises or place of business which is to be operated under such license.
6. A statement whether applicant has made application in this City for a similar or other license on premises other than described in this application, and the disposition of such application.
7. A statement that applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this policy or the laws of the State of Michigan.

8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the City in the conduct of its business.
9. The application shall be accompanied by building and plat plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off street parking, lighting, refuse disposal facilities, handicap accessibility and, where appropriate, adequate plans for screening, and noise control in conformity with applicable City ordinances, and adequate facility for the preparation and service of food in such variety and amount to be considered a restaurant as defined in Section 1.1(1).
10. Location and narrative description of the cooking and culinary facilities and services, tables, seating arrangements, menu and format sufficient to meet the definition of a restaurant.
11. For transfers after 1/1/1994 to which the requirements of §1.1(2) of this policy will thereafter apply, the applicant shall submit a statement of the gross sales of the business and a statement of the percentage of sales derived from the sale of alcoholic beverages or liquor as defined by MCL 436.2 in the form and manner required by the administrative order issued by the City Manager and approved by the City Council. For those establishments which do not then meet the sales ratio requirements of Section 1.1(2)(d) of this policy at the time of transfer, the applicant shall submit a written plan describing the efforts to be undertaken to achieve the progress thereafter required by Section 5.1 of this policy.
 - a) Proprietary Information. Trade secrets or commercial or financial information received by the City Manager pursuant to this section shall be exempt from disclosure to the public as a public record and shall not be published pursuant to the provisions of MCL 15.243 if the proprietor requests that the records be confidential, except that such records shall be admissible before all courts and administrative tribunals in proceedings brought for the purpose of enforcing this Policy.

1.4

Without limiting the authority of the Council, no license shall be issued to:

1. A person whose license has been previously revoked for cause.
2. A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
3. A corporation, if any officer, manager or director thereof, or a stock owner would not be eligible to receive a license hereunder for any reason.
4. A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
5. A person who has been convicted of a violation of any federal or state law or local ordinance concerning the manufacture, possession or sale of alcoholic liquor.
6. A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued.
7. A person who has been adjudicated by any court or state or local administrative tribunal to have violated any federal or state statute, or local ordinance, or published regulation prohibiting discrimination in employment or public accommodation.
8. For premises where there presently exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, or applicable public health codes.
9. For premises where it is determined by a majority of the Council that the premises do not or will not reasonably soon after commencement of operations have adequate off-street parking, light, refuse disposal facilities, screening, noise, or nuisance control, and accessibility to handicapped patrons and employees.
10. Where the Council determines that the proposed location is inappropriate considering any of the

following factors, by way of illustration and not a limitation of its inherent powers; the attitude of adjacent residents and property owners; traffic safety; accessibility to the site from abutting roads; capability of abutting roads to accommodate the commercial activity; distance for public or private schools for minors; proximity of any inconsistent zoning classification; accessibility from primary roads or state highways; business and moral character of the prospective licensee; compatibility with the goals, objectives, and policies of the City's comprehensive plan; and number and nature of existing licenses in a particular zoning district to the extent that other permitted or desired uses within the zoning district are excluded or discouraged from locating or remaining there.

11. Where the Council determines that the proposed location or establishment will not preserve or enhance the City's real or personal property assessed valuations; will not preserve or expand assessed valuations; will not preserve or expand opportunities for employment; will not promote local or family business ownership; or will not encourage a diversity of service of food or format to the residents of the City.
12. Where, because of peculiar circumstances of time and place, the City Council finds other reasons that suggest the application would not be in the best interests of the City.

Section 2 - Application Process:

- 2.1 Each applicant seeking any new, or a reclassification of an existing licensee, must make an application pursuant to Section 1.3 to the City on forms that will be provided by the City Clerk. Such an application pertains to City of East Lansing approval only, and is in addition to the separate application required by the Liquor Control Commission.
- 2.2 Upon receipt of an application for a license, it shall be placed on file in the office of the City Manager. The applicant shall submit, to the Office of the City Manager, the following:
 1. A minimum of three character witnesses.

2. A written statement showing history of business activity, if any.
 3. Drawings and written description showing where and how the proposed establishment will operate, and describing any distinguishing or distinctive features regarding food or format.
 4. Evidence that the establishment will conform to the current standards of existing building ordinances, and other municipal laws and regulations, and that all new applicants conform to the current zoning ordinances.
 5. A written statement describing the financial investment to be made by the applicant to establish the business, and estimate of the increase in real and/or personal property state equalized valuations to be generated thereby, and a statement of the estimated number of temporary and permanent jobs to be created and/or retained by such investment.
 6. Evidence to show the applicant has the financial ability to complete his or her project according to his or her plans and within a reasonable period of time.
 7. A complete copy of the application to be submitted to the Michigan Liquor Control Commission and any other information that may be requested by the City Manager that is pertinent to the proper consideration of the application.
- 2.3 If the above information is not received within sixty days from date of application, the application will automatically be returned to the applicant without further consideration. Receipt of the above information, however, is not a guarantee of acceptance.
- 2.4 An applicant for a entertainment license pursuant to the liquor code must provide a description of the entertainment to be offered. The applicant may substitute information from his or her previous liquor license application in satisfaction of the other information required by Section 2.
- 2.5 When all of the above information has been submitted by the applicant, the City Manager shall cause a thorough investigation to be made of the persons and premises. The findings and recommendations resulting from such investigations shall be reported by the City Manager to

the City Council within sixty (60) days of receipt of all required information and the City Manager shall notify the applicant as to the date of such completeness.

Section 3 - Tentative License Approvals:

- 3.1 If the City Council is satisfied that the establishment, for which a new license is requested is in the best interest of the City of East Lansing, it may adopt a resolution granting tentative approval, subject to satisfaction of conditions stated in the resolution.
- 3.2 Tentative approval is not transferable. Tentative approval is valid for not more than six (6) months from date of issuance, after which time its continuance is subject to review by the City Council.
- 3.3 "Tentative Approval" does not result in the issuance of a license, but does assure the applicant that the City Council will approve his or her license when his or her building, remodeling or other facilities have been completed as presented in his or her presentation to the City, and he or she has complied with all terms of the tentative approval resolution.
- 3.4 A copy of the resolution granting tentative approval will be sent to the Liquor Control Commission enabling said Commission to complete its investigation. The phrase, "Subject to Final Approval" shall be included in the tentative approval resolution.

Section 4 - Final License Approvals:

- 4.1 When it is determined that the applicant has met all State regulations, current standards of existing City Building and Zoning Codes, Sanitary and Fire Regulations, and all provisions of this Statement of Policy where applicable, the City Council will adopt a resolution recommending to the Liquor Control Commission that a license be issued.
- 4.2 A copy of the City's resolution recommending final approval will be sent to the Liquor Control Commission for final action.

Section 5 - Renewal and Revocation of Licenses:

- 5.1 The City Manager shall cause an annual review of each licensee. All applicants and licensees should be aware that, once a license is received, compliance with all State and City regulations regarding the sale of

alcoholic beverages, and current standards of existing City Building, Zoning, health, Fire, Safety and Civil Rights Codes is necessary.

If applicable, the licensee shall demonstrate that it has met on an annual basis the requirements of Section 1.1(2) of this policy. If the licensee has not met the requirements of Section 1.1(2)(d) during the most recently completed calendar year, the applicant must demonstrate progress toward meeting such requirements. Progress shall be measured by examining the ratio of alcoholic beverage sales during the most recently completed calendar year as compared to the ratio for the preceding calendar year. The City Council in its discretion may also consider marketing initiatives taken by the licensee to improve the ratio and any other affirmative steps taken by the licensee to comply with said requirement.

A violation of any provision of these regulations or codes, an unacceptable incidence of minors in possession of alcoholic beverages, or the maintenance of a public nuisance can result in the City Council's initiation of non-renewal or revocation proceedings. At the conclusion of the non-renewal or revocation proceedings, the City Council may file an objection to renewal or request revocation of the license with the Liquor Control Commission.

5.2 The non-renewal or revocation proceedings shall consist of the following:

1. Serve notice to the licensee, by first class mail, not less than ten (10) days prior to hearing the reasons for the proposed administrative action and the date, time and place of the hearing.
2. A hearing before the City Council, or an independent hearing examiner appointed by the Council, which provides the licensee an effective opportunity to defend by confronting any adverse witness and being allowed to present in person witnesses, evidence, and arguments. An independent hearing examiner shall summarize the facts and make an appropriate written report to the Council. The hearing shall not be stenographically reported unless the licensee makes provision therefor.
3. A written statement of findings made by the City Council shall be submitted to the licensee.

- 5.3 At the conclusion of the non-renewal or revocation proceedings, the City Manager shall submit to the Liquor Control Commission the following material:
- A. A certified copy of the notice sent to the licensee.
 - B. A certified copy of the statement of findings made by the City Council.
 - C. A certified copy of the resolution adopted by the City Council objecting to renewal of the license or request for revocation, which, in the case of non-renewal, shall be submitted before April 1 of each year.
- 5.4 All licensees should be aware that the Liquor Control Commission has stated that if the procedures outlined in Sections 5.2 and 5.3 are properly followed, the license shall not be renewed in accordance with Section 17 of the Michigan Liquor Control Act.
- 5.5 At least one hundred twenty (120) days before a license is due for renewal, a licensee may request, in writing, that the City Manager make known his or her intent to recommend to the City Council whether the City should or should not initiate non-renewal or revocation proceedings for purposes of filing an objection with the Liquor Control Commission and, if initiation of proceedings is to be recommended to the City Council, what corrective action the licensee must take to be subject for approval. The City Manager shall have thirty (30) days to acknowledge such request. In no way will recommended action by the City Manager be considered as approval by the City Council.

Section 6 - Transfer of License:

- 6.1 The transfer of a license, or any interest therein, from a licensee to another party or parties shall be handled and considered in the same manner as all original license applications and shall be in conformity with the standards set forth in Section 1 and hereafter stated.
- 6.2 No licensee shall transfer location of the license, nor make any alterations in the physical structure of the licensed premises, nor install any additional bars, without the consent of the City Council being first duly obtained; provided, however, unless otherwise specified, if it shall be unnecessary to obtain Liquor Control Commission approval regarding alterations in the physical

structure, it shall not be necessary to seek and obtain City Council approval.

6.3

The transfer of a license to another party or location may be denied by the City Council based upon one or more of the following considerations, which shall be communicated to the applicant in a written, although relatively informal, statement of findings by the City Council:

1. Because of the moral character of the applicant.
2. Where the applicant does not have sufficient assets for the successful operation of the proposed business.
3. Where the existing or proposed premises are subject to unpaid real or personal property taxes or unpaid charges for City utility services.
4. Where the proposed location is not properly zoned for the intended use or where the use is not in conformity with the City comprehensive plan.
5. Because of the unfitness of the particular building, as where it fails to comply with established State or Local health, safety, fire, building, electrical, mechanical, plumbing, or barrier free codes or regulations.
6. Where the proposed location generates a traffic or parking problem or causes an unreasonably heavy surcharge of traffic or parking demands on adjacent residential areas.
7. Where the zoning district of the proposed location has numerous existing licensed premises to the extent that other permitted or desired uses within the zoning district are excluded or discouraged from locating or remaining there.
8. Where, because of peculiar circumstances of time and place, the City Council finds other legitimate bases that would reasonably justify a refusal.

Section 7 - Special Requirements:

Required parking areas shall have adequate lighting, with no less than one lumen per square foot in the least illuminated portion of the parking area, drives and walkways. The lighting system shall be constructed so

as not to unduly interfere with the uses of the adjacent properties.

Section 8 - Limitations of Total Licenses Granted:

At the present time, the City of East Lansing is authorized to issue a total of thirty four (34) class "C", Tavern, or Hotel "A" or "B" licenses. It is not, however, the intent of the City Council to recommend the issuance of the maximum number of licenses permitted by law. The number approved will be based upon what is considered to be in the best interest of the City.

Adopted: 9/5/89

