

**CITY COMMISSION  
CITY OF HUDSONVILLE  
OTTAWA COUNTY, MICHIGAN**

**ORDINANCE NO. 08-264**

Commissioner Brandsen, supported by Commissioner Ten Harmsel, moved the adoption of the following ordinance:

**AN ORDINANCE TO AMEND CHAPTER 3, "ALCOHOLIC BEVERAGES," OF THE CODE OF ORDINANCES OF THE CITY OF HUDSONVILLE**

**THE CITY OF HUDSONVILLE ORDAINS:**

**Section 1. Amendment to Chapter 3 of the Code of Ordinances.** Chapter 3 of the Code of Ordinances is amended in its entirety to read as follows:

Chapter 3

**SALE OF ALCOHOLIC BEVERAGES**

**ARTICLE I. LICENSES FOR SALE OF ALCOHOLIC BEVERAGES**

**Sec. 3-1. Interpretation.**

This chapter shall be interpreted in harmony with Act 58 of the Public Acts of Michigan of 1998, as amended ("Act 58"), and the rules promulgated thereunder, and where the provisions of this chapter and Act 58 or the rules promulgated thereunder conflict, the provisions of Act 58 or rules promulgated thereunder shall control.

**Sec. 3-2. Definitions.**

All terms and phrases used in this chapter and not otherwise defined herein shall be interpreted using the definitions provided in Act 58.

**Sec. 3-3. Application for license and payment of fee.**

(a) Where Act 58 and the rules promulgated hereunder require the approval of the local legislative body for the issuance of an alcoholic liquor license or for the transfer, change of classification or other modification of an alcoholic liquor license, the person requesting the issuance, transfer, change or modification of the license shall make an application for such action to the city commission by filing an application with the city clerk.

(b) Upon the filing of an application as provided for in this section, a fee as established from time to time by the city commission shall be paid.

**Sec. 3-4. Un-issued licenses.**

Notwithstanding the terms and conditions of this chapter, the city commission is under no obligation to issue any of the remaining un-issued licenses available at any given time.

**Section 3-5. Reservation of authority.**

No applicant for a liquor license has the right to the issuance of such license to him, her, or it. The city commission reserves the right to exercise reasonable discretion to determine who, if any, shall be entitled to the issuance of such license. Additionally, no applicant for a liquor license has the right to have such application processed and the city commission further reserves the right to take no action with respect to any application filed with the city commission. The city commission further reserves the right to maintain a list of all applicants and to review the same when, in its discretion, it determines that the issuance of an additional liquor license is in the best interest of the city at large and for the needs and convenience of its citizens.

**Section 3-6. Establishments open during prohibited hours of sale.**

Any licensee licensed by the state liquor control commission to sell alcoholic beverages who shall remain open for business during the hours of any day when such sales are prohibited, shall at all times during such hours of prohibited sales, securely lock, remove from the retail sales area, or otherwise secure any alcoholic beverages so as to prevent their sale or possible sale during such hours.

**ARTICLE II. SALE FOR ON-PREMISES CONSUMPTION**

**DIVISION 1. GENERALLY**

**Sec. 3-21. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverage* includes any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary, patented and by whatever name called, containing one-half of one percent or more of alcohol by volume and which is fit for use for beverage purposes.

*Applicant* means any person who seeks approval from the city commission to sell alcoholic beverages.

*Conference center* means a building or any portion which, in the judgment of the city commission, is a bona fide conference center and meets the following requirements and such other requirements as the city commission deems appropriate:

- (1) The conference center is used solely pursuant to a rental agreement signed in advance by a member of the organization, institution, entity or group desiring to use the conference center or any portion thereof;
- (2) The conference center is rented predominantly for functions, such as meetings, conferences, lectures, seminars, live speaking engagements, weddings, receptions and banquets;
- (3) The conference center has a full service kitchen used for preparing on premises and serving complete dinners and meals.
- (4) The conference center contains a business office which maintains regular and normal business hours of operation; and
- (5) The seating and/or table configuration in each room of the conference center is transitory.

*Licensee* means any person who has been granted a license to sell alcoholic beverages in the city by the state liquor control commission.

*Motel* and *hotel* means buildings which, in the judgment of the city commission, are to be regularly used and kept open as such in a bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and are able and ready to pay for such services are received, if there be any accommodations for them.

*Premises* includes all of the areas used in carrying out the primary normal functions of the business of the licensee, except such areas as are specifically excluded in other provisions of this article.

*Restaurant* means a dining facility with a full service kitchen preparing on premises and serving complete dinners and meals, and shall not be construed to mean an establishment selling only sandwiches and/or other short order foods, such as, but not limited to, pizzas, hors d'oeuvres, pancakes and other specialty foods.

*Sale* includes the exchange, barter, traffic or furnishing of any alcoholic beverage.

*Spirits* means any beverage which contains alcohol obtained by distillation, mixed with potable water and other substances in solution, and includes, among other things, wine containing an alcoholic content of over 16 percent by volume.

**Sec. 3-22. Authority of city commission.**

This article shall not operate to limit any power or authority vested in the city or the city commission by virtue of any existing constitutional or statutory provision, and shall be considered to be only supplementary to the exercise or use of such vested authority.

**Sec. 3-23. Inspections.**

(a) *Authority.* Inspections may be made of all premises licensed under this article in order to safeguard the health, safety and welfare of the public. The city officials conducting such inspections may enter any licensed premises during any hours in which the premises are open to the public for the purpose of conducting an inspection, and shall be entitled to inspect all portions of the premises, including, but not limited to, those portions used for storage, or food or beverage preparation. The licensee, as well as every employee or agent of the licensee, shall give the city official conducting such inspection free access to all areas of the licensed premises.

(b) *Basis.* An inspection shall be conducted in the manner best calculated to secure compliance with this code. Inspections may be on any one or more of the following basis:

- (1) When any inspecting city official has reasonable cause to believe that a violation of any city ordinance has occurred or is occurring.
- (2) Periodically and at such times deemed reasonable and appropriate by the city.

(c) *Administrative search warrant.* If any person shall deny access to a city official performing an inspection pursuant to this section, the city shall be entitled to the issuance of an administrative search warrant from a court of competent jurisdiction. The city attorney shall prepare the warrant application, which shall include the name of the business; the address of the building to be inspected; the nature of the inspection; and the facts attesting that access to the premises has been denied in contravention to this section. Upon a finding by the court that the warrant application is in proper form and in accord with this section, an administrative search warrant shall be issued forthwith. In the event of an emergency, or where probable cause exists to believe that evidence of criminal activity is present within the licensed premises, no such warrant shall be required.

**Sec. 3-24. Conduct on the premises.**

No licensee or agent, servant or employee of a licensee shall:

- (1) Either directly or indirectly sell, furnish or deliver any alcoholic beverage, beer or wine to any person unless such person shall have attained the age of 21 years; nor shall any licensee, either directly or indirectly by himself or by any agent, servant or employee, at any time, sell, furnish or deliver any alcoholic beverage to any person who is under the influence of alcoholic beverages.

- (2) Refuse, fail or neglect to cooperate with any law enforcement officer in the performance of such officer's duties.
- (3) Allow in or upon his licensed premises any improper conduct, disturbances, lewdness, indecent, profane or obscene language, songs, entertainment, literature, pictures or advertising materials; or cause to have printed or distributed any lewd, immoral, indecent or obscene literature, pictures or advertising materials.
- (4) Suffer or allow in or upon the licensed premises the annoying or molesting of patrons or employees by other patrons or employees.
- (5) Permit the licensed premises to be frequented by or become the meeting place, hangout or rendezvous for known prostitutes, vagrants or those who are known to engage in the use, sale or distribution of narcotics or any other illegal activity or business.
- (6) Allow upon the licensed premises slot machines, punch or pull cards, dice games, card games, or any gambling or gambling devices, machines or apparatus, or gambling or gaming of any kind whatsoever. The presence of any such device, machine or apparatus upon the premises of any licensed establishment shall be prima facie evidence of a violation of this subsection.
- (7) Serve to or permit any patron to consume an alcoholic beverage unless such patron is either seated or standing at a bar or seated at a table or counter; *provided, however*, that the sale and/or consumption of alcoholic beverages is permitted in hotels and motels in such areas as meeting rooms, patios, swimming pool areas and guest rooms. The sale and/or consumption of alcoholic beverages in such area as a hallway, lobby, driveway or parking lot is expressly prohibited.
- (8) Permit the sale of alcoholic beverages upon any portion of the premises which shall have been leased, sold or the right to possession of which shall have been transferred to another person who is not licensed.

### **Sec. 3-25. Menus.**

Every licensee shall present, upon request, a plainly printed list or menu showing the various types and prices of alcoholic beverages which he, she or it offers for sale.

## DIVISION 2. LICENSES

### **Sec. 3-31. Applications; administrative review; determination, transferability; term; reservation.**

(a) *Applications.* Applications for licenses to sell alcoholic beverages for on-premises consumption shall be made in writing to the city clerk which may be of the same form(s) as that required by the liquor control commission. The city clerk shall not accept applications if no licenses are presently available. The application shall be made in the manner and on such forms as may be required by the state liquor control commission and city clerk and shall be signed by the applicant, if an individual, or by a duly authorized agent of the applicant, if the applicant is other than an individual, and verified by oath or affidavit. The application shall contain the following statements and information:

- (1) The name, age and address of the applicant in the case of an individual, or the name and address of the applicant in the case of a co-partnership, plus the names and addresses of each partner; or the name and address of the applicant in the case of a corporation, plus the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his or her nominee, the name and address of such person, plus the name and address of all managers and assistant managers. The social security number and driver's license number shall be provided for each individual, partner, officer, director and stockholder listed.
- (2) In the case of an individual, the citizenship and place of birth of the applicant and, if a naturalized citizen, the date and place of his naturalization.
- (3) The length of time the applicant has been in a business of that nature, or, in the case of a corporation or other entity, the date of its incorporation or formation.
- (4) The location and description of the premises or place of business which is to be operated under such license.
- (5) A statement whether the applicant has made application for a similar or other license on a premises other than described in the application, and the disposition of such application.
- (6) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this code, or state or federal law.
- (7) The application shall be accompanied by building and site plans showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate

off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control, as well as compliance with all other city ordinances.

(b) *Administrative review.* Upon receipt of the application, and if the type of license sought is available for issuance, the city clerk shall forthwith refer the application to the city manager, the law enforcement agency providing law enforcement services in the city, fire chief and other necessary departments. The city manager, the law enforcement agency providing law enforcement services in the city, fire chief and necessary departments shall each cause a thorough investigation to be made of all of the persons and the premises identified in the application, and shall prepare and forward a report detailing the results of that investigation to the city clerk. In cases where the applicant's premises are not completely built, the applicant shall also file a complete set of plans and specifications as may be necessary to enable the building inspector and fire inspector to determine whether or not such premises, when completed, will meet all the requirements of this chapter. The city clerk shall assemble the completed reports and forward them, along with the application, to the city commission.

(c) *Determination.* Upon receipt of the application and administrative investigation reports, the city commission shall make its determination with respect to the license application. The city commission's determination shall be based upon satisfactory compliance with the provisions of this article. Approval of the city commission shall require a majority vote.

(d) *Transferability.* The approval given an applicant is not transferable without the prior consent of the city commission. Once approved, the applicant may not transfer the location of the establishment for which approval was given without the prior consent of the city commission.

(e) *Term.* Approval of a license shall be for a period of one year, subject to annual renewal by the city commission upon continued compliance with the regulations of this article. Approval of a license shall be conditioned on commencement of any necessary remodeling or new construction for the use of the license within six months of the action of the city commission or state liquor control commission approving such license, whichever occurs last. Failure to complete such remodeling or construction within one year may subject the license to revocation.

(f) *Reservation.* Nothing in this division shall be construed to require the city or city commission to issue or approve the issuance of a license that may be available. The decision of whether a license shall be issued shall be determined in the sole discretion of the city commission.

### **Sec. 3-32. Reasons for denial.**

A license application shall be denied:

- (1) For any person, partnership or corporation whose license under this division has been revoked for cause.
- (2) For a partnership, unless each partner would qualify to obtain a license.

- (3) For a corporation or other entity, if any officer, manager or director thereof, or a stock owner or stockholder owning, in the aggregate, more than five percent of the stock of such corporation would not be eligible to receive a license under this division for any reason.
- (4) For any person, partnership or corporation whose place of business is conducted by a manager or agent unless such manager or agent possesses the qualifications required of the licensee.
- (5) For a person who has been convicted in a court of law of a felony.
- (6) For any person, partnership or corporation who has been convicted or found responsible for three or more liquor license violations by any administrative tribunal, such as the state liquor control commission, at any one licensed establishment.
- (7) For a person who does not own or have an option to purchase the location for which a license is sought or does not have a lease therefor for the full period for which the license is issued.
- (8) For a location where there exists an uncorrected violation of the applicable construction, building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations or any violation of any ordinance or other applicable law, rule, regulation, order or directive.
- (9) For a location where it is determined by a majority vote of the city commission that the premises does not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, or noise or nuisance control.
- (10) Where the city commission determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; 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 from public or private schools for minors; proximity of an inconsistent zoning classification; and accessibility from primary roads or state highways.

### **Sec. 3-33. Classifications.**

Licenses shall be classified as follows:

- (1) "Class A" license, which shall mean a hotel or motel licensed to sell beer and wine at retail for consumption on the premises.
- (2) "Class B" license, which shall mean a hotel or motel licensed to sell beer, wine and spirits at retail for consumption on the premises.
- (3) "Class C" license, which shall mean any place, other than a hotel or motel, licensed to sell beer, wine and spirits at retail for consumption on the premises.
- (4) "Tavern" license, which shall mean any place, other than a hotel or motel, licensed to sell beer and wine at retail for consumption on the premises only.

**Sec. 3-34. Renewal and revocation.**

(a) *Authority of city commission.* The city commission may, by resolution, recommend to the state liquor control commission the non-renewal or revocation of an existing license governed by this division upon its determination, based upon evidence presented at a public hearing, that the licensee has violated any standard or prohibition contained within this article.

(b) *Hearing notice; statement of findings.*

- (1) Before filing an objection to a renewal or a request for revocation of a license with the state liquor control commission, the city commission shall hold a public hearing. The city clerk shall cause a notice of hearing to be sent to the license holder, by first-class mail, mailed not less than ten days prior to the hearing, which notice shall contain, at a minimum, the following:
  - a. A description of the proposed action.
  - b. The reasons for the proposed action.
  - c. The date, time and place of the hearing.
  - d. A statement that the licensee may present evidence and testimony.
- (2) Following the hearing, the city commission may file with the state liquor control commission a written statement of its findings and determination. The city commission shall cause a copy of any such statement to be sent to the license holder by first-class mail.

(c) *Standards for recommendations.* The city commission may recommend to the state liquor control commission that a license not be renewed or that a license be revoked upon

its determination, based upon evidence presented at a public hearing, that any one or more of the following has been engaged in or has been permitted to occur on the licensed premises:

- (1) A violation of any of the restrictions on licenses provide in this division.
- (2) Maintenance of a public nuisance.
- (3) The licensee has provided false, fraudulent or misleading information in an original license application or in an application for a license renewal.
- (4) The licensee has permitted the consumption of spirits on the premises during a period in which the licensee is not licensed to sell or allow the consumption of spirits.
- (5) The licensee has permitted dancing or live entertainment, open to the public, with or without an admission charge, without first obtaining a valid dance or entertainment permit.
- (6) The licensee, or any agent or employee of the licensee, has, on any portion of the licensed premises, sold, given or delivered an alcoholic beverage to any person who has not attained the age of 21 years.
- (7) The licensee, or any agent or employee of the licensee, has, on any portion of the licensed premises, sold, given or delivered an alcoholic beverage to any person who is visibly intoxicated because of the consumption of an alcoholic beverage or a controlled substance.
- (8) Any disorderly conduct, or any conduct or activity which disturbs the peace, tranquility and good order of the surrounding neighborhood, within or upon any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles.
- (9) Any incident of prostitution or solicitation for prostitution within or upon any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles.
- (10) Any incident of larceny or fraud involving the licensee, or any agent or employee of the licensee, within or upon any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles.
- (11) Any incident of gambling activity, including the placing of a gambling apparatus or gambling paraphernalia within or upon any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles. The presence of any such apparatus or paraphernalia upon the premises of any licensed establishment shall be prima facie evidence of a violation of this subsection.

- (12) Any unlawful possession or use of any substance regulated by the Michigan Controlled Substance Act within or upon any portion of the premises, including that portion of the premises used for the parking of motor vehicles.
- (13) The licensee has utilized interior lighting which is a minimum of one footcandle at tabletop level.
- (14) Any violation of any other provision of this code, or any violation of any statute or governmental code, regulation, standard or directive, or any violation of any order of any court, commission or tribunal having jurisdiction of the premises of the licensee.
- (15) Any nonpayment or repeated delinquent payment of any local personal property or real property tax or special assessment.
- (16) Any nonpayment or repeated delinquent payment of any civil or criminal fine, or any city administered utility bill or administrative service fee provided by or through the city.
- (17) Any failure by the licensee to obtain, or maintain as current, any license or permit required by the city or any unit of federal, state, county or city government.
- (18) Any failure by the licensee to keep in good repair or maintain any portion of the licensed premises, including that portion of the premises used for the parking of motor vehicles, in full compliance with any law or standard promulgated by the city or any unit of federal, state or county government.
- (19) Any failure by the licensee, or any of the licensee's agents or employees, to cooperate with any federal, state, county or city official acting in the lawful performance of his duty.
- (20) Any failure by the licensee, or the licensee's agent or employee, to cooperate with any law enforcement officer in the lawful performance of his duty.

### **DIVISION 3. PHYSICAL REQUIREMENTS FOR PREMISES**

#### **Sec. 3-41. Generally.**

(a) Every establishment dispensing alcoholic beverages shall be maintained in good safe repair. Any establishment which is structurally unsafe or is not provided with adequate ingress and egress or which constitutes a fire hazard or is otherwise dangerous to human life or constitutes a hazard to safety or health by reason of inadequate maintenance shall not be approved as a licensed establishment.

(b) All licensees shall be governed by, and shall observe all regulations pertaining to, sanitation and health as promulgated by the city and/or the county.

**Sec. 3-42. Seating capacity.**

(a) All hotels and/or motels selling alcoholic beverages for consumption on the premises under a "Class A" or "Class B" license shall be required to have 20 or more guest rooms and a restaurant having a dining table capacity of not less than 75 persons, and if additional counter or bar space is provided for the dispensing and sale of alcoholic beverages, such counter or bar space shall be limited in size so as to not accommodate more than 20 percent of the seating capacity of the entire dining room in which the counter or bar is located.

(b) All establishments which are not a part of a hotel, motel or conference center operation selling alcoholic beverages for consumption on the premises shall have a restaurant with a dining table capacity for not less than 150 persons, and if a bar or counter space is provided for the dispensing and sale of alcoholic beverages, such bar or counter space will occupy not more than 20 percent of the seating capacity of the dining room.

**Sec. 3-43. Illumination.**

The minimum intensity of illumination prevailing in all parts of licensed establishments providing alcoholic beverages for consumption on the premises, at tabletop level, shall be one footcandle.

**Section 2. Effective Date.** This ordinance shall take effect upon its publication, or a summary thereof as permitted by law, in a newspaper of general circulation in the City.

**Section 3. Publication.** After its adoption, this ordinance, or a summary thereof as permitted by law, shall be published by the City Clerk in *The Grand Rapids Press*, a newspaper of general circulation in the City.

Approved this 11th day of March, 2008.

YEAS: Commissioners Brandsen, Ten Harmsel, Leerar, O'Brien, Unema and Mayor Van Doeselaar

NAYS: Commissioners None

ABSTAIN: Commissioners None

ABSENT: Commissioners Kooistra

We hereby certify that the foregoing was adopted by the Hudsonville City Commission at a public session held on March 11, 2008.

Dated: March 11, 2008

\_\_\_\_\_  
Donald Van Doeselaar, Mayor

\_\_\_\_\_  
Jan K. Wiersum, Clerk

**CERTIFICATION**

I, the undersigned City Clerk of the City of Hudsonville, certify that the foregoing ordinance or a summary thereof, as permitted by law, was published in *The Grand Rapids Press*, a newspaper of general circulation in the City of Hudsonville on \_\_\_\_\_, 2008, and was entered into the Ordinance Book of the City of Hudsonville on \_\_\_\_\_, 2008.

Dated: \_\_\_\_\_, 2008

\_\_\_\_\_  
Jan K. Wiersum, City Clerk