

Oak Park

Special Council Meeting

December 7, 2015





CITY OF OAK PARK

City Clerk

Mayor
Marian McClellan
Mayor Pro Tem
Carolyn Burns
Council Members
Kiesha Speech
Solomon Radner
Ken Rich
City Manager
Erik Tungate

NOTICE

SPECIAL COUNCIL MEETING OF THE 36th OAK PARK CITY COUNCIL

December 7, 2015

5:30 PM

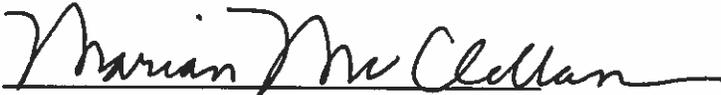
Notice is hereby given that a Special City Council Meeting of the Oak Park City Council is scheduled for December 7, 2015 at 5:30 PM and will be held in the Executive Conference Room of Oak Park City Hall, 14000 Oak Park Blvd., Oak Park, Michigan 48237.

The purpose of the Special Meeting is to conduct the following Special Business:

- A. Discuss amendments to City Ordinances related to Alcoholic Liquor
- B. CLOSED SESSION
Pursuant to Section 8 of the Open Meetings Act to convene into a Closed Session to discuss Attorney Client Privileged Communication, Pending Litigation, Collective Bargaining Agreements and a Periodic Contract Review of the City Manager.
- C. City Manager Contract Extension

Notice of the above meeting of the City of Oak Park is given in compliance with the Charter, Section 7.2, and with provisions of Public Act No. 267 of 1976, as amended.

The City of Oak Park will comply with the spirit and intent of the American with Disabilities Act. The City will provide support and make reasonable accommodations to assist people with disabilities to access and participate in our programs, facilities and services. Accommodations to participate at a Special Council Meeting will be made with prior notice.


Marian McClellan, Mayor



BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN

AGENDA OF: December 7, 2015

AGENDA #

SUBJECT: Recommendation of the Planning Commission for a Zoning Ordinance amendment to amend Appendix A – Zoning, Section 1930 of Article XIX, Section 802 of Article VIII, and Section 1401 of Article XIV.

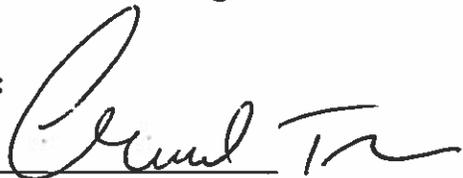
DEPARTMENT: Community & Economic Development

SUMMARY: At the November 9, 2015 meeting, the Planning Commission conducted a Public Hearing regarding proposed changes to the City of Oak Park Zoning Ordinance. The proposed text amendments make adjustments to the liquor licensing requirements as follows:

- All references to “beer and wine” throughout Zoning Ordinance are changed to the all-encompassing “alcoholic liquor”.
- Section 1930 B, D, & E are removed and relocated to General Code.
- The minimum number of 40 patrons for a restaurant to receive approval has been eliminated.
- The spacing requirement has been modified to follow the Michigan Liquor Control Code measurement practice and excludes any adjacent properties to a school or place of worship. In addition, the spacing requirement only refers to schools and places of worship and no longer from parks.
- A provision has been added similar to the Michigan Liquor Control Code that allows City Council to waive the spacing requirement if the school or place of worship does not object to the restaurant serving alcohol and City Council determines the establishment will not adversely affect the operation of the school or place of worship.

FINANCIAL STATEMENT: Not applicable

RECOMMENDED ACTION: The City Council consider accepting the recommendation of the Planning Commission and conduct the first reading of the proposed text amendment to the City of Oak Park Zoning Ordinance, Appendix A – Zoning, Section 1930 of Article XIX, Section 802 of Article VIII, and Section 1401 of Article XIV.

APPROVALS:
City Manager: 

Director: 

Finance Director: _____

EXHIBITS: ordinance

**CITY OF OAK PARK
OAKLAND COUNTY, MICHIGAN**

ORDINANCE NO.

AN ORDINANCE TO AMEND APPENDIX A - ZONING, OF THE CODE OF ORDINANCES, CITY OF OAK PARK, MICHIGAN, BY AMENDING SECTION 1930 OF ARTICLE XIX, SECTION 802 OF ARTICLE VIII, AND SECTION 1401 OF ARTICLE XIV.

THE CITY OF OAK PARK ORDAINS:

SECTION 1. Article XIX, Special Land Uses, Section 1930, Restaurants Serving Beer or Wine, of Appendix A-Zoning, of the Code of Ordinances, City of Oak Park, is hereby amended to read as follows:

Sec. 1930. Restaurants Serving Alcoholic Liquor.

Restaurants, serving alcoholic liquor may be permitted in certain districts specified in this ordinance, if the establishment is continually operated according to the following

- A. There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises. ~~by not fewer than 40 patrons at any time.~~
- B. ~~The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises. (This provision included in the General City Code)~~
- C. Not more than 50 percent 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 aisle ways. Public restroom facilities shall not be considered in this determination.
- D. ~~During any 90-day period, no more than 50 percent of the gross revenues of the establishment shall be derived from the sale of alcoholic liquor. Admission charges or cover charges which exceed ten percent of the establishment's gross revenues shall be considered as derived from the sale of alcoholic liquor for purposes of determining the percentage of sales of alcoholic liquor. Sales of food or alcoholic liquor to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales of alcoholic liquor. (This provision moved to General City Code)~~
- E. ~~Restaurants, serving alcoholic liquor are required to stop serving alcoholic beverages no later than 12:00 a.m. (midnight), and otherwise operate consistent with the hours established by the liquor control commission for such establishments. (This provision included in the General City Code)~~

- F. ~~The proposed restaurant, serving liquor, beer or wine is not located within 500 feet of a school park, or place of worship, regardless of community boundaries. Measurement of distances between restaurants, serving beer and wine and a school, park, or place of worship shall be from the outermost boundaries of the parcel or lot of each use.~~ *In addition to the place of worship and school spacing requirements of the Michigan Liquor Control Code, as amended, no proposed restaurant, serving alcoholic liquor shall be located on a parcel of land adjacent to a parcel of land with a school or place of worship, regardless of community boundaries. This provision may be waived by the City Council if an objection is not filed by a school or place of worship and City Council determines the establishment will not adversely affect the operation of the school or place of worship.*
- G. The layout of the site of the proposed restaurant, serving alcoholic liquor and its relationship to streets providing access to the site shall be in a manner that vehicular and pedestrian traffic to and from the proposed restaurant, serving alcoholic liquor and the potential assembly of persons connected therewith, will not be hazardous, endangering, or inconvenient to the surrounding neighborhood and commercial district.
- H. The proposed restaurant, serving alcoholic liquor will be compatible with adjacent uses of land, considering the proximity of residential dwellings, churches, schools, public structures, and other places of public gatherings.
- I. The proposed restaurant, serving alcoholic liquor will not be contrary to the public interest or injurious to nearby properties.
- J. The proposed restaurant, serving alcoholic liquor will not have the possible effect of downgrading and blighting the surrounding neighborhood.
- K. The proposed restaurant, serving alcoholic liquor will not reasonably be expected to diminish the value of properties in the immediate area.

SECTION 2. Section 802, Special Land Uses, L, of Article VIII, B-2, General Business Districts, of Appendix A- Zoning, of the Code of Ordinances, City of Oak Park, is hereby amended to read as follows:

- L. Restaurants serving *alcoholic liquor* ~~beer or wine~~, subject to the provisions specified in section 1930.

SECTION 3. Section 1401, Permitted uses, F. Special Land Uses, 1, of Article XIV, PUD, Planned Unit Development Districts of Appendix A- Zoning, of the Code of Ordinances, City of Oak Park, is hereby amended to read as follows.

- 1. Restaurants serving *alcoholic liquor* ~~beer or wine~~, subject to the provisions specified in Section 1930.

SECTION 4. SEVERABILITY.

No other portion, paragraph or phrase of the Code of Ordinances, City of Oak Park, Michigan, shall be affected by this ordinance except as to the above section, and in the event any portion, section or subsection of this ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this ordinance or of the Code of Ordinances of the City of Oak Park.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be published as required by the Charter of the City of Oak Park and by the Michigan Zoning Enabling Act, and shall become effective ten (10) days from the date of its passage or upon the expiration of seven (7) days after its publication, whichever is later.

MADE, PASSED AND ADOPTED by the City Council of the City of Oak Park on this ____ day of ____ 2015.

T. Edwin Norris, City Clerk

Marian McClellan, Mayor

I, **T. EDWIN NORRIS**, the duly authorized Clerk of the City of Oak Park, Michigan, do hereby certify that the foregoing ordinance was adopted by the Commission of the City of Oak Park at its regular meeting held on ____ 2015.

T. Edwin Norris, City Clerk



BUSINESS OF THE CITY COUNCIL, OAK PARK, MICHIGAN

AGENDA OF: December 7, 2015

AGENDA #

SUBJECT: Recommendation to amend Article III, Chapter 6, Sections 6-54, 6-55, and 6-58 of the General Code of Ordinances

DEPARTMENT: Community & Economic Development

SUMMARY: The proposed text amendments make adjustments to the liquor licensing requirements in the General Code as follows:

- The contract provision between the licensee and city is removed. Sec. 6-54 (e)
- Sec 6-54 (f) is added and has been moved from the zoning requirements to the general code
- Sec. 6-55 (1) is removed and no longer requires a minimum of seating for 40 people
- 6-55 (3) is removed and added to the zoning requirements
- Sec 6-55 (4) removes the 90 day review of revenues
- Sec 6-55 (5) is removed and will allow for admission charges
- Section 6-55 (6) is changed to follow liquor control hours of operation

FINANCIAL STATEMENT: Not applicable

RECOMMENDED ACTION: The City Council consider accepting the recommendation and conduct the first reading of the proposed text amendment to the Article III, Chapter 6, Sections 6-54, 6-55, and 6-58 of the General Code of Ordinances

APPROVALS:

City Manager: _____

Director: _____

Finance Director: _____

EXHIBITS: ordinance

**CITY OF OAK PARK
OAKLAND COUNTY, MICHIGAN**

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND ARTICLE III, REGULATION OF ON-THE-
PREMISES CONSUMPTION, OF CHAPTER 6, ALCOHOLIC LIQUORS, OF
THE CODE OF ORDINANCES OF THE CITY OF OAK PARK BY AMENDING
SECTIONS 6-54, 6-55, and 6-58 THEREOF.**

THE CITY OF OAK PARK ORDAINS:

SECTION 1. Section 6-54, Licensing Policy, of Article III, Regulation of On-the-Premises Consumption, of Chapter 6, Alcoholic Liquors, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

Sec. 6-54. – Licensing policy.

(a) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a liquor license, as required by the statutes of the State of Michigan and the City of Oak Park Code of Ordinances.

(b) The city council may establish by resolution the number and type of establishments within the city in which the sale or consumption of alcoholic liquor shall be permitted for consumption on the premises. The number of such establishments may be less, but in no case greater than the number of such establishments permitted by Michigan law.

(c) New licenses and related permits, transfers of ownership of existing licenses, and transfers of licenses into the city shall require the prior approval, and is at the sole discretion of, the city council.

(d) An annual review shall be conducted of all existing licenses and related permits in the City of Oak Park.

(e) No person shall engage in the business of selling alcoholic liquor for consumption on the premises in the City of Oak Park without first obtaining a special land use approval, as required by the Zoning Act, ~~and entering into a contract with the City of Oak Park.~~

(f) Pursuant to the Michigan Liquor Control Code, liquor licenses issued by the Michigan Liquor Control Commission shall expire on April 30 of each year unless a different date is fixed by the Commission.

(Ord. No. O-15-615, § 1, 7-6-15)

SECTION 2. Section 6-55, Restaurant Requirements, of Article III, Regulation of On-the-Premises Consumption, of Chapter 6, Alcoholic Liquors, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

Sec. 6-55. – Restaurant requirements.

(a) The city council shall not approve any application for a new, a renewal, or transfer into the city of a license to sell alcoholic liquor for consumption on the premises unless the use of the license is in connection with and incidental to a restaurant operation meeting the following requirements and performance standards:

~~(1) There shall at all times be maintained and provided culinary facilities to cook or prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 40 patrons at any time.~~

(2)(1) The proprietor shall make available a varied menu of food items consisting of not less than ten such food items cooked or prepared on the premises.

~~(3) Not more than 50 percent 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 included in this determination. (moved to zoning Article XIX, Special Land Uses, Section 1930)~~

~~(4)(2) That during any 90-day period, no~~ Not more than 50 percent of the gross revenues of the establishment will be or is derived from the sale of alcoholic beverages~~liquor~~. Sales of food or alcoholic beverages~~liquor~~ to hotel or motel guests for consumption within their private rooms shall not be considered in determining the percentage ratio of sales to alcoholic beverages.

~~(5) No admission fees or cover charges shall be levied on any patrons.~~

~~(6)(3) Restaurants shall stop serving alcoholic beverages at 12:00 a.m. (midnight)~~ are required to operate consistent with the hours established by the Liquor Control Commission for such establishments.

(Ord. No. O-15-615, § 1, 7-6-15)

SECTION 3. Section 6-58, Review Procedures, of Article III, Regulation of On-the-Premises Consumption, of Chapter 6, Alcoholic Liquors, of the Code of Ordinances of the City of Oak Park is hereby amended to read as follows:

(a) *City clerk processing.* Upon receipt of an application and fee, as provided herein, the clerk shall distribute the application to appropriate departments within the city for certifications necessary for city council approval, as follows:

- (1) Certification by the city clerk that the proposed licensee has a current valid license for operation of a restaurant at the proposed licensed premises or meets applicable requirements for the issuance of such a license.
- (2) Certification by the director of technical and planning services that the buildings or structures to which the license will apply meet all applicable building and property maintenance codes or that acceptable building plans for work which will satisfy all such codes have been submitted.
- (3) Certification by the director of technical and planning services that the proposed licensed premises is appropriately zoned for the use and that any required zoning approvals, including site plan approval, have been applied for or obtained.
- (4) Certification by the director of public safety based upon a finding that the proposed licensee or licensees are of good moral character.
- (5) Certification by the director of public safety that the proposed licensed premises are in compliance with all applicable fire safety regulations.

(b) *Public hearing.*

- (1) When a completed application and fee including public hearing and notice have been received, the city council shall schedule a public hearing to consider the request for a new license and related permit, the transfer of ownership of an existing license, or the transfer of a license into the city.
- (2) Notice of the public hearing shall be provided to all property owners within ~~500~~300 feet of the proposed establishment, according to the tax records of the city.
- (3) Notice of the public hearing shall be provided to all current liquor license holders located in the city, school districts, private schools, public school academies, and churches located in the city.
- (4) The applicant or an authorized representative shall appear at the city council hearing and make a written and/or oral presentation concerning the request.

(c) ~~Review factors.~~ Review factors. In reviewing a request for a new license or related permit, a transfer of ownership of an existing license, or a transfer of a license into the city, the city council may consider and/or weigh the following factors:

- (1) Total number of similar licenses in the city.
- (2) Input from residents and surrounding business owners.
- (3) Impact of the establishment on surrounding businesses and neighborhoods.
- (4) Whether a proposed licensed premises is part of a multi-use project with substantial new retail, office, or residential components, and the size of the proposed licensed premises relative to the overall project or development.
- (5) Crowd control.
- (6) Parking availability.
- (7) Preservation or restoration of historic buildings.
- (8) Location in an underdeveloped area.
- (9) Concentration of establishments and impact on policing requirements.
- (10) Policing requirements.

- (11) Business history.
- (12) Business experience.
- (13) Liquor control commission violation history.
- (14) Percent of floor area devoted to dining versus bar area.
- (15) Size of bar area.
- (16) Overall benefit of the plan to the City of Oak Park.
- (17) Nonpayment of taxes or other payment due to the city.
- (18) Any other factor(s) that may affect the health, safety and welfare or the best interests of the community.

(d) *Restrictions on licenses.* No license shall be approved for:

- (1) An applicant or licensee whose license has been revoked for cause.
- (2) An applicant, who at the time of application or at renewal of any license issued hereunder, would not qualify or be eligible therefor.
- (3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
- (4) A corporation if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
- (5) An applicant or licensee whose place of business is or will be conducted by a manager or agent, unless such manager or agent possesses qualifications similar to those required of the applicant or licensee.
- (6) An applicant or licensee who has been convicted or found responsible for a violation of any federal or state law or administrative rules of the Michigan Liquor Control Commission concerning the manufacture, possession or sale of alcoholic liquor, or similar violation of another state or country.
- (7) An applicant or licensee who does not own the premises for which a license is sought or have a lease therefor for the full period for which the license is issued.
- (8) Any law enforcement official or any member of the council, or to any such official having interest in any way, either directly or indirectly, in manufacture, sale or distribution of alcoholic liquor.
- (9) An applicant or licensee who does not have substantial management experience with entities having liquor licenses, or who, for other similar reasons, in the discretion of the city council, is not qualified to receive a license.
- (10) An applicant or licensee that has not submitted a site plan free from violations of the applicable building, electrical, mechanical, plumbing, or fire prevention codes, applicable zoning regulations, or applicable public health regulations;
- (11) Unless an applicant or licensee is selling ~~beer or wine~~ alcoholic liquor, demonstrably in connection with, and incidental to, a bona fide restaurant operation;
- (12) An applicant or licensee that where the city council has determined that the premises do not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, noise or nuisance control, or such new construction or remodeling as proposed would not be completed;
- (13) An applicant or licensee that where the city council has determined that the location proposed for a licensed liquor establishment will have an adverse effect on the community,

with consideration given to traffic safety conditions, accessibility to major streets or highways, distance from public or private schools, impact on adjacent residential districts, zoning classifications and the availability of parking.

(14) An applicant or licensee unless a valid special land use approval is lawfully maintained for the premises.

~~(15) An applicant or licensee unless a valid contract has been entered into with the city.~~

~~(16)~~(15) An applicant determined to have been untruthful in the application submitted to the city or to have submitted an application or other documentation with material omissions of fact.

(e) *Approval.* After a review by staff and recommendation, and a public hearing, if the city council is satisfied that the establishment or operation will provide a benefit the City of Oak Park and constitute an asset to the community, it will adopt a resolution granting approval, subject to the satisfaction of any conditions stated in the resolution. Approval of a license shall be conditioned on any necessary remodeling or new construction for the use of the license be completed within six months of the action of the city council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any unusual delay in the completion of such remodeling or construction may subject the license to revocation.

(Ord. No. O-15-615, § 1, 7-6-15)

SECTION 4. Savings Clause.

Nothing in this ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby amended, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 5. Severability.

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park shall be affected by this ordinance, except as to the above sections and in the event any portion, section or subsection of this ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this ordinance or of the Code of Ordinances of the City of Oak Park.

SECTION 6. Effective Date.

This ordinance shall become effective ten (10) days from the date of its passage and shall be published as required by the Charter of the City of Oak Park.

MADE, PASSED AND ADOPTED by the Council of the City of Oak Park, on this day of _____, 2015.

T. EDWIN NORRIS

City Clerk

MARIAN McCLELLAN

Mayor

I, T. EDWIN NORRIS, the duly authorized Clerk of the City of Oak Park, Michigan, do hereby certify that the foregoing ordinance was adopted by the Council of the City of Oak Park at its regular meeting held on _____, 2015.

T. EDWIN NORRIS, City Clerk

**DOCUMENTS
TO BE
PROVIDED
AT THE
MEETING**