

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

**ORDINANCE NO. O-18-673**

**AN ORDINANCE TO AMEND ARTICLE III, REGULATION OF ON-THE-PREMISES CONSUMPTION, CHAPTER 6, SECTIONS 6-52, 6-53, 6-55, 6-56, 6-57, 6-58, 6-59, 6-60, 6-63, 6-64, AND 6-65 OF THE GENERAL CODE OF ORDINANCES OF THE CITY OF OAK PARK, MICHIGAN**

**THE CITY OF OAK PARK, MICHIGAN ORDAINS:**

**SECTION 1.** Article III, Chapter 6, of the Code of Ordinances is amended as follows:

**ARTICLE III. - REGULATION OF ESTABLISHMENTS SERVING ALCOHOLIC LIQUOR FOR CONSUMPTION ON-THE-PREMISES**

Sec. 6-52. - Statement of purpose.

The purpose of this article is to allow the city to establish and administer a policy for the issuance and transfer of class C liquor licenses ("class C licenses"), including those issued to Breweries, Microbreweries, Wineries, Distilleries and Brewpubs, and any related permits, to provide for the enforcement of liquor laws, regulations and ordinances, and to manage the number of alcoholic liquor licenses in the City of Oak Park.

(Ord. No. O-15-615, § 1, 7-6-15)

Sec. 6-53. - Definitions.

The following definitions shall apply in this article:

*Applicant* means the individual(s); or for partnerships, all partners; for limited liability companies, all managers and members; and for corporations, all directors, officers and stockholders if the stock is not publicly traded, seeking to be licensees hereunder.

*Alcoholic Liquor* means any spirituous, vinous, malt, or fermented liquor, powder, liquids, and compounds, whether or not medicated, proprietary, patented, and by whatever name called, containing 1/2 of 1% or more of alcohol by volume that are fit for use for food purposes or beverage purposes as defined and classified by the Michigan Liquor Control Commission.

*Brewery* means a brewery that produces barrels of ale or beer for on-site consumption and wholesale distribution, as allowed by the Michigan Liquor Control Commission.

*Brewpub* means an establishment that not less than 25% of the gross sales of the restaurant during the one-year licensure period are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises and the Brewpub license is issued in conjunction with a Class C, Tavern, B-Hotel, or A-Hotel license that authorizes the licensee to brew up to 18,000 barrels of beer per calendar year for sale on the premises.

*Distillery* means an establishment that manufactures spirits, not to exceed 60,000 gallons annually of all brands combined for on-site consumption, for off-premises consumption, and may sell spirits to the Michigan Liquor Control Commission who resells spirit products through the spirit distribution system.

*Licensee* means and includes all persons, including their agents, servants and employees, holding a license to sell alcoholic liquor in the city for consumption on the premises issued by the Michigan Liquor Control Commission.

*Licensed premises* means the Oak Park location at which a licensee is authorized to sell alcoholic liquor for consumption on the premises.

*License* means a license to sell alcoholic liquor for consumption on the premises issued by the Michigan Liquor Control Commission.

*Microbrewery* means a brewery that produces less than thirty thousand (30,000) barrels of ale or beer per year, and less than ten thousand (10,000) barrels of alcoholic liquors, other than ale or beer, per year, for on-site consumption and wholesale distribution, as allowed by the Michigan Liquor Control Commission.

*Related permit* means any permit issued by the Michigan Liquor Control Commission to a licensee for entertainment or other activity at the licensed premises which legally requires such a permit.

*Person* means any person, firm, partnership, association or corporation.

*Wine Maker/Small Wine Maker* means an establishment the may sell wine they manufacture directly to consumers for on-premises consumption (by the glass) or off-premises consumption (take out sales) from the winery premises. They may also sell wine they manufacture to consumers for on-premises consumption (by the glass) at the winery in conjunction with a restaurant at the winery premises.

(Ord. No. O-15-615, § 1, 7-6-15)

#### Sec. 6-55. - Alcoholic Liquor License requirements.

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:

(a) For restaurants Serving Alcoholic Liquor for Consumption on the Premises the following additional requirements shall apply:

- (1) There shall at all times be maintained and provided culinary facilities to cook and prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 20 patrons at any time.
- (2) Not more than 50 percent of the gross revenues of the establishment will be or is derived from the sale 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 to alcoholic beverages.
- (3) Restaurants are required to operate consistent with the hours established by the liquor control commission for such establishments.

(b) For brewpubs Serving Alcoholic Liquor for Consumption on the Premises the following additional requirements:

- (1) There shall at all times be maintained and provided culinary facilities to cook and prepare food, and tables and seating areas to accommodate dining on the premises by not fewer than 20 patrons at any time.
- (2) Not less than 25 percent of the gross sales of the brewpub annually are derived from the sale of food and nonalcoholic beverages prepared for consumption on the premises as required by the Michigan Liquor Control Commission.
- (3) Except as otherwise provided in this ordinance, all operations of the facility shall be conducted within a completely enclosed building, except for off-street parking or loading.
- (4) All truck well, loading dock and loading/truck service areas shall be located and designed to minimize negative impact on adjoining properties.
- (5) May offer a maximum of two 1 ounce free samples for consumers from the Brewpub premises. A consumer shall not be provided more than 2 samples within a 24-hour period per licensed premises.

(c) For breweries, microbreweries, wineries and distilleries Serving Alcoholic Liquor for Consumption on-the-Premises the following additional requirements:

- (1) Not more than 40 percent of the gross floor area of the facility shall be used for purposes other than the manufacturing of alcoholic liquor. The area not devoted to manufacturing may be used for the serving of alcohol, food preparation, seating for diners, entertainment, and retail sales. Public restroom facilities shall not be considered in this determination.
- (2) Except as otherwise provided in this ordinance, all operations of the facility shall be conducted within a completely enclosed building, except for off-street parking or loading.
- (3) All truck well, loading dock and loading/truck service areas shall be located and designed to minimize negative impact on adjoining properties.
- (4) May offer a maximum of two, 1 ounce free samples for consumption on the licensed premises. A consumer shall not be provided more than two free samples within a 24-hour period per licensed premises.

(Ord. No. O-15-615, § 1, 7-6-15; Ord. No. O-16-623, § 3, 1-19-16)

#### Sec. 6-56. - Application for license.

(a) Each applicant for a new license and/or a new related permit, the transfer into the city of a license, or the transfer of ownership of an existing license shall submit to the city clerk an application, on a form provided by the city, containing:

- (1) The name and address of the applicant, with age for an individual, as well as for each partnership, the persons entitled to share in the profits thereof; and also for a corporation, the purpose for which organized, the names and addresses of the officers and directors; and if a majority interest of the stock of such corporation is owned by one person or nominee, the name and address of such person.

- (2) The citizenship of the applicant; place of birth; and, if a naturalized citizen, the time and place of naturalization.
- (3) The nature or purpose of the applicant's business, and, in the case of a corporation, the object for which it was formed; applicant shall submit copies of business entity's organizational documents.
- (4) The length of time the applicant has been engaged in the business of that character, or, in the case of a corporation, the date when its charter was issued.
- (5) The location and description of the premises or place of business which is to be operated under such license; applicant shall submit copy of lease, deed, or other proof of applicant's right to use the property.
- (6) A form statement whether applicant has operated or made application for a similar or another license on any premises other than described in this application, and the disposition of such license or application.
- (7) A form statement as to whether the applicant has ever been convicted of 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 or convicted of any felony or misdemeanor, and/or is otherwise disqualified to receive a license by reason of any matter or thing contained in this article or the laws of the State of Michigan.
- (8) A form 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 of Oak Park or the administrative rules of any regulatory agency in the conduct of its business.
- (9) An accurate record and history of any liquor license complaint violations by the applicant, owners or stockholders of applicant, by a corporation or entity the applicant has worked for or had a substantial interest in, or by a parent or subsidiary corporation of the applicant for the immediate preceding five years.
- (10) 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 sound barriers and noise control.
- (11) A sample menu for the proposed licensed establishment, together with a breakdown of the anticipated revenues from food and nonalcoholic beverages, alcoholic beverages and other revenues.
- (12) Other information requested on the form provided by the clerk.

(Ord. No. O-15-615, § 1, 7-6-15)

Sec. 6-57. - Plan of operation required. **(Deleted in its entirety)**

Sec. 6-58. - Review procedures.

(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 City Planner 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 300 feet of the proposed establishment, according to the tax records of the city.
- (3) 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.* 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 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;

(10) 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;

(11) 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.

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

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

(14) 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 to 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; Ord. No. O-16-623, § 4, 1-19-16)

#### Sec. 6-59. - Entertainment permits.

(a) Requests for permits for dance, entertainment, or dance and entertainment shall be reviewed and approved in the discretion of the city council after an evaluation of the factors listed in subsection 6-58(c). The city will not consider requests for nude or topless entertainment permits.

(b) *Transfer of ownership.* Requests for transfer of ownership of existing licensed establishments shall be reviewed and approved or disapproved by the city council following submission of an application pursuant to Sec. 6-56. If the continuation of an existing operation is contemplated, the applicant must present a plan with the application for license that indicates that it will continue the existing operation as established. If there are proposed changes in the existing operations, then the request for transfer of ownership shall be subject to evaluation of the factors outlined in subsection 6-58(c).

(c) Any change in existing operations from a full service sit down restaurant that serves alcohol to an establishment that features primarily alcohol would be subject to a new review as outlined in subsection 6-58(c).

(Ord. No. O-15-615, § 1, 7-6-15)

#### Sec. 6-60. - Entertainment permit requests.

(a) The city will review each entertainment permit request to determine whether to approve the permit after evaluation of the factors listed in subsection 6-58(c) and, if necessary, make a recommendation to the Michigan Liquor Control Commission regarding issuance of said permit, based upon a licensed establishment operation in a manner consistent with the provisions of this article and all other applicable laws, and regulations of the City of Oak Park and the State of Michigan.

(b) The city manager shall initiate an investigation and review of each request for an entertainment permit. The investigation and review may include, but not be limited to, the procedures listed in section 6-61.

(Ord. No. O-15-615, § 1, 7-6-15)

Sec. 6-63. - Criteria for nonrenewal or revocation.

The city council may recommend nonrenewal or revocation of a license or related permit to the liquor control commission upon a determination based upon a preponderance of the evidence presented at the hearing that any of the following exists:

(a) Failure to comply with all standards, plans or agreements, entered into in consideration for the issuance, transfer or continuance of the license or permit, or failure to comply with all agreements or consent judgments entered into subsequent to the issuance of the license or permit.

(b) Failure to comply with an approved plan of operation and other plans, specifications, or representations made or submitted to the city by the licensee.

(c) Violations of the state liquor laws or regulations of the liquor control commission.

(d) Violations of state laws or local ordinances including, but not limited to those laws or ordinances concerning the public health, safety or public welfare.

(e) Failure to meet the requirements of section 6-55 of this article.

(f) Maintenance of a nuisance upon or in connection with the licensed premises including, but not limited to, any of the following:

(i) Failure to correct, within a reasonable amount of time, violations of building, electrical, mechanical, plumbing, zoning, health, fire or other applicable regulatory codes, to include the history thereof.

(ii) A pattern of patron conduct in the neighborhood of the licensed premises, which is a violation of the law and/or disturbs the peace, order and tranquility of the neighborhood, including types of police, fire or medical services related to this operation.

(iii) Failure to maintain the grounds and exterior of the licensed premises, including litter, debris or refuse blowing or being deposited upon adjoining properties.

(iv) Entertainment on the premises or activity in connection with the licensed premises which by its nature causes, creates or contributes to disorder, disobedience to rules, ordinance or laws, or contributes to the disruption of normal activity of those in the neighborhood of the licensed premises.

(g) Licensee's hindrance or obstruction of inspection of the licensed premises by the city's agents or employees in connection with the enforcement of this article.



(h) Failure to pay taxes or make other payments due to the city in a timely manner.

(Ord. No. O-15-615, § 1, 7-6-15)

Sec. 6-64. – Employees to be 21. **(Deleted in its entirety)**

Sec. 6-65. - Sales restricted.

No licensee under this article, by himself, or another, shall sell, furnish, give or deliver any alcoholic beverage to any person:

- (a) Who is so intoxicated as not to be in control of all his faculties;
- (b) On any day during the hours not permitted by state law or the state liquor control commission.

(Ord. No. O-15-615, § 1, 7-6-15)

**SECTION 2. Conflicting Provisions Repealed**

All ordinances in conflict with the provisions of this ordinance are repealed only to the extent necessary to give this ordinance full force and effect; provided that all other provisions of the Oak Park Code of Ordinances as heretofore amended shall remain in full force and effect.

**SECTION 3. Severability**

No other portion, paragraph or phrase of the Code of Ordinances of the City of Oak Park, Michigan 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, Michigan.

**SECTION 4. Effective Date**

This ordinance shall be published as required by the Charter of the City of Oak Park 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 Council of the City of Oak Park on this 7th day of May, 2018.

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**T. EDWIN NORRIS**  
City Clerk

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**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 May 7, 2018.

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**T. EDWIN NORRIS, City Clerk**

**First Reading: April 16, 2018**  
**Second Reading: May 7, 2018**  
**Adopted: May 7, 2018**  
**Published May 16, 2018**