

**WORK SESSION AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS**

Monday, March 10, 2014, 7:00 P.M.

- 1) Call to Order**
- 2) Student Recognition**
- 3) Public Comment on Agenda Items (3 minute limit per person)**
- 4) Review of the Policy to Allow Alcohol Usage in City Parks**
- 5) Liquor License Ordinance Review**
- 6) Legal Publishing**
- 7) Any Other Matters**
- 8) Acknowledgement of Visitors/Public Comment (3 minute limit per person)**

STAFF REPORT

Date: Monday, March 3, 2014

Subject: Alcohol within the Park System – Beer Tents

From: Rebecca Rynbrandt, Director of Community Services

Cc: Jack Sluiter, James Carmody, Eric Tomkins

Council Meeting Date: Monday, March 10, 2014

Recommendation:

The Parks and Recreation Commission and Staff seeks City Council comment and recommendation on a proposal to change policy to allow alcohol, specifically a limited number of beer tents under specific conditions, to be permitted within the park system for the enhancement of special events and nonprofit organization fundraising activities.

Sustainability Criteria:

Social Equity – A change in policy may provide for increased attendance at special events.

Environmental Quality – If properly constructed, a change in policy is not seen as having an adverse effect on the environment or adjoining residential properties. Such policy should work to create a safer environment, less intrusive impact on adjoining residential properties by proactively controlling the frequency, use of, beer tents within the park system.

Economic Strength – A change in policy may provide for increased revenue to the Parks and Recreation Department and area non-profit organizations; may allow service organizations through enhanced fundraising to achieve their full potential and economic self-sufficiency. See comments under Budget Impact below.

Discussion:

Current policy prohibits alcohol within the park system. The City Council has on rare occasion authorized the consumption of alcohol on city owned property for specific City sponsored, invitation only (re: closed to the public) events, such as the City's 50th Anniversary Celebration's charity dinner. To our knowledge the City Council has never authorized a beer tent open to the public upon city owned property.

In January, the Cultural Enrichment Commission (CEC) approached the Parks and Recreation Department to host a beer tent, open to the public, at a special one day event planned for August 2014. Consistent with policy, the CEC, like the St. Joseph the Worker Church Hispanic Festival, and others before them, was denied.

At the request of Councilmembers Vanderwood and Burrill, the City Manager asked my office to review the policy and offer recommendations. The staff team convened to evaluate this matter included City Attorney Jack Sluiter, Chief of Public Safety James Carmody, Recreation Supervisor Eric Tomkins and I. Following our initial review, input was sought from the Parks and Recreation Commission. Following are brief highlights of the conversations,

recommendations for policy inclusion should the City Council wish to pursue.

In general it is noted that:

- The State of Michigan regulates licenses and establishes a minimum standard of care for activities such as beer tents.
- Only nonprofits, not local units of government, may obtain an alcohol permit from the State of Michigan.
- A brief review of localities allowing beer tents affirmed that the Cities of Grand Rapids, Kalamazoo, and Kent County allow beer tents by permit. East Grand Rapids and Byron Township does not. Responses from Walker and Kentwood have yet to be received.
- A policy allowing for beer tents may not discriminate between organizations.
- A policy may limit the number of permits and locations for beer tents.

Parks and Recreation Commission recommends to the City Council consideration of a policy change with the following caveats:

- Beer tents should not to be the primary activity of the event; should be ancillary; connected to a large, festival styled event.
- Limit eligible park locations to Lamar and Pinery.
- Limit the number of beer tent permits annually and by season (first come first serve). Whether this is 2 or 5 per park, a limitation is strongly suggested.
- Ensure permits and fees create an income source for the parks and recreation fund, cover all costs associated on behalf of the city, including exclusive use of park property, overhead, additional maintenance, police services, etc.
- If a policy change is completed it is recommended that it be developed as an initial pilot program with a strong program and individual user evaluation tool to determine overall community impact.

It is requested that this matter be reviewed at the March 10, 2014 City Council Work Session in order to affirm Council's consensus to pursue a change in policy. As I will be on vacation during this time, representing our staff team and seeking to be subject matter experts to the best of their ability will be Jack Sluiter, James Carmody, and Eric Tomkins, all of whom will be in attendance at the meeting.

Budget Impact: Depending upon the policy's design for cost recovery, permit fees could cover all associated costs related to City activities; however, it should be noted, that total cost recovery could result in higher than anticipated permit fees. Expenses to be included in fee calculations will need to be identified.

Staff Report

Date: March 3, 2014

Subject: Liquor Licensing – Review of Section 14-179 of the Code of Ordinances

From: Heidi A. Isakson, City Clerk
Tim Cochran, City Planner

cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services

Meeting Date: March 10, 2014

Recommendation:

We recommend City Council have a discussion at the March 10, 2014 work session about possible revisions to Section 14-179 of the Code of Ordinances, which requires liquor license applicants to have a restaurant exceeding 50% of sales, establishes size requirements for that restaurant, and allows the City Council to waive one or more requirements if it is in the best interest of the City.

Sustainability Criteria:

Environmental Quality – Promotes the efficient use of property.

Social Equity – Consideration of lower or no size limits for liquor establishments would have the effect of allowing more business owners to enter the market with businesses having a liquor license as part of the business model. The elimination of waivers could provide more information and guidance to business owners about what types of establishments are permitted and desirable in the City of Wyoming, and allow the Council to apply more fixed and specific standards to every applicant.

Economic Strength – Liquor licenses can be a tool to encourage economic development, but past experience tells us that the business, financial and consumer economic climates bear more influence on business owners' decisions about whether, when and where to develop a business, and whether their business model will include alcohol sales, than regulation might. Liquor ordinances as a tool to affect the conduct and operation of businesses, or affect the behavior of their patrons, have not proven to be as effective as other, long-standing ordinances and statutes covering building and fire safety, zoning, business licensing, nuisance and criminal codes and statutes.

Discussion: The attached table presents each paragraph in Section 14-179, and offers possible alternatives and effects for Council consideration. Recommendations to the City Council for

liquor licenses would be provided by the Development Review Team based on neighborhood character, use type, activities, public safety and any secondary effects.

Budget Impact: Low to none.

Sec. 14-179. - Required seating capacity for tavern, class C and class B licenses.

Note: Sections are presented **out of order**, so that we can make a logical progression through the choices and options to be considered.

If paragraph (3) is eliminated, paragraph (1) would be modified to remove the dining requirement, and paragraph (2) would be obsolete. If paragraph (1) is retained, paragraphs (1) and (2) can be modified and updated for the current market or desired future condition.

Paragraphs (4) and (5) are the “waivers”; if the other issues about requirements are resolved, it is recommended “waivers” be eliminated.

Building code, fire code, liquor, nuisance and criminal codes and statutes would still apply, regulating building size, occupancy load, safety and the conduct of licensees and occupants.

Existing Ordinance Requirement	Possible Modifications and Effects
All tavern, class C and class B licenses shall have the following accommodations:	
<p>(3) All licenses shall be operated in conjunction with a restaurant as a unit, and there shall be no separation of ownership between the license and the restaurant business. The primary business shall be that of the restaurant, which shall mean that more than 50 percent of the gross income shall be derived from the restaurant business, exclusive of all alcohol sales. All licensees who as of January 1, 1980, do not have a restaurant business in conjunction with the license are hereby excluded from the provisions of this subsection. Those licensees who have a restaurant in conjunction with their business are hereby included in this subsection. On or before January 30 of each year, all licensees shall submit to the city clerk an annual report showing the total restaurant sales and the total sales from alcoholic beverages and such other information as may be necessary for the city to be able to determine whether or not the licensee is complying with this subsection</p>	<p>Alternative: <u>Eliminate requirement for a restaurant.</u></p> <p>Effect: Applications for businesses such as taprooms, wine bars, neighborhood bars, nightclubs, music venues, etc., could be considered, without consideration of how much food, if any, is served.</p> <p>Alternative: Reduce the requirement to something less than 50%, with or without size and seating requirements below.</p> <p>Effect: All licenses would be required to serve food at some level, and report their sales to determine compliance.</p> <p>[Note: The State of Michigan has a requirement for <u>seating</u> for at least 25 persons, but no dining requirement.]</p> <p>If the requirement for a restaurant is eliminated, it is recommended that Section (2) below also be eliminated; otherwise there would be requirements affecting applicants describing themselves as restaurants, but no requirements applying to bars, nightclubs, etc.</p>

(1) All motels and hotels selling alcoholic liquor for consumption on the premises shall contain 50 or more guestrooms and have a dining table capacity for 100 or more persons, and, if additional counter space is provided for the dispensing and sale of alcoholic liquor, such counter space shall accommodate not more than 20 percent of the seating capacity of the entire dining room.

Alternative: Eliminate the requirement for hotels and motels to have a restaurant, but require 60 rooms, and not limit counter service.

Effect: Current development trends indicate hotels in our market are 60 rooms or larger, and would have a breakfast area, and perhaps a small lounge, but not a full-service restaurant.

Alternative: If the restaurant requirement above in (3) is retained, eliminate the restaurant requirement for Class A and B hotel.

Effect: Current development trends indicate hotels in our market are 60 rooms or larger, and would have a breakfast area, and perhaps a small lounge, but not a full-service restaurant.

Alternative: If the restaurant requirement above in (3) is retained, apply the same seating requirements to Class A and B hotel, and raise rooms to 60.

Effect: If restaurants are required, this would standardize the requirements across all types.

Alternative: Leave this section as is.

[Note: The State of Michigan has a requirement for seating for at least 25 persons, but no dining requirement.]

Effects: If restaurant requirement is eliminated, this section would be modified to reflect that. If the number of guest rooms required is reduced or eliminated, hotels and motels of a smaller size could apply for a liquor license, subject to the State's seating requirement of 25 persons for the lounge or bar.

(2) The requirements for restaurants with class C and tavern licenses shall be as follows:

(a) Buildings shall have a minimum gross floor area of 3,500 square feet. Any areas used for dancing or entertainment shall be in addition to 3,500 square feet.

Alternatives: Eliminate minimum building size.

Effects: Smaller establishments would be permitted.

Note: The building code would still require a minimum per square foot requirement based on proposed seating, and for restrooms, hallways, etc., i.e. building occupancy limit.

(b) The dining area shall have a seating capacity to serve a minimum of 150 persons at a minimum of 15 square feet per person.

Alternatives: Reduce the required seating to 100. The location would have to accommodate 15 square feet per person for the proposed seating capacity.

Effects: Smaller establishments would be permitted.

Alternative: Reduce required seating to 100, unless outdoor dining for at least 8 is provided seasonally, then allow a 25 seat minimum. Referred to as a “bistro”.

The building code would still require a minimum per square foot requirement based on proposed seating, and for restrooms, hallways, etc., i.e. building occupancy limit. 100 seats is the threshold for required sprinkling fire suppression.

<p>(c) Counter space or bar space for the dispensing of alcoholic beverages shall not exceed 20 percent of the seating capacity of all dining areas.</p>	<p>Alternatives: Eliminate maximum counter seating, or increase permitted counter seating.</p> <p>Effects: This requirement is intended to maintain the “restaurant” character with table and booth seating while limiting the “bar” character created by counter seating. Wine bars and tap rooms frequently have large counter service areas.</p>
<p>(d) The combined kitchen and food storage facilities shall have a square footage equal to at least 50 percent of the square footage of all dining areas.</p>	<p>Alternatives: Allow a smaller kitchen as compared to dining area. Still subject to building codes.</p> <p>Effects: Smaller kitchens would accommodate food service with less on-site preparation, and more heat-and-serve style menus.</p>
<p>(e) In restaurants with tavern licenses, beer and wine shall be served at tables only, with no bar or counter dispensing allowed.</p>	<p>Alternatives: Allow counter service at locations with a tavern license.</p> <p>Effects: Permit tap rooms, wine bars, and other restaurants serving only beer and wine bars to include a bar in their seating accommodations.</p>
<p>(f) There shall be no live entertainment or dancing permitted in restaurants with tavern licenses.</p>	<p>Alternatives: Permit live entertainment and dancing (with other required permits and licenses) at locations with a tavern license.</p> <p>Effects: Would allow establishments serving only beer and/or wine to offer these entertainments.</p>

<p>(4) The provisions in this section for class C licenses may be waived by the city council where an applicant for such class C license is a nonprofit, religious-oriented fraternal organization chartered by a national organization, and which applicant has been established in the city for a minimum period of five years.</p>	<p>Alternatives: Eliminate the waiver and require this type of organization to comply with any requirements described above. Or eliminate this special waiver and let it fall under (5) below.</p> <p>Effects: Applications from such organizations (rare) would be subject to the same requirements as other licensees.</p>
<p>(5) Any of the conditions of this section may be waived by the city council if it is deemed that such waiver is in the best interest of the city.</p>	<p>Alternatives: Eliminate the waiver authority.</p> <p>Effects: All applicants would be evaluated based on recommendations from the Police Department, Chief Building Official and Treasurer. Would require all applicants to meet any requirements in Section 14-179.</p>

Sec. 14-182 (a). – Application Procedures

Existing Ordinance Requirement	Possible Modifications and Effects
<p>(a) Prior to filing an application with the state liquor control commission for a license to sell alcoholic beverages for consumption on the premises, such applicant shall first make a request for approval to the city upon forms provided by the city clerk. Such forms shall be filed with the city clerk. The application fee to be paid at time of filing shall be determined by the city council by resolution. If the application is for a place of business in a district mentioned in section 14-178, it shall be accompanied by the written consent required by section 14-178 before it shall be transmitted by the city clerk to the city council and before any action shall be taken thereon. Upon receipt of such application, the city clerk shall transmit the application to the chief of police, who shall endorse upon such application his recommendation concerning the applicant. The city clerk shall also transmit such application to the city treasurer, who shall endorse thereon a statement as to whether the applicant is in default to the city in connection with the payment of any taxes or other obligations. Following endorsements by the police chief and the city treasurer, the city clerk shall transmit the application to the city council. ←</p>	<p>Add the following language:</p> <p>the development review team. The development review team shall provide a recommendation to the city council for all requests. Consideration shall be given to neighborhood character, use type, type of activities, hours of operation, public safety resources, and the secondary effects resulting from such uses that must be taken into consideration during the alcohol licensing process. The city clerk shall also transmit the application to</p> <p>If the city council determines that additional information is required from the adjoining neighborhood to evaluate the request, a public hearing will be held with notifications provided to all property owners of record, and occupants of buildings, within 300 feet of the property. Such notices shall be sent at least 15 days prior to the public hearing.</p>

MEMORANDUM

TO: Rebecca Rynbrandt, Director of Community Services

FROM: Timothy Cochran, City Planner

DATE: November 5, 2013

SUBJECT: Class C Liquor License Standards – Adjoining Communities

You requested information regarding adjoining community requirements for restaurants to request a liquor license. This information will assist the City Council in evaluating what may be appropriate standards for Wyoming.

	Wyoming	Grandville	Kentwood	Walker	Grand Rapids (see note)
Minimum Dining Area	3,500 sq.ft.	None	None	None	None
Minimum Dining Capacity	150	150	150	125	None
Minimum Kitchen / Food Prep	50% of dining area	None	None	65% of dining area	None
Maximum Bar Counter Space	20% of dining area	None			
Minimum Food / Beverage Percentage	50%	50%	None	None	50%
Waivers Permitted	Yes	No	No	Yes (defined parameters)	

Note: The City of Grand Rapids is distinct from the other communities in evaluating restaurants desiring liquor licenses. The Planning Director has approval authority. Considerations regarding neighborhood character, use type, type of activities, hours of operation, police resources and secondary effects from the proposed use are considered. Referrals by the Planning Director may be directed to the Planning Commission for review.

Each community's specific requirements are unique. Their applicable ordinance sections are attached for reference.

ARTICLE IV. ALCOHOLIC LIQUORS ¹¹Sec. 14-176. Compliance with article required for issuance or transfer of license.Sec. 14-177. On-premises consumption licenses.Sec. 14-178. Locations where license is not permitted.Sec. 14-179. Required seating capacity for tavern, class C and class B licenses.Sec. 14-180. Conduct of business.Sec. 14-181. License restrictions.Sec. 14-182. Application procedure.Sec. 14-183. Closing times.Sec. 14-184. Revocation or nonrenewal of license—Procedure for recommendation.Sec. 14-185. Same—Hearing procedure.Sec. 14-186. Same—Review by police department.Sec. 14-187. Licenses for specially designated merchants (SDM) and specially designated distributors (SDD).Sec. 14-188. Sunday alcohol sales.Secs. 14-189—14-210. Reserved.**Sec. 14-176. Compliance with article required for issuance or transfer of license.**

The city council shall not approve the issuance or transfer of a license for the sale of alcoholic beverages for consumption on the premises except in accordance with the terms and conditions of this article.

(Code 1983, § 80.91)

Sec. 14-177. On-premises consumption licenses.

The city hereby authorizes licenses for businesses where alcoholic beverages are sold for consumption on the premises in accordance with the number allowed by state statute and liquor control regulations in accordance with the latest decennial census.

(Code 1983, § 80.92; Ord. No. 2-04, § 1, 1-19-04; Ord. No. 09-04, § 1, 6-21-04; Ord. No. 09-05, § 1, 5-16-05; Ord. No. 11-05, § 1, 6-20-05)

Sec. 14-178. Locations where license is not permitted.

No places where alcoholic beverages are sold for consumption on the premises shall be permitted:

- (1) Within 500 feet of an improved and equipped school ground or playground.
- (2) Within 500 feet of a church. Such distance shall be measured from the nearest point of the church building to the nearest point of the building in which the business is to be conducted.
- (3) In residential zones.
- (4) Within 500 feet of a residential zone unless the application is accompanied by the written consent of the majority of the owners, including both husbands and wives of all residential property within 500 feet of the proposed locations, or unless the place is located on a recognized commercial street where three-fourths of the frontage within 500 feet on both sides of the street is devoted to some commercial use.
- (5) On a street where, by virtue of density of traffic or other conditions, the proposed use would, in the judgment of the city council, constitute a traffic hazard.
- (6) At any place where, by reason of insufficient lighting or lack of police patrol, or other conditions, the proposed use would constitute a nuisance in the judgment of the city council.
- (7) Any of the subsections of this section may be waived by the city council where it is deemed to be in the best interest of the city.

(Code 1983, § 80.93; Ord. No. 2-04, § 1, 1-19-04; Ord. No. 11-05, § 2, 6-20-05)

Sec. 14-179. Required seating capacity for tavern, class C and class B licenses.

All tavern, class C and class B licenses shall have the following accommodations:

- (1) All motels and hotels selling alcoholic liquor for consumption on the premises shall contain 50 or more guestrooms and have a dining table capacity for 100 or more persons, and, if additional counter space is provided for the dispensing and sale of alcoholic liquor, such counter space shall accommodate not more than 20 percent of the seating capacity of the entire dining room.
- (2) The requirements for restaurants with class C and tavern licenses shall be as follows:
 - (a) Buildings shall have a minimum gross floor area of 3,500 square feet. Any areas used for dancing or entertainment shall be in addition to 3,500 square feet.
 - (b) The dining area shall have a seating capacity to serve a minimum of 150 persons at a minimum of 15 square feet per person.
 - (c) Counter space or bar space for the dispensing of alcoholic beverages shall not exceed 20 percent of the seating capacity of all dining areas.
 - (d) The combined kitchen and food storage facilities shall have a square footage equal to at least 50 percent of the square footage of all dining areas.
 - (e) In restaurants with tavern licenses, beer and wine shall be served at tables only, with no bar or counter dispensing allowed.
 - (f) There shall be no live entertainment or dancing permitted in restaurants with tavern licenses.

- (3) All licenses shall be operated in conjunction with a restaurant as a unit, and there shall be no separation of ownership between the license and the restaurant business. The primary business shall be that of the restaurant, which shall mean that more than 50 percent of the gross income shall be derived from the restaurant business, exclusive of all alcohol sales. All licensees who as of January 1, 1980, do not have a restaurant business in conjunction with the license are hereby excluded from the provisions of this subsection. Those licensees who have a restaurant in conjunction with their business are hereby included in this subsection. On or before January 30 of each year, all licensees shall submit to the city clerk an annual report showing the total restaurant sales and the total sales from alcoholic beverages and such other information as may be necessary for the city to be able to determine whether or not the licensee is complying with this subsection.
- (4) The provisions in this section for class C licenses may be waived by the city council where an applicant for such class C license is a nonprofit, religious-oriented fraternal organization chartered by a national organization, and which applicant has been established in the city for a minimum period of five years.
- (5) Any of the conditions of this section may be waived by the city council if it is deemed that such waiver is in the best interest of the city.

(Code 1983, § 80.94; Ord. No. 11-05, § 3, 6-20-05)

Sec. 14-180. Conduct of business.

The owner, as well as the agents and servants of the owner, actually engaged in the operation of a place of business, licensed to sell alcoholic beverages on the premises, shall at all times be responsible for the conduct of occupants and patrons. No disorderly, loud or boisterous conduct shall be permitted, nor shall any entertainment be given or permitted which is offensive, indecent or obscene in its nature. Front windows shall at all times be clear of curtains, screens or objects which would tend to obstruct vision into the establishment from the front and outside of the premises. No living quarters shall be permitted in the same building, if they are connected to the business establishment in such a way that the public has, or is likely to have access thereto. No booths shall be permitted which are completely enclosed or capable of being either permanently or temporarily completely enclosed or locked or with partitions higher than four feet from the floor. No such place shall permit alcoholic beverages to be served or consumed in private rooms unless the door to such room shall be open during the period while such alcoholic beverages are being consumed therein. All places must have separate toilet facilities for men and women.

(Code 1983, § 80.95)

Sec. 14-181. License restrictions.

The restrictions and requirements set forth in this article shall be applicable to:

- (1) All new licensees, and such licensees shall not be entitled to a license unless and until they comply with all of the requirements and restrictions set forth in this section.
- (2) Transfers involving both a change of license ownership and license location.
- (3) Transfers involving a change of license location involving a change of license ownership where such transfer is made on a voluntary basis. Such restrictions shall not be required where a licensee is compelled to transfer his location because of eminent domain condemnation, other operation of law or an involuntary act. The restrictions and requirements set forth in this article shall not apply to transfer involving a change of license ownership where there is not at the same time a change of license location.

(Code 1983, § 80.96)

Sec. 14-182. Application procedure.

- (a) Prior to filing an application with the state liquor control commission for a license to sell alcoholic beverages for consumption on the premises, such applicant shall first make a request for approval to the city upon forms provided by the city clerk. Such forms shall be filed with the city clerk. The application fee to be paid at time of filing shall be determined by the city council by resolution. If the application is for a place of business in a district mentioned in [section 14-178](#), it shall be accompanied by the written consent required by [section 14-178](#) before it shall be transmitted by the city clerk to the city council and before any action shall be taken thereon. Upon receipt of such application, the city clerk shall transmit the application to the chief of police, who shall endorse upon such application his recommendation concerning the applicant. The city clerk shall also transmit such application to the city treasurer, who shall endorse thereon a statement as to whether the applicant is in default to the city in connection with the payment of any taxes or other obligations. Following endorsements by the police chief and the city treasurer, the city clerk shall transmit the application to the city council.
- (b) The city council may deny to approve an application if the applicant has not conformed with the provisions of this article; or if the applicant or his partner shall have twice previously been convicted of a criminal offense relating to the manner in which the premises upon which the business is to be conducted was operated; or if the applicant or his partner has been convicted of a criminal offense involving the sale, possession or use of intoxicating liquor; or if the applicant or his partner has been convicted of any criminal offense involving moral turpitude.

(Code 1983, § 80.97; Ord. No. 16-05, § 1, 11-7-05)

Sec. 14-183. Closing times.

No alcoholic liquor shall be sold on any premises covered by this article on any Sunday or on the period between December 24 and December 26 except as provided by the Michigan Liquor Control Act (MCL 436.101 et seq.) and in accordance with the regulations established pursuant to that Act.

(Code 1983, § 80.98; Ord. No. 19-95, § 1, 11-27-95; Ord. No. 25-96, § 1, 1-6-97; Ord. No. 08-06, § 1, 3-20-06; Ord. No. 28-06, § 1, 12-4-06; Ord. No. 13-10, § 1, 12-20-10)

Sec. 14-184. Revocation or nonrenewal of license—Procedure for recommendation.

The city council may recommend to the state liquor control commission that a common class C or class B liquor license be revoked or not be renewed upon a determination by the city council that any one or more of the following has occurred after a hearing has been conducted:

- (1) The licensee maintained a nuisance upon the premises.

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whether the applicant is in default to the city in connection with the payment of any taxes or other obligations. Following endorsements by the police chief and the city treasurer, the city clerk shall transmit the application to the city council. The city council shall consider the application and may request the applicant to furnish such additional information as may be necessary to determine whether the requirements of this article have been met. Any grant of approval, denial of approval, or revocation or suspension of approval shall be evidenced by an appropriate resolution of the council.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.211)

Sec. 3-34. Qualification of applicants.

- (a) No application to sell alcoholic liquor for consumption on the premises shall be approved if the applicant has been convicted of three (3) or more violations of law relating to the sale or consumption of alcoholic liquor or any felony within a period of five (5) years preceding the receipt of the application.
- (b) No application to sell alcoholic liquor for consumption on the premises shall be approved if the city council shall find that the conduct of the applicant has been such as to reasonably justify the conclusion that he would either intentionally violate or neglect to comply with the provisions of this article.
- (c) No application to sell alcoholic liquor for consumption on the premises shall be approved unless the applicant shall produce satisfactory evidence that he has financial resources sufficient to allow him to meet the requirements of this article.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.203)

Sec. 3-35. Requirements for Class B hotel license.

All Class B hotel licensees shall have at least the following accommodations:

- (1) Forty (40) guestrooms;
- (2) A dining capacity for not less than one hundred (100) persons, and if additional counter space is provided for the dispensing and sale of alcoholic liquors, such counter space shall be limited to accommodate not more than a number which is equal to twenty (20) percent of the dining capacity.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.204)

Sec. 3-36. Requirements for Class C license.

The establishments of all Class C licensees shall have a dining capacity of at least one hundred fifty (150) persons, and, if additional counter space is provided for the dispensing and sale of alcoholic liquors, such counter space shall be limited to accommodate not more than a number which is equal to twenty (20) percent of the dining capacity.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.205)

Sec. 3-37. Floor area.

No establishment for which an application for approval of a Class B hotel or a Class C license has been submitted shall be considered to have the dining capacity as required in sections 3-35 and 3-36

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above unless the square footage of the dining area shall provide for not less than fifteen (15) square feet of space per person seated.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.206)

Sec. 3-38. Separation of dining area counter space.

The dining area provided with respect to any Class B hotel license or Class C license under this article shall be separated by some suitable partition, which shall extend from the floor to the ceiling, from any area where additional counter space for dispensing of alcoholic liquors is provided. Such partition shall be so constructed that the counter space is not visible to patrons seated in the dining area.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.207)

Sec. 3-39. Percentage of receipts from sale of food and nonalcoholic beverages.

No Class B hotel or Class C license shall be approved for any establishment which is not a bona fide restaurant. An establishment shall be deemed to be a bona fide restaurant if it meets the requirements set forth in sections 3-35 and 3-36, and, in addition, at least fifty (50) percent of its gross receipts from the sale of food and beverages, including alcoholic liquors, are derived from the sale of food and beverages other than alcoholic liquors. Should any establishment at any time cease to meet the requirement of this section and should such failure continue for a period of six (6) months, the city council may suspend or revoke its approval and the continued sale of liquor for consumption on the premises shall constitute a violation of this article. All establishments shall maintain accurate records of receipts and disbursements in such a manner that receipts from food and beverages other than alcoholic liquors can be readily distinguished from receipts for alcoholic liquors. Such records shall be available for inspection by the city or its agent from time to time during normal business hours.

(Ord. No. 133, eff. 11-23-70; Comp. Ords. 1977, § 20.208)

Sec. 3-40. Nudity prohibited.

- (a) A licensee shall not allow in or upon the licensed premises any person in a state of nudity.
- (b) A licensee shall not hire, employ, or procure a person to appear in or upon the licensed premises in a state of nudity.
- (c) No person shall appear in or upon premises licensed for the sale of alcoholic liquor in a state of nudity.
- (d) A licensee shall not allow in or upon the licensed premises the showing of films, television, slides, or other electronic reproductions which depict scenes wherein any person appears in a state of nudity. This prohibition does not apply to any public broadcast television transmission from a federally licensed station.
- (e) For purposes of this section, "nudity" means a state of undress so as to expose to the view of another person the following body parts without any covering or with less than a fully opaque covering:
 - (1) The whole or part of the pubic region;
 - (2) The whole or part of the anus;
 - (3) The whole or part of the buttocks;
 - (4) The whole or part of the genitals; or

PART 2 - CODE OF ORDINANCES
Chapter 6 - ALCOHOLIC LIQUOR
ARTICLE 2. - SALE FOR ON-PREMISES CONSUMPTION

DIVISION 3. - PHYSICAL REQUIREMENTS FOR PREMISES

DIVISION 3. - PHYSICAL REQUIREMENTS FOR PREMISES

Sec. 6-91. - 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.
(Comp. Ords. 1987, §§ 21.657(A), 21.662(F)(1))

Sec. 6-92. - 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. This subsection does not apply to establishments selling beer for consumption on the premises under a "microbrewery" license and/or selling wine for consumption on the premises under a "small wine maker" license, except as provided in subsections (c) and (d) respectively.
- (c) Any establishment selling beer for consumption on the premises under a "microbrewery" license may have a full menu or limited menu restaurant and/or taproom on the premises. If the micro brewer has a restaurant on the premises, the micro brewer shall be subject to the restrictions set forth in subsection (b). If the micro brewer does not have restaurant on the premises, the micro brewer may have a taproom on the premises with seating capacity for not more than 30 persons and a total capacity for not more than 50 persons and shall have more than one variety of deli-style or snack food available for consumption on the premises during all hours of operation, whether the food be provided free of charge or made available for purchase.
- (d) Any establishment selling wine for consumption on the premises under a "small wine maker" license will have a full menu or limited menu restaurant on the premises. A small wine maker is limited to a seating capacity for not more than 30 persons and a total capacity for not more than 50 persons and the food will be provided free of charge or made available for purchase.
(Comp. Ords. 1987, § 21.655; Ord. No. 8-08, § 3, 7-25-2008)

Chapter 6 ALCOHOLIC LIQUORS

Sec. 6-9. Requirements for establishments selling spirits for on-premises consumption; waiver.

- (a) In addition to other requirements of this chapter, all establishments with a class C or class B license issued by the state, in which spirits are sold for consumption on the premises, shall have a dining table capacity for 125 or more persons and, if additional counter space is provided for the dispensing and sale of spirits, such counter space shall accommodate not more than 20 percent of the seating capacity of the entire dining room.
- (b) No establishment shall be considered to have the dining table capacity and seating capacity required by subsection (a) unless the square footage of the dining area shall provide for not less than 15 square feet of space per patron and unless such establishment shall have combined kitchen and food storage facilities having a square footage equal to at least 65 percent of the square footage of the dining table area.
- (c) Subsections (a) and (b) may be waived by the city commission for an establishment seeking the issuance or transfer of a class C license only if the city commission determines in its discretion that the waiver is in the best interests of the city and the public, the city commission determines in its discretion that the standards in section 6-4 are satisfied, and the establishment satisfies all of the following criteria, as determined by the city commission:
- (1) The establishment has a dining table capacity of not less than 100 persons based on 15 square feet of space per patron as provided in subsection (b);
 - (2) The establishment has combined kitchen and food storage facilities having a square footage equal to not less than 50 percent of the square footage of the dining table area;
 - (3) The gross receipts of the establishment from the sale of food and other goods and services excluding beer, wine, spirits, or other alcoholic liquor are reasonably expected to exceed 60 percent of the total monthly gross receipts of such establishment; and
 - (4) The establishment does not have a "drive thru" or "drive up" window for the sale of food, beverages, or other items to customers in vehicles.
 - (5) The establishment has operated as a bona fide restaurant within the city for at least one year prior to the application for a waiver without a class C or other license to sell alcoholic liquor.
 - (6) The seating available at a bar or similar counter space for the dispensing of alcoholic beverages shall be limited to no more than ten patrons.

Nothing in this subsection shall be construed to limit the city commission's discretion under section 6-4 of this article or any discretion of the city commission in reviewing the waiver, it being the intent of this subsection to reserve the city commission's discretion to the fullest extent of the law. The city commission shall consider an application for a waiver for the issuance of a new license as provided in this section. Before approving any transfer of a class C license of an establishment with a waiver under this subsection, the city commission shall review the application for transfer by applying the standards and criteria for the waiver in this section except that subsection (6) shall not apply to a transfer to a new owner at the same location.

- (d) A person who wishes to obtain a waiver pursuant to subsection (c) shall file an application, in duplicate, with the city clerk requesting the approval of the city commission for such waiver. Such application shall be accompanied by financial statements from similar establishments operated by the applicant for their last full fiscal year preceding the application or other pertinent financial information showing that the establishment will derive at least 60 percent of its total monthly gross receipts from the sale of food and other goods and services excluding beer, wine, spirits, and other alcoholic liquor. An establishment obtaining a waiver and a class C license under subsection (c) shall at all times thereafter derive at least 60 percent of its total monthly gross receipts from the sale of food and other goods and services excluding the sale of beer, wine, spirits, or other alcoholic liquor.

Sec. 5.9.05. Alcohol Sales and Consumption.

A.

Purpose. Alcohol-related uses tend to have a particularly detrimental effect on a geographic area where there is a concentration of such uses in proximity to each other. Neighborhood character, use type and type of activities, hours of operation, police resources and the secondary effects resulting from these uses must be taken into consideration during the alcohol licensing process.

B.

Applicability. Any land use that requires a license from the Michigan Liquor Control Commission (LCC) for the sale or consumption of beer, wine or alcoholic beverages (on- or off-premises, whether packaged, by the bottle, by the glass or otherwise) and any expansion or other changes in such a land use, shall require review and approval as specified in Table 5.9.05.C. The Planning Director maintains the right to direct any alcohol application to the Planning Commission for review.

C.

Approval Procedures for the Sales or Service of Alcohol. The following may be permitted administratively by the Planning Director, barring any concerns upon evaluation of the review standards. The Planning Director maintains the right to direct any alcohol application to the Planning Commission for review. For the purposes of this section, "restaurant" shall refer to a full service restaurant offering full meals for consumption on the premises during all business hours (and not generally for take-out) with beer and wine, or sales of alcoholic beverages by the glass. Food receipts shall exceed fifty (50) percent of sales when compared to alcohol. The establishment shall close prior to midnight.

Table 5.9.05.C. Approval Procedures for the Sales or Service of Alcohol			
	License	Description	Review Procedure
On-Premise Consumption	Class C, Club, Hotel, Resort, Tavern	New license for a new bar	SLU review
		Expansion of an existing bar	Administrative review if seating capacity and/or square footage of dedicated area is enlarged by no more than 20%; SLU if greater than 20%

			increase.
		New license for a new or existing restaurant; or expansion of an existing restaurant with alcohol	Administrative Site Plan Review if the establishment closes at or before midnight; SLU if hours extend past midnight.
	Brewpub, Micro Brewer	New license and expansion	SLU review; for expansion of production only, please see Table 5.6.06.B.
	Entertainment, Dance, After Hours	New license and expansion	SLU review
	Outdoor Service	New outdoor license for a new or existing bar or restaurant	Administrative Site Plan Review if along public right-of-way at the ground floor and in compliance with hours for outdoor service (10:00 p.m. Sunday through Thursday; 11:00 p.m. Friday through Saturday); SLU review if not at right-of-way, outside of approved hours, or within 300 feet of a residential use.
		Expansion of an existing outdoor service area not abutting the public right-of-way	Administrative Site Plan Review if seating capacity and/or square footage of dedicated area is enlarged by less than 20% and hours of operation are in compliance with ordinance; SLU if greater than 20% or hours exceed 10:00 p.m. Sunday through Thursday and/or 11:00 p.m. Friday through Saturday, or within 300 feet of a residential use.
Off-Premise Consumption	SDM	New retail license	SLU review; unless in conjunction with a restaurant or brewpub then administrative Site Plan Review so long as there is no assigned floor area or display dedicated to packaged alcohol sales.
		Expansion of existing sales area	SLU review

	SDD	New or expanded license	SLU review
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D.

Application Requirements. Each application shall be accompanied by a detailed site plan and such information as is necessary to demonstrate the proposed use or change in use meets the review standards contained herein. The following shall be submitted as part of a Special Land Use application:

1.

License Application. A copy of the license application submitted to the LCC; or in the case of a development district license pursuant to City Commission Policy 300-08 Requirements for Approval of Liquor License Requests in City Development Districts, a copy of the license application submitted to the City Clerk.

2.

Site Plan. A site plan illustrating the proposed location where the alcohol sales would occur, as well as all other locations where sales presently exist within a one thousand (1,000) foot radius of the closest lot lines of the subject site, including but not limited to restaurants, bars, convenience stores, and other alcohol retail outlets. The locations of other Special Land Uses, such as social or service clubs, second hand sales and regulated uses should also be identified on the plan.

E.

Review Standards. These review standards shall be used by the Planning Commission or Planning Director in the consideration of an alcohol request. The applicant shall demonstrate how these standards are satisfied by providing a written statement that responds to the following:

1.

Given the character, location, development trends and other aspects of the neighborhood in which the proposed LLC licensed use or change in an LCC licensed use is requested, it is demonstrated that the neighborhood is underserved by such a use and that the addition of the LLC licensed use or proposed change in use will demonstrably be an asset to the neighborhood.

2.

In the case of a development area license pursuant to City Commission Policy 300-8, the Planning Commission or Planning Director shall also consider the recommendations of the development area board and may

consider how the issuance of a license would promote economic growth in a manner consistent with adopted goals, plans or policies of the area.

3.

The use or change in use as constructed and operated by the applicant is compatible with the neighborhood in which it will be located.

4.

Adjacent or nearby parks (e.g., public parks or recreation centers), playgrounds (e.g., public or private), religious institutions, or schools will not be adversely affected.

5.

The use or change in use as constructed and operated by the applicant will not have any, or minimal, negative secondary effects on the neighborhood. Negative secondary effects can include the following impacts:

a.

Vehicular and pedestrian traffic, particularly during late night or early morning hours that might disturb area residents.

b.

Noise, odors, or lights that emanate beyond the site's boundaries onto property in the area on which there are residential dwellings.

c.

Excessive numbers of persons gathering outside the establishment.

d.

Peak hours of use that add to congestion or other negative effects in the neighborhood.

e.

Fighting, brawling, outside urination or other behavior that can accompany intoxication.

f.

Robberies, shoplifting and other crimes that affect party stores, convenience stores and other retail establishments open late.

6.

Evaluation Considerations. The Planning Commission or Planning Director, in the review, shall take into consideration the following:

a.

For a use involving sales of beer and wine, or sales of alcoholic beverages by the glass, an application related to a full service restaurant offering full meals for consumption on the premises (and not generally for take-out) at all times it is open for business and that

closes prior to midnight shall be presumed to have minimal negative secondary impacts.

b.

For a use involving retail sales of beer, of wine and/or of alcoholic beverages for off-premises consumption, an application related to a full service supermarket or an establishment that features imported or ethnic food items not commonly available in party, convenience or grocery stores, and that closes by 11:00 p.m. shall be presumed to have minimal negative secondary impacts.

c.

The presumptions in Subsections E.6.a. and E.6.b. above will not apply if the current or proposed location has had instances of negative secondary impacts or if the applicant has owned, operated or otherwise been affiliated with an establishment that has had instances of negative secondary impacts such as those described in Subsection E.5.a. above.

F.

Terms.

1.

For purposes of this Section, "neighborhood" means a neighborhood recognized by this ordinance, a neighborhood served by an organized neighborhood association recognized by the City, or an area within a one thousand (1,000) foot radius of the applicant's site, whichever is greater.

2.

For the purposes of this section, "restaurant" shall refer to a full service restaurant offering full meals for consumption on the premises during all business hours (and not generally for take-out) with beer and wine, or sales of alcoholic beverages by the glass. Food receipts shall exceed fifty (50) percent of sales when compared to alcohol. The establishment shall close at or before midnight.

G.

Other Requirements.

1.

Cash Register Viewing Window. The cash register for a convenience/package goods store shall be clearly visible from the street. The viewing window shall be at least fifteen (15) square feet in size and consist of clear glass. No signs shall be posted on the viewing window.

2.

Entertainment. The requirements of Section 5.9.11. Entertainment shall also apply if a Dance or Entertainment permit has been requested from the State or City.

3.

Requests for Dance, Entertainment or After Hours permits shall be considered a change in land use and shall be subject to the requirements of this Section.

(Ord. No. 2010-54, §§ 3, 4, 9-14-10; Ord. No. 2011-54, §§ 47—50, 11-29-11)

MEMORANDUM

City of Wyoming, Michigan

TO : Curtis L. Holt, City Manager
 cc: Barbara VanDuren, Deputy City Manager
 Jack Sluiter, City Attorney

FROM: Heidi A. Isakson, City Clerk

DATE: March 4, 2014

RE: Analysis of Legal Publishing by Type and Requirement

I reviewed all legal notices published in 2013, to estimate the costs in any given year for each type of notice, and to research what legislation or other requirement causes the notice to be published.

Type	Requirement	Cost
Bid Notices	Ordinance	\$4,246
Board of Review Notices	Statute	330
Construction Board of Appeals	Statute	88
City Council assorted hearings	Statute or Federal grant	1,071
CDBG Notices	Federal	1,837
DDA Plan Amendment	Statute	451
Election Notices	Statute	919
Housing Board of Appeals	Statute	226
Housing Commission	Federal	68
IFT Hearings	None – Statute describes parties to be “given an opportunity for a hearing” but not does not require publication	651
City Council Minutes	Charter	5,493
Ordinances	Statute, except two readings and two publications are not required except by our Charter	6,722
Planning Commission & Zoning Board of Appeals	Statute	4,972
198 notices	2013 Total	\$27,080

Bid Notices are available on our website, and vendors can sign up to receive bid notifications for multiple categories of purchases. A ordinance amendment could be considered to require such website posting for a number of days before the bid opening, and eliminate the newspaper publishing requirement.

IFTs: To establish an Industrial Development District, property owners must be notified of the hearing by certified mail, anyone can speak at the hearing, but there is no requirement to publish.

To consider a tax abatement, the applicant, the assessor, and the affected taxing jurisdictions must be given “an opportunity for a hearing.” This notice is currently sent by first class mail. There is no statutory requirement to publish. The City Council Policy on industrial tax abatements echoes the statute. If there is no objection, the Clerk’s Office could discontinue publication of IFT hearing notices in a newspaper.

City Council Minutes: The Home Rule Cities Act and the Open Meetings Act (OMA) do not require publication of minutes or a summary. Our website provides City Council minutes within 24-48 hours of a meeting, and always within the days required by the OMA. A charter amendment could be considered to require website posting in compliance with the OMA, and eliminate the requirement to publish in a newspaper.

The Home Rule Cities Act requires our Charter to have a provision for publishing ordinances, as does the Zoning Enabling Act. However, the requirement to have two readings and to publish twice is only in the Charter. A Charter amendment could be considered to eliminate the second reading, or to require that the first reading be posted on the website a number of days prior to second reading, rather than being published.

The costs listed above are for the Advance Newspapers. With the necessary change to the Grand Rapids Press, and the additional \$10 charge for Affidavits of Publication, these same notices would cost approximately \$49,000.

Ordinance regulating advertisement of bids:

Sec. 2-252. Publication of notices inviting bids or proposals.

Whenever notice inviting bids or proposals are required, this section shall govern. Notice inviting bids shall be published once in the official newspaper of the city and at least five days preceding the last day set for the receipt of the proposals. The newspaper notice shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Charter regulating publishing of minutes:

Sec. 6.7. Organization and rules of the commission.

The Commission shall determine its own organization, rules and order of business subject to the following provisions:

- (a) A journal of the proceedings of each meeting shall be kept in the English language by the Clerk.
- (b) A vote upon all ordinances and resolutions shall be taken by a roll call vote and entered upon the records, except that where the vote is unanimous it shall only be necessary to so state.
- (c) No member of the Commission shall vote on any question in which he has a financial interest, or on any question concerning his own conduct, but on all other questions each member who is present shall vote when his name is called unless excused by the unanimous consent of the remaining members present. Any member refusing to vote except when not so required by this paragraph shall be guilty of misconduct in office.
- (d) The proceedings of the Commission, or a brief summary thereof, shall be published within ten days following each meeting. Any such summary shall be prepared by the Clerk, and shall show the substance of each separate proceeding of the Commission.**
- (e) There shall be no standing committees of the Commission.

Charter regulating reading and publishing of ordinances twice:

Sec. 7.3. Enactment, amendment, and repeal of ordinances.

Ordinances may be enacted, amended, or repealed by the affirmative vote of not less than a majority of the whole Commission except that when an ordinance is given immediate effect [Section 7.4](#) shall govern. Unless by the affirmative vote of two-thirds of the whole Commission, no office shall be created or abolished, no tax or assessment [shall] be imposed, no street, alley, or public ground [shall] be vacated, no real estate or any interest therein [shall] be sold or disposed of, no private property [shall] be taken for public use, nor [shall] any vote of the Commission be reconsidered or rescinded at a special meeting, nor any money appropriated except as otherwise provided by this charter.

Except in the case of ordinances which are declared to be emergency ordinances, no ordinance shall be finally passed by the Commission until two weeks after the meeting at which it is introduced. No ordinance shall be determined an emergency ordinance except upon vote of two-thirds of the whole Commission. **A brief description of the subject and contents of the ordinance as introduced shall**

be published in a newspaper of general circulation in the city at least one week before final passage, either separately or as part of the published proceeding of the Commission.

No ordinance shall be amended by reference to the title only. All of the requirements for original adoption shall apply to amendments. However, an ordinance may be repealed by reference to its number and title only.

Sec. 7.4. Publication and recording of ordinances.

Each ordinance shall be published within ten days after its enactment in one of the following two methods:

- (1) The full text thereof may be published in a newspaper meeting the requirements of [section 17.9](#) of the charter, or
- (2) In cases of ordinances over 500 words in length, a digest, summary or statement of the purposes of the ordinance approved by the City Commission, may be published in a newspaper meeting the requirements of [section 17.9](#) of the charter, or together with a notice that printed copies of the full text of the ordinance are available for inspection by, and distribution to the public, at the office of the City Clerk. If method (2) is used, then printed copies shall be promptly made available, as stated in said notice.

All ordinances shall be recorded by the Clerk in a book to be called "The Ordinance Book," and it shall be the duty of the Mayor and Clerk to authenticate such records by their official signatures thereon, but the failure to do so record and authenticate such ordinance shall not invalidate it or suspend its operation.