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TITLE VII - BUSINESS AND TRADES

CHAPTER 71

LICENSES

7.1. Licenses Required.

No person shall engage, or be engaged, in the operation, conduct or carrying on of any trade, profession, business or privilege for which any license is required by any provision of this Code without first obtaining a license from the City in the manner provided for in this Chapter. Any person duly licensed on the effective date of this Code shall be deemed licensed hereunder for the balance of the current license year.

7.2. Multiple Businesses.

The granting of a license or permit to any person operating, conducting or carrying on any trade, profession, business or privilege which contains within itself, or is composed of, trades, professions, businesses or privileges which are required by this Code to be licensed, shall not relieve the person to whom such license or permit is granted from the necessity of securing individual licenses or permits for each such trade, profession, business or privilege, except as specifically provided elsewhere in this Code.

7.3. State Licensed Businesses.

The fact that a license or permit has been granted to any person by the State of Michigan to engage in the operation, conduct or carrying on of any trade, profession, business or privilege shall not exempt such person from the necessity of securing a license or permit from the City if such license or permit is required by this Code.

7.4. License Application.

Unless otherwise provided in this Code, every person required to obtain a license from the City to engage in the operation, conduct or carrying on of any trade, profession, business, or privilege shall make application for said license to the City Clerk upon forms provided by the City Clerk and shall state under oath or affirmation such facts, as may be required for, or applicable to, the granting of such license. No person shall make any false statement or representation in connection with any application for a license under this Code.

7.5. License Year.

Except as otherwise herein provided as to certain licenses, the license year shall begin June 1st of each year and shall terminate at midnight on May 31st of the following year. Original licenses shall be issued for the balance of the license year at the full license fee except that after December 1st, the fee for any license shall be one-half ($\frac{1}{2}$) the full amount, if the full fee is ten (\$10.00) dollars or more. License applications for license renewals shall be accepted and licenses issued for a period of fifteen (15) days prior to the annual expiration date. In all cases where the provisions of this Code permit the issuance of licenses for periods of less than one (1) year, the effective date of such licenses shall commence with the date of issuance thereof.

7.6. Conditions for Issuance.

No license or permit required by this Code shall be issued to any person who is required to have a license or permit from the State of Michigan, until such person shall submit evidence of such State license or permit and proof that all fees appertaining thereto have been paid. No license shall be granted to any applicant therefor until such applicant has complied with all of the provisions of this Code applicable to the trade, profession, business or privilege for which application for license is made, nor unless that applicant agrees in writing to permit inspection of the licensed premises at reasonable hours by authorized officers of the City.

7.7. Where Certification Required.

No license shall be granted where the certification of any officer of the City is required prior to the issuance thereof until such certification is made.

7.8. Health Officer's Certificate.

In all cases where the certification of the Health Officer is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the person making application and the premises in which he proposes to conduct or is conducting the trade, profession, business or privilege comply with all the sanitary requirements of the State of Michigan and of the City.

7.9. Fire Chief's Certificate.

In all cases where the certification of the Fire Chief is required prior to the issuance of any license by the City Clerk, such certification shall be based upon an actual inspection and a finding that the premises in which the person making application for such license proposes to conduct or is conducting the trade, profession, business or privilege comply with all the fire regulations of the State of Michigan and of the City.

7.10. Police Chief's Certificate.

In all cases where the certification of the Chief of Police is required prior to the issuance of any license by the City Clerk, such certification shall be based upon a finding that the person making application for such license is of good moral character.

7.11. Building Inspector's Certificate.

In all cases where the carrying on of the trade, profession, business or privilege involves the use of any structure or land, a license therefor shall not be issued until the Building Inspector shall certify that the proposed use is not prohibited by Title V of this Code, or other Zoning Regulations of the City.

7.12. Bonds.

Where the provisions of this Code require that the applicant for any license or permit furnish a bond, such bond shall be furnished in an amount deemed adequate by the proper City officer, or, where the amount thereof is specified in the schedule of fees and bonds set out in Chapter 72 or elsewhere in this Code, in the amount so required; the form of such bond shall be acceptable to the City Attorney. In lieu of a bond, an applicant for a license or permit may furnish one or more policies of insurance in the same amounts and providing the same protection as called for in any such bond; any such policies of insurance shall be approved as to substance by the City official issuing said license or permit and as to form by the City Attorney.

7.13. Late Renewals.

All fees for the renewal of any license which are not paid at the time said fees shall be due, shall be paid as "late fees" with an additional twenty-five (25%) per cent of the license fee required for such licenses under the provisions of Chapter 72, for the first fifteen (15) days that such license fee remains unpaid and thereafter the license fee shall be that stipulated for such licenses under Chapter 72, plus fifty (50%) per cent of such fee.

7.14. Right to Issuance.

If the application for any license is approved by the proper officers of the City, as provided in this Code, said license shall be granted and shall serve as a receipt for payment of the fee prescribed for such license.

7.15. Fees—When Paid.

The fee required by this Code for any license or permit shall be paid at the office of the issuing authority prescribed in this Code upon or before the granting of said license or permit.

7.16. Exempt Persons.

No license shall be required from any person exempt from such fee by State or Federal law. Such persons shall comply with all other provisions of this Chapter. The City Clerk shall, in all such cases, issue to such persons licenses which are clearly marked as to said exemption and the reason therefor.

7.17. Suspension or Revocation.

Any license issued by the City may be suspended by the City Manager for cause, and any permit issued by the City may be suspended or revoked by the issuing authority for cause. The licensee shall have the right to a hearing before the Council on any such action of the City Manager, provided a written request therefor is filed with the City Clerk within five (5) days after receipt of said notice of such suspension. The Council may confirm such suspension or revoke or reinstate such license. The action taken by the Council shall be final. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded.

7.18. "Cause" Defined.

The term "cause," as used in this Chapter, shall include the doing or omitting of any act, or permitting any condition to exist in connection with any trade, profession, business or privilege for which a license or permit is granted under the provisions of this Code, or upon any premises or facilities used in connection therewith, which act, omission or condition is:

- (1) Contrary to the health, morals, safety or welfare of the public;
- (2) Unlawful, irregular or fraudulent in nature;
- (3) Unauthorized or beyond the scope of the license or permit granted; or
- (4) Forbidden by the provisions of this Code or any duly established rule or regulation of the City applicable to the trade, profession, business or privilege for which the license or permit has been granted.

7.19. License Renewal.

Unless otherwise provided in this Code, an application for renewal of a license shall be considered in the same manner as an original application.

7.20. Exhibition of License.

No licensee shall fail to carry any license issued in accordance with the provisions of this Chapter upon his person at all times when engaged in the operation, conduct or carrying on of any trade, profession, business or privilege for which the license was granted; except that where such trade, profession, business or privilege is operated, conducted or carried on at a fixed place or establishment, said license shall be exhibited at all times in some conspicuous place in his place of business. Every licensee shall produce his license for examination when applying for a renewal thereof or when requested to do so by any City police officer or by any person representing the issuing authority.

7.21. Exhibition on Vehicle and Machine.

No licensee shall fail to display conspicuously on each vehicle or mechanical device or machine required to be licensed by this Code such tags or stickers as are furnished by the City Clerk.

7.22. Displaying Invalid License.

No person shall display any expired license or any license for which a duplicate has been issued.

7.23. Transferability; Misuse.

No license or permit issued under the provisions of this Code shall be transferable unless specifically authorized by the provisions of this Code. No licensee or permittee shall, unless specifically authorized by the provisions of this Code, transfer or attempt to transfer his license or permit to another nor shall he make any improper use of the same.

7.24. Misuse; Automatic Revocation.

In addition to the general penalty provision for violation thereof, any attempt by a licensee or permittee to transfer his license or permit to another, unless specifically authorized by the provisions of this Code, or to use the same improperly shall be void and result in the automatic revocation of such license or permit.

CHAPTER 72
FEES AND BONDS REQUIRED

7.31. Schedules Established.

The fee required to be paid and the amount of any bond required to be posted, or insurance required to be carried, to obtain any license to engage in the operation, conduct, or carrying on of any trade, profession, business or privilege for which a license is required by the provisions of this Code shall be as hereinafter provided in this Chapter. No license shall be issued to any applicant unless he first pays to the City Clerk the fee and posts a bond or evidence of insurance coverage in the amount required for the type of license desired.

7.32. Fees for Licenses.

Fees for licenses shall be as prescribed in the following sections of this Chapter under the business, trade, occupation or privilege to be licensed. Bonds or insurance coverage, where required, shall be in the amounts listed beneath the license fee prescribed for such business.

7.33. Schedule A.

- (1) Saddle-horse stables, leasing or letting saddle horses and their accoutrements, for hire or reward, for each such saddle-horse, five (\$5) dollars per year, or any part thereof, but not exceeding fifty (\$50) dollars per stable per year.
- (2) Restaurant, tea-room, eating house, boarding house, where the same is conducted for a period of six months, or less, during a license year, fifty (\$50) dollars per year, or any part thereof.
- (3) Fruit stand or store, vegetable stand or store, or both fruit and vegetable stand or store combined, the buying and selling of fruit, vegetables, or other farm products, per year, or any part thereof, the sum of fifty (\$50) dollars.
- (4) Theatre, moving picture house, show-house, or other place of amusement operated for gain or reward, thirty (30¢) cents per year, or any part thereof, for each seat in such place to the extent of the full seating capacity of the house or theatre: provided, that this provision shall not apply to a circus, menagerie, or other places of amusement mentioned in Schedule B of this Chapter.

- (5) Any transient, itinerant or travelling photographer, or other person or persons, who shall solicit for the making of any kind of post cards, or other photographs, or solicit for the enlargement of photographs or pictures, either with or without frames, whether the same is done from house to house, or from an established place of business, within the City of Charlevoix, the sum of ten (\$10) dollars per day.

- (6) Transient traders, defined as any person engaged in any temporary or transient business, at wholesale or retail, or both wholesale and retail, in the sale of goods, wares and merchandise, not otherwise specifically mentioned and designated in this Chapter, and who for the purpose of such business, uses or occupies any store, building, automobile, car, boat, stand or room (including rooms in hotels or other buildings), for the exhibition or keeping of such goods, wares and merchandise for sale shall pay to the City of Charlevoix as follows, to wit:

Where the value of such stock does not exceed three thousand (\$3000) dollars in value, the sum of one hundred (\$100) dollars per year or any part thereof; and where the value of such stock shall exceed three thousand (\$3000) dollars in value, the sum of one hundred (\$100) dollars plus the sum of twenty-five (\$25) dollars for each additional one thousand (\$1000) dollars of value thereof, or any part thereof, in excess of said three thousand (\$3000) dollars of value, per year, or any part thereof.

Any person engaged in business as a transient trader who has conducted such business in said City of Charlevoix during any part of the next preceding calendar and has caused the personal property used in the conduct of such business to be assessed for taxation upon the tax roll of said City for the current calendar year, under a separate description from other taxable personal property owned by him, shall not be required to pay any fee or obtain any license for the said business for said year.

7.34. Schedule B.

- (1) Any person acting as an auctioneer for the sale of goods, wares and merchandise in the City of Charlevoix, not otherwise designated and provided for in this Chapter shall pay the sum of ten (\$10) dollars per day, for each and every day or portion of a day he may act as an auctioneer.

- (2) Any person selling, disposing of, or offering for sale in the City of Charlevoix at public auction or to cause or permit to be sold, disposed of, or offered for sale in said City at public auction any linen, laces, embroideries, or cotton material sold by the yard or made up in any form, whether the same shall be their own property, or whether they sell, dispose of, or offer the same at public auction or cause, or permit the same to be done as agents or employees of others, shall secure a license and shall pay to the City of Charlevoix the sum of ten (\$10) dollars per day or any portion of a day: provided, however, that this shall not apply to judicial sales or sales by executors or administrators, or to sales by and on behalf of licensed pawn brokers of unredeemed pledges in the manner provided by law, nor to the sale at public auction of the stock on hand of any person that shall, for the period of one year last preceding such sale, have been continuously in business in the City of Charlevoix as a retail or wholesale merchant or linen, laces, embroideries, cotton material, or linen and cotton material: provided further, that such sale at public auction of the stock on hand of such merchant or merchants shall be held on successive days, Sundays and legal holidays excepted and shall not continue more than thirty (30) days in all within the period of one (1) year

The applicant for a license shall not be allowed to hold an auction as in such license provided on any day or at any place other than that set forth in said application and license. Should the applicant desire to hold two or more auctions as herein provided at different places on the same day, the license fee for each place will be the same as herein set forth for one auction.

- (3) The occupation, trade or business of a hawker or peddler within the corporate limits of the City of Charlevoix shall secure a license and pay to the City of Charlevoix the sum of ten (\$10) dollars per day or any part of a day and for each successive day the sum of seven (\$7) dollars per day or any part thereof. A hawker and peddler for the purposes of this Chapter is defined as follows, to wit: Any person who sells or offers for sale on any of the streets, alleys, wharves or other public places within the corporate limits of the City of Charlevoix, any goods, wares, or merchandise, or who travels from place to place therein, for the purpose of selling or offering for sale any goods, wares and merchandise by sample or otherwise shall be deemed a hawker and peddler within the meaning of this Chapter. Nothing contained in this Chapter shall be construed to prevent any manufacturer, farmer, mechanic, nursery man, or peddler of meat and fish, from selling or offering for sale his own work, catch or production, by sample or otherwise, nor shall any wholesale merchant be prevented by anything herein contained, from selling to dealers by sample without license, but no wholesale merchant shall be allowed to peddle or employ others to peddle goods not of his own manufacture except as above specified. Any person delivering goods, wares or merchandise which has been sold

by another by sample or otherwise for future delivery shall be deemed a hawker and peddler within the meaning of this Chapter.

- (4) Traveling or other circus, menagerie, or circus and menagerie combined, outdoor exhibition, or show, theatrical performance and street carnival, so-called, to which paid admission is charged, which may operate only upon special permission from the City Council subject to immediate revocation by said body, shall pay to the City of Charlevoix the sum of money as follows, to wit: If the admission charge is fifty (50¢) cents or more per person, the sum of fifty (\$50) dollars per day; if the admission charge is thirty-five (35¢) cents or less than fifty (50¢) cents, the sum of thirty-five (\$35) dollars per day; if the admission charge is less than thirty-five (35¢) cents per person, the sum of twenty-five (\$25) dollars per day: provided, however, that such fee shall be for the first day's performance, including matinee, if any. The license fee for any successive day, including a matinee, if any, shall be one-half ($\frac{1}{2}$) of that for the first day's performance. A day shall mean a full day or part of a day of twenty-four (24) hours.
- (5) A bowling alley, box-ball alley, mechanical baseball, or ballthrowing device, music box, juke box, phonograph, pin ball machine, indoor shuffleboard or any other coin operated amusement device, shall pay for each bed or device the sum of ten (\$10) dollars per year, or any part thereof.
- (6) Dealers in buying and/or selling junk, old rubber, hides, old iron or other metals, antiques, and other second hand articles shall pay the sum of fifty (\$50) dollars per year, or any part thereof.
- (7) Operators of any beauty parlor or manicuring establishment that is operated less than six (6) months in any calendar year and is not a part of the business of duly licensed barber shop shall pay the sum of twenty-five (\$25) dollars per year, or any part thereof.
- (8) Any person who shall engage in the business of selling popcorn in any form, peanuts, either fresh or roasted or salted, candy, ice cream or other articles of confectionery, either from a stall, booth, cart or wagon, or other vehicle, where the same is conducted and operated for a period of six (6) months or less during a license year, except for charitable purposes by permission of the City Council, shall pay the sum of fifty (\$50) dollars per year, or ten (\$10) dollars per day.
- (9) Public dance hall or pavilion, or public dances held under a tent or in the open, skating rink, or other place of amusement, for hire or gain, and not otherwise described in the Chapter, which may

be operated by permission of the City Council, shall pay the sum of five (\$5) dollars per day.

(10) Billiard and pool parlor, or room, or either, operated and conducted for gain or reward shall pay the sum of five (\$5) dollars for each table, per year or any part thereof.

(11) Any person hauling or bringing into the City of Charlevoix, either directly or indirectly, any goods, wares, merchandise, bread or other baked goods, provisions, fruit, food products or other personal property with intention of selling or disposing of the same from any room, store, warehouse, building, lot, railroad car, vehicle, or in any other manner whatsoever, either at wholesale or retail, by soliciting orders therefor from house to house or from store to store or taking orders for the future delivery thereof or otherwise without a bona fide intention of engaging in the business of selling or disposing of such goods, wares, merchandise, bread or other baked goods, provisions, fruit, food products or other personal property in a regularly established place of business within the City of Charlevoix shall pay to the City of Charlevoix a sum of money as follows, to wit:

For each day or part of a day less than one (1) week the sum of five (\$5) dollars.

For each week under one (1) month the sum of fifteen (\$15) dollars.

For each month less than one (1) year the sum of twenty-five (\$25) dollars.

For each year the sum of fifty (\$50) dollars: provided, however, that the provision of the subsection shall not apply to any person having a regularly established place of business within the City of Charlevoix and whose stock of goods, wares, or merchandise has been assessed for taxation and the tax shall have been paid thereon during the current year, nor to any person selling wood, fuel or farm products produced by such person, operating or conducting any business, trade or occupation which has been otherwise designed and defined in this Chapter.

7.35. Schedule C.

Alarm Systems (Chapter 75)

Initial fee	\$2.50 x months left in calendar year
Renewal fee (annual)	\$30.00

Refuse Collectors (Chapter 21)

Annual fee	\$10.00
Bond	\$5,000.00

Solicitors (Chapter 73)

Fees (Established by City Council resolution)

(Ord. No. 411, 08-16-82)

CHAPTER 73
SOLICITORS AND TEMPORARY BUSINESSES

7.51. Purpose.

The purpose of this Chapter shall be to protect the health, safety, and welfare of the citizens of the City by regulating solicitors, transient merchants, door-to-door salesmen, roadside stands, street vendors, auctioneers, and other temporary businesses.

7.52. Definitions.

- (1) "Solicitor" or "Door-to-Door Salesman" shall mean any person who sells or offers for sale any goods, wares, merchandise, or services by traveling about the City and, in the course of his business, enters upon privately owned property.
- (2) "Roadside Stand" or "Temporary Business" shall mean any place at which goods, wares, merchandise, or services are sold or offered for sale, other than from a permanent structure duly approved for such use.
- (3) "Transient Merchant" shall mean any person who sells or offers for sale any goods, wares, merchandise, or services from a permanent structure duly approved for such use for a period of less than six (6) months, and whose current business was not listed on the City of Charlevoix Personal or Real Property Tax Roll on the preceding December 31st.
- (4) "Auctioneer" shall mean any person selling, or offering for sale, any goods, wares, merchandise, or services at public auction.

7.53. License Required.

Solicitors, transient merchants, door-to-door salesmen, roadside stands, temporary businesses, and auctioneers shall not operate within the City without first obtaining a license in compliance with the provisions of this Chapter.

Persons selling newspapers, commercial travelers or selling agents calling upon commercial establishments in the usual course of business, and any business operating under the auspices of a civic event sanctioned by the City

shall not be required to obtain a license.

7.54. Application for License.

Persons required to obtain a license shall apply for it at the office of the City Clerk. One application shall be made to authorize one or more persons to solicit within the City, provided that all such persons identified by such license application are employed by the same person, firm, or corporation. The content of the application form shall be prescribed by the City Clerk.

7.55. Fees Required.

A license fee, set by resolution of the City Council, shall be paid in full prior to issuance of the license.

7.56. Exemptions.

The following persons shall not be required to obtain licenses as specified herein and shall not be required to pay the fees prescribed herein: duly authorized solicitors on behalf of any religious organization and any locally recognized or affiliated non-profit educational, charitable, civic, or religious organization, and any other persons otherwise exempted by law. The City Clerk shall make the final determination regarding exemptions. Exempt persons or organizations shall be required to register with the City Clerk for identification purposes when engaging in any activity regulated by this Chapter.

7.57. Investigation and Issuance; Notice of Denial.

Upon receipt of an application for a solicitor's, auctioneer's, or temporary business license, the City Clerk and the Chief of Police may cause such investigation of such person's or persons' business responsibility or moral character to be made as they deem necessary for the protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation appear to be satisfactory, the City Clerk shall proceed to issue a license.

The City Clerk shall keep a full record in his/her office of all licenses issued and shall submit a copy of such record to the Chief of Police. Within three (3) working days of receipt of an application, the City Clerk shall either issue to the applicant the requested license or issue a written notice of denial and the reason therefor. The

person whose license has been denied shall have the right to appeal to the City Council within seven (7) days of such denial.

7.58. Expiration of License.

All licenses issued under the provisions of this Chapter shall expire as of the date listed on the face thereof, such period not to exceed six (6) months from issuance.

7.59. Revocation of License; Appeal.

- (1) The license issued pursuant to this Chapter may be revoked at any time by the City Clerk or the Chief of Police, or their duly authorized representatives, for any of the following reasons:
 - (a) Any fraud, misrepresentation, or false statement contained in the application for license;
 - (b) Any fraud, misrepresentation, or false statement contained in connection with the selling of goods, wares, merchandise, or services;
 - (c) Any violation of a City Ordinance, including Chapter 51, the City Zoning Code, and Chapter 99, the City Sign Code;
 - (d) Conviction of the applicant or other persons acting under the authority of the applicant's license or any felony or of a misdemeanor involving moral turpitude; or
 - (e) Conducting the business permitted under this Chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Within three (3) working days of the revocation of a license, the City Clerk shall send to the person whose license has been revoked, notice setting forth specifically the grounds of the revocation. Such notice shall be mailed to the person to whom the license was issued at the address shown on the license application.
- (3) The person whose license has been revoked shall have the right to appeal to the City Council

within seven (7) days of such revocation.

7.60. Display of License.

Any person or business licensed under the provisions of this Chapter shall have the license issued to him in his immediate possession and shall display the same upon demand of any duly authorized representative of the City. Solicitors shall produce their license upon demand by any person.

7.61. Hours of Business.

No person shall engage in any auction, soliciting, or operate any roadside stand or other temporary business at any place in the City during the period from 9:00 P.M. until 9:00 A.M.

7.62. Location.

Roadside stands and temporary businesses shall comply with the following locational requirements:

- (1) Private Property: When located upon private property, such stands or businesses must be located within the Central Business District or a commercial use district as provided in Chapter 51, Zoning.
- (2) Public Rights-of-Way: When located within a public right-of-way, such stands or businesses must, if not continually moving:
 - (a) Be located within or adjacent to the Central Business District or a commercial use district as provided in Chapter 51, Zoning;
 - (b) Be at least ten (10) feet from the traveled portion of any drive, roadway, or alley; and
 - (c) Provide at least six (6) feet clearance on all public walks or pedestrian ways.
- (3) Public Property: When located on public property other than the public rights-of-way, such stands or businesses shall be permitted at the discretion of the City Manager under the policy guidance of the City Council. The City Council may, by ordinance or resolution, establish such additional programs or requirements it deems fit for the operation or franchising on public property of any business

regulated by this Chapter.

7.63. Sales from a Vehicle.

It shall be unlawful for any person traveling about the City doing business from any vehicle which is self-propelled, propelled by human power, or propelled by any other means to:

- (1) Operate a vehicle when under the age of eighteen (18) years;
- (2) Double park in any manner;
- (3) Operate the vehicle backwards in making or attempting to make a sale;
- (4) Permit any person to hang on the vehicle;
- (5) Refuse to remove the vehicle from any street, sidewalk, or public place in the City upon the request of a police officer when, in the opinion of the police officer, said vehicle is causing traffic congestion;
- (6) Cry his wares in a loud voice or use any noise-producing device other than a soft chime, and the limit of audibility of his voice or chime shall not be more than two hundred (200) feet from the source of such sound; or
- (7) Make or attempt to make a sale from a side of a vehicle not closest to the nearest curb or berm.

7.64. Restrictions on Operations of Solicitors, Roadside Stands, Auctioneers, and Temporary Businesses.

The City Manager, City Clerk, or Chief of Police may place such reasonable restrictions upon the location, hours, provisions for parking, ingress or egress, or methods of operation of any solicitor, roadside stand, auctioneer, or temporary business licensed under this Chapter, as deemed necessary to protect the general public health, safety, or welfare. Such restrictions may be imposed, modified, or withdrawn at the time of licensure or any point thereafter.

The City Council may, by resolution, establish general policies and guidelines in addition to the provisions of this

Chapter, governing the location, hours, or methods of operation of solicitors, roadside stands, auctioneers, or temporary businesses in general, or any class thereof. Any such resolution shall not have the effect of invalidating any license already issued.

7.65. Enforcement.

The Chief of Police and the City Clerk and their duly authorized representatives shall have the authority to examine all places of business and persons within the City subject to the provisions of this Chapter, to determine if this Chapter has been complied with and to enforce the provisions of this Chapter against any person found to be violating same.

7.66. Relationship to Other Chapters.

The terms of this Chapter shall in no manner alter the interpretation or requirements of any other Chapter of the City Code with the exception that, in any conflict between this Chapter and Chapters 71 and 72 of the City Code, this Chapter shall prevail. Persons regulated under this Chapter shall comply with all applicable provisions of the City Zoning and Sign Codes. The City Clerk may require evidence of compliance with such Codes prior to issuing a license.

7.67. Nuisance Per Se.

A violation of this Chapter is hereby declared to be a nuisance per se and any action and violation thereof may be immediately enjoined in the Charlevoix County Circuit Court. Enforcement of this section shall not preclude enforcement for violation of this Chapter pursuant to Section 1.12 of this Code.

(Ord. No. 658, 03-06-00)

7.68. Severance Clause.

The provisions of this Chapter are declared to be severable and if any section, sentence, clause, or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Chapter but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the invalidity of any part.

CHAPTER 74 RESERVED

(Ord. No. 411, 8/16/1982)

CHAPTER 75
ALARM SYSTEMS

7.101. Permit Required.

It shall be unlawful for any person to install, operate, use or maintain any automatic telephone dialing alarm system without having first applied for a permit, and being granted same for such system by the City Manager of the City of Charlevoix.

7.102. Calls to City Telephones.

It shall be unlawful for any person to permit or cause any such telephone system to call or connect to any City of Charlevoix, listed or unlisted, telephone numbers other than those telephone numbers duly authorized, and designated by the City Manager and shown on the permit.

7.103. Permit Fees.

Application for a permit shall be accompanied by the payment of an initial permit fee of two and one-half (\$2.50) dollars for each unexpired month of the calendar year. Annual renewal fees shall be paid January 1 of each year thereafter in the amount of thirty (\$30.00) dollars.

7.104. Report of Systems in Use.

Any and all sellers and installers of such automatic dialing telephone alarm systems shall, each January 1, submit to the City of Charlevoix a complete and accurate report setting forth to the best of knowledge and belief all systems presently being used within the City of Charlevoix, designating the name and address of the owner, operator, or user of said equipment.

7.105. Change in City Number.

At the discretion of the City Manager of the City of Charlevoix, authorized and designated telephone numbers of the City of Charlevoix servicing such automatic dialing telephone alarm systems may be changed from time to time as circumstances warrant, and upon due notice to persons holding permits such newly authorized and designated telephone number or numbers shall be the only such municipal or city number, or numbers, called by such automatic dialing telephone alarm systems.

CHAPTER 76
BUSINESSES AND TRADES

7.201. Findings and Purposes.

It is found and declared that:

- (a) The primary purpose of the public streets and sidewalks is for use by vehicular and pedestrian traffic.
- (b) Reasonable regulation of streets and sidewalks is necessary to protect the public health, safety and welfare.
- (c) The uncontrolled placement of tables and chairs, merchandise and goods, newsracks, planters and other articles and objects present an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control, and emergency services.
- (d) Tables and chairs, goods and merchandise, newsracks, planters and other articles and objects so located as to cause an inconvenience or danger to persons using public rights-of-way constitute public nuisances per se.

The provisions and prohibitions hereinafter contained are enacted in pursuance of and for the purpose of securing and promoting the public health, safety, and welfare.

(Ord. No. 511, 02-20-89)

7.202. Definitions.

For purposes of this chapter, the following words and phrases shall be defined to include:

Articles and objects: Any thing or obstruction placed over or upon a street or sidewalk.

Goods and merchandise: Any items offered for sale to the general public.

Newsracks: Any self-service or coin-operated box, container, storage unit, or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals.

Sidewalk: Any surface provided for the use of pedestrians.

Street: All that area dedicated to the public use for public street purposes and shall include, but not be limited to, roadways, state trunk lines, and alleys.

Tables and chairs: Facilities provided to customers for food or beverages upon a public sidewalk..

Planters: Any device used or intended to be used for display of non-artificial flowers

(Ord. No. 511, 02-20-89)

7.203. License Required.

It shall be unlawful for any person, firm or corporation to erect, place, maintain, or operate, on any public street or sidewalk or in any other public way or place, within the Charlevoix city limits except on the street or sidewalk within the Bridge Street right-of-way (U.S. 31) between the highway bridge on the north and Hurlbut Street on the south, any article, object, or any other obstruction except under the conditions and in the manner presented in this chapter. Provided, however, the city manager may grant, pursuant to the terms of this chapter, licenses for the erection, placement, maintenance or operation of newsracks, tables, chairs, and planters on sidewalks within the Bridge Street right-of-way (U.S. 31) between the highway bridge on the north and Hurlbut Street on the south.

(Ord. No. 511, 02-20-89)

7.204. Application for Permit.

Applications for such permit shall be made in writing to the city manager upon such form as shall be provided by the city and shall contain the name and address of the applicant; the proposed specific location of the tables and chairs, newsracks or planters; and shall be signed by the applicant.

(Ord. No. 511, 02-20-89)

7.205. Conditions for License.

- (a) As an express condition of the acceptance of such license, the licensee thereby agrees to indemnify and save harmless the city, its officers, directors, and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as a result of the installation, use, or maintenance of tables and chairs, newsracks, planters, or goods and merchandise within the City of Charlevoix.
- (b) Licenses shall be issued for the installation of newsracks, planters, tables and chairs with prior inspection of the location but such newsracks, planters, tables and chairs, and the installation, use, or maintenance thereof shall be conditioned upon observance of the provisions of this chapter and upon such reasonable rules and regulations as may be established by the city council from time to time by resolution. Licenses shall be issued within two (2) working days after the application has been filed. An annual license fee of twenty-five dollars (\$25.00) is required.
- (c) Such licenses shall be valid for one (1) year and shall be renewable pursuant to the procedure for the original applications referred to in section 7.204 and upon payment of the license fee.
- (d) No license shall be issued to an applicant, or any license may be revoked in the event the applicant or licensee is in violation of any of the provisions of the Charlevoix City Code.

(Ord. No. 511, 02-20-89)

7.206. Standards for maintenance and installation.

Any tables, chairs, planters or newsracks which in whole or in part rest upon, in, or over any public sidewalk shall comply with the following standards:

- (a) Shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the generality of the foregoing, all tables, chairs, planters and newsracks shall be serviced and maintained so that:
 - (1) They are reasonably free of dirt and grease.
 - (2) They are reasonably free of chipped, faded, peeling and cracked paint in the visual painted areas thereof. The structural parts thereof are not broken or unduly misshapen.

(Ord. No. 511, 02-20-89)

7.207. Location and Placement of Newsracks, Planters, Tables and Chairs.

Any newsracks, planters, tables and chairs which rest in whole or in part upon, or in, or on any portion of a public sidewalk or right-of-way or which projects onto, into, or over any part of a public sidewalk or right-of-way shall be located in accordance with the provisions of this section:

- (a) No tables, chairs, planters, or newsracks shall be used or maintained which projects onto, into, or over any part of the roadway or public street, or which rests wholly or in part upon, along, or over any portion of the roadway or any public street.
- (b) No tables, chairs, planters, or newsracks shall be permitted to rest upon, in or over any public sidewalk, when such installation, use, or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such use unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally marked or stopped vehicle, the ingress into or the egress from any residence or place of business, or the use of poles, posts, traffic signs, or signals, hydrants, mailboxes, or other objects permitted at or near said location.

- (c) No tables, chairs, planters, or newsracks shall be chained, bolted, or otherwise attached to any fixture located in the public right-of-way, except to another newsrack, planter, table or chair.
- (d) No tables, chairs, planters or newsracks shall be placed, installed, used or maintained:
 - (1) Within three (3) feet of any crosswalk.
 - (2) Within ten (10) feet of the back of the street curb.
 - (3) Within five (5) feet of any driveway.
 - (4) At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6) feet.
- (e) The city manager may establish by regulation the number and location of areas within the city to be used for placement of newsracks.

(Ord. No. 511, 02-20-89)

7.208. Exception for Special Events.

- (a) Notwithstanding anything herein contained to the contrary, the city manager may allow the placement of goods and merchandise for retail sales each year for what is commonly referred to as "Sidewalk Days."

- (b) Notwithstanding anything contained herein to the contrary, the city manager may allow the placement of goods for retail sales on a public sidewalk or public street by a nonprofit organization recognized by the Internal Revenue Service as a charitable organization. The organization shall obtain a permit from the city manager which shall specify the location(s) and time period covered by the permit. The permit shall be issued without charge and may not exceed seventy-two (72) hours. The city manager may deny the permit, if there is a reason to believe that the activity to be covered by the permit, its requested location(s) or time interval would interfere with the rights of others to use the public sidewalk or street, interfere with the ability of city employees to carry out their jobs or the right of the public to unobstructed travel along a public street or public sidewalk.

(Ord. No. 511, 2-20-89; Ord. No. 514, 06-19-89)

7.209. Violations of Ordinance.

Upon determination by the city manager that a newsrack, planter, table or chair, goods or merchandise, or other article or object has been installed, used, or maintained in violation of the provisions of this chapter, an order to correct the offending condition will be issued to the owner or operator of said newsrack, planter, table or chair, goods or merchandise, or other article or object. Such order shall be telephoned to said owner or operator and confirmed by mailing a copy of the order by certified mail, return receipt requested. The order shall specifically describe the offending condition and request the action necessary to correct the condition. Failure to properly correct the offending condition within one (1) day (excluding Saturdays, Sundays and legal holidays) after the mailing date of the order shall result in the offending condition being removed and processed as unclaimed property. If the offending condition is not properly identified by the owner or operator of the business premises located immediately adjacent to such section of the public street or sidewalk, said offending condition shall be removed immediately and processed as unclaimed property. The city manager shall cause inspection to be made of the corrected condition or of any condition after removal under this section.

(Ord. No. 511, 02-20-89)

7.210. Revocation.

In addition to the enforcement procedures provided in section 7.209 above it shall be within the power and discretion of the city manager to suspend or revoke the license for continued or repeated violations or infractions of any provisions of this chapter or any rule or regulation of the City of Charlevoix. Suspension or revocation shall be mandatory for the third offense under section 7.209.

(Ord. No. 511, 02-20-89)

7.211. City Manager's Designated Representative.

"City Manager," as used in this chapter, shall include his or her designated representative.

(Ord. No. 511, 02-20-89)

7.212. Separability.

If any section, subsection, sentence, clause or phrase of this chapter for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 511, 02-20-89)

**CHAPTER 77
LIQUOR LICENSES**

7.301. Definitions

For purposes of this chapter, the following words shall be defined to include:

- A. "License" means a liquor license issued by the Michigan Liquor Control Commission and for which

city approval is required. It does not apply to off premises licenses for which city input is requested and for which city approval is not required.

- B. "Person" means an individual, corporation, partnership, limited liability company, limited liability partnership or any other business entity.

- C. Public Nudity means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:
 - 1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
 - 2. Material as defined in section 2 of Act No 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
 - 3. Sexually explicit visual material as defined in section 3 of Act No. 33 of the Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

- D. Public Place means any real property or an appurtenance to the real property which is owned by this state, any municipality of this state, a public agency, or by a college or university in this state and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a public place shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

7.302. Legislative Intent

The city council acknowledges the difference which the law recognizes between applications for new licenses and the transfer, renewal or revocation of existing licenses. As to new licenses, this Ordinance is designed to provide a framework in which the city council can decide whether to approve or deny an application for a new license. This framework, when followed, will show a reviewing court that the city council's discretion was not exercised arbitrarily or capriciously. The city council recognizes that the issuance or denial of a license can be controversial and that litigation over the city council's decision can easily result.

The regulation of licenses and their impact on the land use goals of the city are legislative decisions. The voters and legislative process are the methods which should be used to alter legislative decisions as long as the legislative decisions are not made in an arbitrary and capricious manner. It is hoped that a reviewing court will respect the function of the city council as well as the electoral process in evaluating the actions of the city council.

Sections of this ordinance dealing with Public Nudity are intended to address the city's recognition that Public Nudity in areas in which alcohol is being consumed can create significant negative secondary effects. Such sections are intended to regulate and minimize those negative secondary effects and to effectuate the city's definition of Public Nudity, and are not intended to specifically regulate or inhibit any activity protected by the First Amendment.

The city acknowledges that existing licensees have property rights in those licenses. Thus, for the transfer of existing licenses the city has adopted with modification certain requirements recommended by the Michigan Townships Association. For the renewal or revocation of existing licenses, the city has adopted a system in this ordinance to meet procedural due process requirements.

7.303. Application for License—New and Transfer

A. Application.

Applications for a new license or to transfer an existing license shall be made to the city council in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain the following statements and information:

1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one person or his/her nominee, the name and address of such person.
2. The citizenship of the applicant, his/her place of birth, and, if a naturalized citizen, the time and place of his naturalization.
3. The character of the business of the applicant including a description of what services will be provided to patrons and how intoxicating liquor will be offered in conjunction with those services. In the case of a corporation, a copy of the Articles of Incorporation shall also be provided.
4. The length of time the applicant has been in business of that character, or, in the case of a corporation, the date when its articles of incorporation were approved by the State.
5. The location and description of the premises or place of business which is to be operated under such license.
6. A statement whether the applicant has made an application for a similar or other license on premises other than described in this application, and the disposition of that application.
7. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State or Michigan.
8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any ordinances of the city in the conduct of its business.
9. A statement as to whether the applicant will offer entertainment at the licensed premises, and a description of the kind(s) of entertainment to be offered. The statement will address whether any entertainment will include Public Nudity.

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 screening and noise control.
11. A copy of all financial information and documents provided to the Michigan Liquor Control Commission investigator regarding financial responsibility.

B. Approval Standard for New License

In determining whether a new license should be issued, the city council shall consider the following factors:

1. Whether the applicant, or if a partnership or corporation any member of the partnership or corporation, has been denied a license in the past seven (7) years and the reasons for the denial.
2. Whether the application is complete and contains all of the information required by this ordinance.
3. Whether the application shows compliance with applicable city ordinances regarding off-street parking, lighting, refuse disposal facilities and landscaping/screening and, additionally, noise control.
4. The impact of the proposed license and associated business on the occupants and owners of adjoining properties.
5. Whether the proposed license and associated business will adversely affect traffic safety.
6. Accessibility to the sight from abutting roads.
7. The distance from public or private schools for minors.

8. Whether the business will cause noise which would so that public or private land will be adversely affected.

C. Requirements for License—New and Transfer

Regardless of the city council's evaluation of the approval standards, no license shall be issued to:

1. A person whose license, under this Ordinance, has been revoked for cause.
2. A person who, at the time of the application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
3. A person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is issued, or to a person, corporation or co-partnership that does not have sufficient financial assets to carry on or maintain the business.
4. A person on whose premises there exists a violation of the applicable building, electrical, mechanical, plumbing or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable city ordinance.
5. A person whose application proposes a use which would be in violation of any city zoning or police power ordinance, or state or federal law.
6. A person in situations where there are delinquent unpaid real estate taxes and/or personal property taxes relating to the real estate or business which has been used, is used or will be used in conjunction with the license.
7. A person where it is determined by a majority of the city council that the premises for which the license has been requested do not or will not within six (6) months after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise, or nuisance control or where a nuisance does or will exist.
8. A person whose licensing activity will expand or intensify a non-conforming use under the city

zoning ordinance.

- D. Term of License--Approval of a license shall continue for as long as the Michigan Liquor Control Commission license continues subject to periodic review by the city council regarding continued compliance with the regulations of this Ordinance and any conditions of approval. Approval of a license shall be on the condition that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the action of the city council or the Michigan Liquor Control Commission approving such license, whichever last occurs. Any delay in the completion of such remodeling or construction may subject the license to revocation.
- E. Reservation of Authority--No applicant for a license has the right to the issuance of such a license to him, her or it, and the city council reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such license. If an application is incomplete, the license may be denied without a consideration of the merits of the application.
- F. License Hearing--The city council may act on an application for a new license or the transfer of an existing license at any regular or special meeting. The city council may hold a public hearing on any application when it is determined to be in the public interest. Following action on an application, the city council shall submit to the applicant a written statement of its findings and determination.

7.304. Objections to Renewal and Request for Revocation

A. Procedure

Before filing an objection to the renewal or a request for the revocation of a license with the Michigan Liquor Control Commission, the city council shall serve a notice of hearing on the license holder. This notice of hearing shall be served by first class mail, not less than ten (10) days prior to the hearing. The notice of hearing shall contain the following:

1. Notice of proposed action.
2. Reasons for the proposed action.
3. Date, time and place of the hearing.
4. A statement that the licensee may present evidence and testimony and question adverse witnesses.

Following the hearing, the city council shall submit to the license holder and the Commission, a written statement of its findings and determination.

B. Criteria for Non-renewal or Revocation

The city council shall recommend non-renewal or revocation of a license upon a determination by it that based upon a preponderance of the evidence presented at the hearing either of the following exists:

1. Violation of any of the requirements on licenses set forth in Section IV, Paragraph C, 1 through 8 above, or,
2. Maintenance of a nuisance upon the premises.

(Ord. No. 661, 04-01-00)