

ORDINANCE NO. 727

AN ORDINANCE TO establish conditions and criteria for the evaluation of liquor license requests submitted to the City of Petoskey pursuant to Public Act 501 of the Public Acts of 2006, being Section 521(a)(1) of the Michigan Liquor Control Code of 1998, being MCL 436.1521(a)(1) (the "Act") and to establish necessary conditions to ensure that the issuance of a liquor license is consistent with adopted goals and plans of the redevelopment project area established by the City and to ensure the issuance of the license will enhance the quality of life for residents and visitors.

THE CITY OF PETOSKEY ORDAINS:

ARTICLE I

Sec. 4-1 Purpose: The City hereby establishes criteria for the evaluation of liquor license requests submitted pursuant to Public Act 501 of the Public Acts of 2006, being Section 521(a)(1) of the Michigan Liquor Control Code of 1998, being MCL 436.1521(a)(1) (the "Act") and establishes necessary conditions to ensure that the issuance of a license is consistent with adopted goals and plans of the redevelopment project area established by the City and to ensure the issuance of a license will enhance the quality of life for residents and visitors.

ARTICLE II

Sec. 4-2 Requirements: Businesses licensed under the Act must:

- (1) Be engaged in dining, entertainment or recreation at least 5 days per week.
- (2) Be open to the general public at least 10 hours a day, 5 days a week.
- (3) Have a seating capacity of at least 25 people.
- (4) Demonstrate to the satisfaction of the Liquor Control Commission (LCC) that they attempted to purchase an available on-premise escrowed license or quota license within the City, and that one was not readily available as defined in the Act.
- (5) Either have expended at least \$75,000 for the rehabilitation or restoration of the building over a period of the preceding five years, or commit capital investment of at least \$75,000 that will be expended for the building before the license is issued.

Sec. 4-3 Policy: The City of Petoskey will use the following procedures in reviewing applications for liquor licenses under the Act:

- (1) Applicants requesting a license must document that they have a real property interest within the Redevelopment project area defined by the City Council under separate resolution, also known as the "DDA District" by completing an application documenting the property interest to the satisfaction of the City Manager (deed, lease, contingent sale, contingent lease, or similar documentation). If the applicant is not the owner, applicant shall include written concurrence from the owner. Each application must be accompanied by an application fee in the amount established from time to time by the City Council.

- (2) The applicant shall include, as a part of an application, documentation showing that at least \$75,000 has been expended for the rehabilitation or restoration of the building that would house the licensed premises, or shall make a commitment for capital investment of at least \$75,000 which shall be expended prior to the issuance of the license.
- (3) The applicant shall document how the issuance of the license will benefit the DDA District and the City. Such documentation may include a business plan, an architectural plan, and other information necessary to review the proposal.
- (4) In evaluating proposals, the City Council may consider how the issuance of a license would promote economic growth in a manner consistent with adopted goals, plans or policies of the DDA District, including, but not limited to, the Downtown Blueprint Masterplan. In addition, the Council shall give consideration to:
 - (a) The recommendation of the Downtown Management Board, who shall have thirty days from the date of submission to the City of Petoskey to review and make a recommendation on a license application.
 - (b) Existing restaurant businesses within the DDA District that meet the criteria for issuance of a license as of January 1, 2011.
 - (c) New restaurant businesses occupying space where the capital investment greatly exceeds the requirements of the Act.
 - (d) New restaurant, recreation or entertainment businesses which will contribute a new or unique choice to the mix of establishments within the DDA area.
 - (e) The quality and detail of the business documentation as outlined in §3.
- (5) New qualifying businesses making exterior façade improvements shall conform to the Downtown Design Guidelines.
- (6) Businesses seeking to utilize a Redevelopment Project Area License shall not have bar service seating for more than 6 persons.
- (7) The applicant and subject property owner shall not have any current or outstanding code violations, tax delinquencies, other outstanding City fees or in any way be in default to the City.
- (8) Businesses seeking to utilize a Redevelopment Project Area Liquor License, as provided for in MCL 436.1521a shall:
 - (a) Not serve alcohol after 11 pm on any day.
 - (b) Not serve alcohol between the hours of 11 pm and 7am, or other hours as otherwise prohibited by state law or Michigan Liquor Control Commission Promulgated Rule.

The provisions of this section shall not apply to Banquet Facility Permits or A Hotel or B Hotel Licenses issued by the Michigan Liquor Control Commission as part of a Redevelopment Project Area License.

- (9) In order to protect the health, safety and welfare of the Petoskey community and the retail character of the Petoskey downtown area as outlined in the Downtown Blueprint Masterplan the City Council shall not approve more than six (6) Redevelopment Project Area Liquor Licenses within the DDA district.

ARTICLE III

Sec. 4-4 Penalty: Municipal Civil Infractions

- (1) Any person, firm or corporation violating any of the provisions of this Ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).
- (2) Repeat offenses under this Ordinance shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.
- (3) Each day on which any violation of this Ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this Ordinance.
- (4) The City Manager, the Director of Public Works, the Director of Public Safety, City Planner/Zoning Administrator, all Public Safety Officers or other designees of the City Manager, (as defined by the Municipal Civil Infraction Ordinance, as amended) are hereby designated as the Authorized City Officials to issue municipal civil infraction citations for violations of this Ordinance.
- (5) A violation of this Ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this Ordinance.


The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

This Ordinance shall take effect fourteen (14) days following its enactment and shall be published once within seven (7) days after its enactment as provided by Charter.

Enacted and Ordained by the City of Petoskey City Council on the 19th day of September, 2011.



H. Ted Pall, Jr., M.D., Mayor



Alan Terry, Clerk Treasurer