

ARTICLE VII. REGULATED USES¹

Sec. 7-111. Definitions.

For the purpose of the provisions of this article, the following words and phrases shall be construed to have the meanings herein set forth:

Pawnbroker means any person, corporation, or member or members of a co-partnership or firm, who loans money on deposit or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

Person means any individual, partnership, firm, association, joint stock company, corporation, or combination of individuals of whatever form or character.

Pool or billiard hall means a commercial establishment where pool or billiard tables are provided for use on the premises by the public.

Regulated uses means any business which is classified as such under section 10.502[A] of the City of Madison Heights Code of Ordinances for Zoning.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-112. License required.

- (a) *Business license required.* No person shall engage in a regulated use without a valid business license issued by the City of Madison Heights pursuant to the provisions of this article for each and every separate office or place of business conducted by such person. Massage establishments, massage parlors, massagists, masseurs and masseuses shall comply with the provisions of article XII of this chapter. Pool and billiard halls shall also comply with the provisions under chapter 4, article II. Adult arcades shall also comply with chapter 4, article III.
- (b) *Validity of current licenses.* Licenses currently in existence shall remain valid until renewal of said licenses at which time said license shall be subject to compliance with initial license procedures specified herein.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-113. Application for regulated use establishment license; fees.

Every applicant for a regulated use establishment license shall file an application under oath with the city clerk's upon a form provided by the City of Madison Heights and pay a nonrefundable application investigation fee.

¹Editor's note(s)—Ord. No. 984, § 1, adopted April 12, 1999, amended Ch. 7 by repealing the provisions of Art. VII, §§ 7-111—7-128, in their entirety, which provisions pertained to barbershops and which derived from Code 1958, §§ 3-119, and 3-601—3-607; and from Ord. No. 95, adopted May 28, 1958. In addition, § 2 of said Ord. No. 984 enacted provisions designated and included herein as a new Art. VII, §§ 7-111—7-127.

Such fee shall be set by a city council Resolution and shall be renewed annually. The application shall contain the following information:

- (1) A detailed description of service(s), activities or nature of the businesses to be provided and/or conducted.
- (2) The location, mailing address and all telephone numbers where the business is to be conducted.
- (3) The name and residence address of each applicant.
 - a. If the applicant is a corporation, the names and residence address of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of each of the officers and directors of said corporation and of each stockholder owning more than ten percent of the stock of the corporation, the address of the corporation itself, if different from the address of the regulated use establishment, and the name and address of a resident agent in Oakland County, Michigan.
 - b. If the applicant is a partnership, the name and residence address of each of the partners and the partnership itself, if different from the address of the regulated use establishment, and the name and address of a resident agent in Oakland County, Michigan.
- (4) The two previous addresses immediately prior to the present address of the applicant as stated in subsection (3) a. and b.
- (5) Individual or partnership applicant's height, weight, sex, date of birth, color of eyes and hair.
- (6) Social Security number, driver's license number, if any, and date of birth of each applicant.
- (7) One portrait photograph of the applicant at least two inches by two inches and a complete set of applicant's fingerprints which shall be taken by the chief of police or his agent. If the applicant is a corporation, one portrait photograph at least two inches by two inches of all officers and managing agents of said corporation and a complete set of the same officers' and agents' fingerprints which shall be taken by the chief of police or his agent. If the applicant is a partnership, one front-face portrait photograph at least two inches by two inches in size of each partner, including a limited partner in said partnership, and a complete set of each partner or limited partner's fingerprints which shall be taken by the chief of police or his agents.
- (8) Business, occupation, or employment of the applicant for the three years immediately preceding the date of application, including the name, address and telephone number of any and all employers.
- (9) The business history of the applicant whether such person has previously operated in this or another city or state, has had a business license revoked, suspended or denied, the reason therefore, and the business activity or occupation subsequent to such action of suspension, revocation, or denial.
- (10) All criminal convictions other than traffic violations, including the dates of convictions, nature of the crime and place convicted.
- (11) A description of any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.
- (12) Authorization for the city, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.
- (13) All information required by this section shall be provided at the applicant's expense. Upon completion of the above provided form and the furnishing of all foregoing information, the City of Madison Heights shall accept the application for the necessary investigations. The holder of a regulated use

establishment license shall notify the City of Madison Heights of each change in any of the data required to be furnished by this section within ten days after such change occurs.

(14) Regulated use establishment licenses shall be renewed annually.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-114. License procedures.

- (a) Any applicant for a license pursuant to this article shall present to the city clerk's office the application containing the aforementioned and described information. Upon receipt of such application; the city clerk will refer same to the chief of police, fire chief, community development department and such other city officers or employees as he or she may desire, who shall cause a thorough investigation, including a complete history of past business experience and state or local law violations, if any, to be made of the persons and/or premises which must meet or exceed codes. The findings resulting from such investigations shall be reported to the city manager who will then report same to the city council.
- (b) The chief of police shall recommend denial or approval of an application for license within 30 days unless such recommendation is delayed for a reason not attributable to the police department. In making his determination hereunder, the chief of police shall consider:
 - (i) All applicant's convictions, the reasons therefor, and the demeanor of the applicant subsequent to his or her release;
 - (ii) The license history of the applicant and his or her employees; whether such person has previously operated in this city or state or in another state under a license and has had such license revoked or suspended, the reasons therefore, and the demeanor of the applicant subsequent to such action.
- (c) In the case of a license application, the divisions of inspection, including, but not limited to, the building inspector, electrical inspector, plumbing inspector, zoning official, the police department and the fire department, shall inspect the premises proposed to be devoted to the regulated use establishment and shall make recommendations to the city manager concerning compliance with the requirements of this article, and all other applicable city ordinances and regulations.
- (d) Prior to submission of an application for business license for a regulated use establishment to city council for approval, an applicant shall be required to enter into a development plan agreement with the City of Madison Heights. As part of the license procedure, the community development department shall prepare a development plan agreement to be signed by the applicant prior to submission of the license for approval to city council. Included in that development plan agreement shall be specific conditions concerning signage, including, but not limited to, size, color, land use, location on the building, window displays, if applicable, physical layout of the facility, indoor and outdoor lighting, entrances and exits, operating conditions, including, but not limited to, hours of operation, and any other matters of concern to the city concerning physical layout or appearance of said business establishment.
- (e) An applicant for a license will be required to appear before the city council for presentation of the development plan agreement and business license for his or her establishment, and answer any questions pertaining to such plans.
- (f) If the city council is satisfied that all the criteria set forth herein for a license has been met, it will adopt a resolution granting approval, subject to satisfaction of the development plan agreement and any conditions stated in the resolution. If a license is approved and it is subsequently determined that the project was not completed as required by the development plan agreement and conditions of the resolution presented to the city or in compliance with representations made to the city, the city may take action to revoke the

business licenses and/or the license for the following year shall be denied on the basis of this incompleteness and/or noncompliance.

- (g) Applicants for regulated use establishment licenses shall continue to comply with all applicable state and city regulations, including the development plan agreement and any conditions which must be approved, and will operate the premises consistent with any representations made to the city council in obtaining the license. Failure of such compliance shall result in the refusal by the city council to renew a license or in revocation of the license.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-115. Issuance of license.

The city clerk shall direct a license be issued for a regulated use establishment if all requirements for the regulated use establishment described in this article are met, unless he or she finds:

- (1) The correct permit or license fee has not been tendered to the city and in the case of a check, or bank draft, honored with payment upon representation.
- (2) The operation, as proposed by the applicant, if permitted, would not comply with all applicable laws, including, but not limited to, the city's building, zoning and health regulations.
- (3) The applicant, if an individual, or any of the stockholders holding more than ten percent of the stock of the corporation; or any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; or the holder of any lien, of any nature, upon the business; and the manager or other person principally in charge of the operation of the business, have been convicted of any of the following offenses within or without the State of Michigan:
 - a. An offense involving the use of force and violence upon the person of another that amounts to a felony.
 - b. An offense involving sexual misconduct, including, but not limited to, criminal sexual conduct, prostitution, lewdness, pandering, accepting of the earnings of a prostitute, sodomy, gross indecency, indecent exposure, distribution of pornography by any media, or any crime of a similar nature.
 - c. An offense involving narcotics, dangerous drugs or dangerous weapons that amounts to a felony. A license may be issued to any person convicted of any crimes described in subparagraphs a., b., or c. of this subsection if it is found that such conviction occurred at least five years prior to the date of the application and the applicant has had no subsequent misdemeanor convictions for crimes mentioned in this section.
- (4) The applicant has knowingly made any false or fraudulent statement of fact in the application or in any document required by the city in conjunction therewith.
- (5) The applicant has had a regulated use establishment or similar use license denied, revoked or suspended by the city or any other local, county or state agency within five years prior to the date of the application.
- (6) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of 18 years.
- (7) The location proposed and/or methods of operation have or will detrimentally and unreasonably impact nearby property owners, businesses and residents.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-116. Approval or denial of application.

The term of the license shall be for a period of one year as set out in section 7-22 of this chapter unless otherwise specified under this article. An applicant denied a license pursuant to these provisions, may appeal as set out in article III.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-117. Posting of license.

Every regulated use establishment shall post the license required by this article in a clearly visible area at the premises.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-118. Renewal of license.

Application to renew a license to operate a regulated use establishment shall be filed at least 45 days prior to the date of expiration. Such renewal shall be annual and shall be accompanied by the annual fee to be set by city council resolution.

- (1) The applicant shall present to the city clerk's office a sworn affidavit by the applicant stating that the matters contained in the original application have not changed, or if they have changed, specifically stating the changes which have occurred.
- (2) The application shall be referred to the chief of police who shall investigate the criminal history of the applicant.
- (3) The city council or a hearing officer appointed by the city council may undertake a review of any license regarding renewal of said license. The council or hearing officer shall consider whether a licensed establishment has been operated during the existing license year in a manner consistent with the provisions of this article, the development plan agreement and any conditions set out in the council resolution and all other applicable laws and regulations of the City of Madison Heights and the State of Michigan.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-119. Revocation or suspension of license.

Each establishment within the city for which a regulated use establishment license is granted shall be operated and maintained in accordance with all applicable laws and regulations of the City of Madison Heights and the State of Michigan. Upon any violation of this article, pursuant to sections 7-22 and 7-27, a city official as designated in sections 7-27 and 7-36 may revoke such license.

(Ord. No. 984, § 2, 4-12-99; Ord. No. 2171 , § 7, 10-25-21)

Sec. 7-120. Facilities necessary.

No license to conduct a regulated use establishment shall be issued unless inspectors of the City of Madison Heights reveal that the establishment complies with each of the following minimum requirements:

- (1) All provisions of the city building, plumbing, fire, electrical and health codes have been fulfilled.
- (2) A recognizable and readable sign shall be posted at the main entrance identifying the establishment as a regulated use establishment; all signs shall comply with the sign permit requirements of the City of Madison Heights.
- (3) There shall be no entrance or exit way which provides direct access to another type of business, residence or living quarters.
- (4) During business hours no exits shall be locked or obstructed in any way to prevent the immediate free ingress or egress of persons.
- (5) Minimum ventilation shall be provided in accordance with the building codes.
- (6) Minimum lighting shall be provided in accordance with the building codes, and in addition at least artificial light of not less than 60 watts shall be provided in each enclosed room or booth.
- (7) The facility shall be in compliance with any and all requirements for facilities as set out in the development plan agreement and/or conditions of the council resolution.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-121. Operating requirements.

- (a) No beds, water mattresses, cots, or equipment designed for sleeping shall be permitted on the premises except for adult motels.
- (b) No regulated use establishment granted a license under the provisions of this article shall place, publish, or distribute or cause to be placed, published, or distributed any advertisement, picture, or statement which is known or through the advertisement, picture, or statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce any person to purchase or utilize any facilities.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-122. Persons under age eighteen prohibited on premises.

No person shall permit any person under the age of 18 years to come or remain on the premises as employer, patron or accompanying a patron of any regulated use except pawnbrokers, tattoo parlors or used goods uses.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-123. Alcoholic beverages prohibited.

No person shall sell, give, dispense, provide or keep, or cause to be sold, given, dispensed, provided or kept, any alcoholic beverage on the premises of any regulated use establishment except for those regulated use establishments with appropriate liquor licenses.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-124. Hours.

No regulated use establishment shall be kept open for any purposes between the hours of 1:00 a.m. and 8:00 a.m.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-125. Unlawful acts.

- (a) It shall be unlawful for any person owning, operating or managing a regulated use establishment to permit any agent, employee, or any other person under his or her control or supervision to fail to conceal the sexual or genital parts of his or her body with a fully opaque covering.
- (b) It shall be unlawful for any employee, while in the presence of any other person in a regulated use establishment to fail to conceal the sexual or genital parts of his or her body with a fully opaque covering.
- (c) It shall be unlawful for any person owning, operating or managing a regulated use establishment to permit any agent, employee, or any other person under his or her control or supervision to expose, touch, fondle or massage any sexual or genital parts of another person or themselves.
- (d) It shall be unlawful for any employee, while in the presence of any other person in a regulated use establishment to expose, touch, fondle or massage any sexual or genital parts of another person or themselves.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-126. Sale, transfer or change of location.

Upon sale, transfer or relocation of a regulated use establishment, the license therefor shall be null and void unless approved as provided by this article. It shall be the duty of all owners or licensees having knowledge of the sale, transfer or relocation of the regulated use establishment, to immediately report such sale, transfer or relocation to the city clerk's office. The failure to do so shall result in an immediate suspension of all business.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-127. Name and place.

No person granted a license pursuant to this article shall operate the regulated use establishment under a name not specified in their license, nor shall they conduct business under any designation or location not specified in their license.

(Ord. No. 984, § 2, 4-12-99)

Sec. 7-128. Reserved.