

Chapter 77 – Smoking Lounges

1. Definitions. The following definitions shall apply in this Chapter.
 - a. “Smoking Lounge” means an establishment, which, as one of its principal business purposes, is dedicated to the smoking of tobacco products or other legal substances on its premises. The term “Smoking Lounge” includes, but is not limited to: cigar lounges, hookah cafés, tobacco lounges, tobacco clubs or tobacco bars.

(Corrected: 08-20-2007)

- b. “Principal Business Purpose” means:
 - i. The dedication of more than 50 percent of its interior floor space for the smoking of tobacco products or other legal substances at the establishment; or
 - ii. The receipt of more than 35 percent of its revenues from one or both of the following:
 1. The smoking of tobacco products or other legal substances to be consumed at the establishment or;
 2. The renting or furnishing of smoking paraphernalia including but not limited to: rolling papers, pipes, hookahs or narghiles to be used at the establishment
 - iii. The dedication of more than 35 percent of its advertising expenditures to the advertising of smoking tobacco products or other legal substances at the establishment.

(Corrected: 08-20-2007)

- c. “Tobacco Products” mean cigars, cigarettes, or non-cigarette smoking tobacco.
- d. “Other Legal Substances” include clove cigarettes, kreteks, herbal cigarettes, and any other legal substance that can be consumed by smoking.

2. License Required

No person shall operate a Smoking Lounge in the City of Troy without first obtaining a smoking lounge license issued pursuant to the provisions of this Chapter.

3. Application for Smoking Lounge License

- a. An applicant shall submit to the City Clerk a fully completed application, on a form that is prepared and furnished by the City Clerk.

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- b. The application shall include at least the following information:
 - i. The full and complete name and current address of the applicant(s).
 - 1. If the applicant is a partnership, the name and address of each partner shall be listed, and a copy of any partnership agreement shall be attached to the application.
 - 2. If the applicant is a privately held corporation, the name and address of each corporate officer, member of board of directors, and stockholder shall be listed, and a copy of the articles of incorporation shall be attached to the application.
 - 3. If the applicant is a publicly held corporation, the name and address of each corporate officer, each member of the board of directors and each stockholder who owns ten (10) percent or more of the corporate stock shall be listed on the application.
 - 4. If the applicant is a limited liability company, the name and address of each member, manager and assignee of a membership interest shall be listed, and the articles of organization shall be attached to the application.
 - ii. The complete name, address, and telephone number of the proposed licensed business;
 - iii. Written statement as to the applicant's experience in operating similar businesses;
 - iv. A concise statement as to the individual applicant's past employment;
 - v. Any other information pertinent to the applicant and the operation of the proposed licensed business.
- c. An applicant shall attach to the completed application a floor plan, drawn to scale, showing the interior of the proposed business, and uses of the proposed spaces.

4. Licensing

Smoking Lounge Licenses shall be subject to the provisions of Chapter 59 of this Code.

5. License Fees

The fee for a Smoking Lounge License shall be as specified in Chapter 60 of this Code.

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6. Investigation

- a. After the City Clerk has received a completed application, it shall be, at a minimum, forwarded to the following City Departments for review and investigation:
 - i. Police
 - ii. Fire
 - iii. Building Inspection
- b. During City business hours or at another mutually agreeable time, the applicant shall allow the representatives of the above referenced City Departments onto the property and into the proposed licensed premises to complete an investigation.
- c. If all of the above listed City Departments approve the application, and it conforms to the provisions of this Chapter, the City Clerk shall issue a Smoking Lounge License to the applicant.

7. Reasons for Denial

- a. Requirements for Applicants. A license may be denied as a result of one or more of the following factors:
 - i. An individual applicant, who has previously received a Smoking Lounge License, has had the license revoked for cause, as defined in Chapter 59 of this Code.
 - ii. If the applicant is a co-partnership, and any of the members of the co-partnership fail to qualify to obtain a Smoking Lounge License.
 - iii. A corporation if any officer, manager or director or a stock owner or stockholders owning in the aggregate more than ten (10) percent of the stock of such corporation, would not be eligible to receive a license or related permit hereunder for any reason.
 - iv. If the applicant proposes to hire a manager or agent to handle the business operations, and the proposed manager or agent does not possess the same qualifications as those required of the licensee.
 - v. If any of the individuals who are required to be identified on the application, as set forth in section 3 above, have been convicted or found responsible for a violation of any federal, state, or local law involving moral turpitude, dishonesty, fraud, violence, controlled substances, the sale, distribution, or furnishing of tobacco, or the sale, distribution, or furnishing of alcoholic liquors.
 - vi. If an applicant does not own the premises for which a Smoking Lounge License is sought or does not have a lease or other right of exclusive

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possession of the premises proposed for the business for the full period for which the license is issued.

- b. Requirement for the Proposed Licensed Premises. Smoking Lounge License shall not be issued if there are any violation(s) of the applicable building, electrical, mechanical, plumbing, or fire prevention codes, applicable zoning regulations, or applicable public health regulations, unless such violation can be remedied within a stated period of time as determined by the Fire Department or Building Department.
- c. Location. No license shall be issued to a business located within 500 feet (500'), from the nearest lot line to the nearest lot line, on a straight line basis, of a school.

8. Display of Smoking Lounge License

A Smoking Lounge License issued pursuant to the provisions of this Chapter shall be prominently displayed near the entrance of the licensed premises.

9. Transferability; Change of Ownership

- a. Licenses issued under this Chapter shall not be transferable except as provided herein. There shall be no transfer of any State of Michigan Exemption Permit under the Dr. Ron Davis Act of 2009 (MCL 333.12601, et. seq., as amended from another jurisdiction into the City of Troy. Existing Exemption Permits that have already been issued for businesses in the City of Troy can be transferred only upon the City Clerk's approval of a smoker's lounge license application for the prospective transferee. This approval or denial shall be based on the same procedure and terms as set forth in this Chapter.
- b. Each license issued under this Chapter is separate and distinct, and no person shall exercise any of the privileges granted under any license other than that which he/she holds. A separate license shall be issued for each specific smoking lounge business within the City of Troy.

(Rev. 05-13-2013)

10. Manager; Change of Manager

At least one registered manager who has been identified on the application for a Smoker's Lounge License shall be on the premises at all times that the business is open. It shall be unlawful for any person not identified on the Smoker's Lounge license application to work as a manager of a smoking lounge business unless the proposed manager or operator has submitted a registration form with the individual's legal name and any aliases, home address, telephone numbers, date of birth, and driver's license number, and is determined qualified to serve as a manager by the Troy City Clerk, using the criteria as set forth in this Ordinance. All managers must be over the age of twenty-one (21) years old. The licensee shall be responsible for notifying the City of any

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proposed change in management and insuring that the proposed new manager has obtained the required approval before working or serving as a manager of the licensed establishment.

(Rev. 05-13-2013)

11. Hours of Operation

It shall be unlawful for a smoking lounge business to be open for business or for the licensee, manager or any employee of a licensee to allow patrons to enter into the licensed premises between midnight (12:00 am) of each day until eight am (8:00 am) the next day. All individuals except employees of the smoking lounge business shall be required to leave or be removed from the building by (12:30 a.m.). Only a maximum of three (3) employees shall remain on the premises after 12:30 am and each shall carry proof of employment at the licensed establishment, such as an identification badge. The manager and/or employees shall provide proof of such employment when requested to do so by a member of the Troy Police Department or Troy Fire Department.

(Rev. 05-13-2013)

12. Age Restrictions

No one shall be allowed on the premises of a smoking lounge business unless the individual is the age of eighteen (18) years of age or older. The manager and/or employees shall ensure that identifications of individuals on the premises have been checked to determine that every individual is over the age of eighteen (18) years of age or older before entry into the premises. The manager and/or employees shall secure exit doors to ensure that no one has or is attempting to gain secret entry into the premises.

(Rev. 05-13-2013)

13. Parking Restrictions

The manager and/or employees shall require patrons to leave the parking lot of the smoking lounge business by 12:30 a.m. The manager and/or employees shall insure that patrons of the smoking lounge business are not parking in adjacent or neighboring parking lots or in residential areas that are not part of the parking area provided to the licensed premises.

(Rev. 05-13-2013)

14. Standard of Conduct.

- a. The following standards of conduct shall be adhered to by managers and employees of any smoker's lounge business:
 - i. Alcohol and Liquor: No manager, employee, volunteer, or representative of the licensee shall serve or engage in the sale of alcoholic beverages on

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the premises, including, but not limited to: any spirituous, vinous, malt or fermented liquor, beverages, liquids and compounds.

- ii. Consumption of alcohol: It shall be unlawful to permit the consumption of alcoholic beverages in any smoking lounge business. The licensee's manager and/or employees shall immediately remove any person who opens or consumes alcoholic beverages on the premises.
- iii. Controlled Substances: It shall be unlawful to permit the use, sale or presence of controlled substances (as defined under MCL 333.7212, et. seq, of the Public Health Code as amended, or a rule promulgated under that Act or Code), on the licensed premises. The manager and/or employees shall immediately remove any person possessing, distributing, selling, consuming and/or using controlled substances on the licensed premises.
- iv. There shall be no live entertainment in a licensed establishment.
- v. It is the duty of the licensee to ensure that at least one manager is on duty and on the premises at all times that persons are on the licensed premises, and that the manager is visible to any patron who is present on the premises.
- vi. It is the duty of the licensee and managers of the premises to ensure that any doors to public areas on the premises remain unlocked during business hours.

(Rev. 05-13-2013)

15. Compliance with Laws

The business licensee, the manager and employees shall comply with all federal and state laws and the City of Troy Code of Ordinances, including, but not limited to, building and fire codes.

(Rev. 05-13-2013)

16. Right of Entry.

The filing of an application for a smoker's lounge license shall constitute consent of the applicant and licensee and his/her or its agents, managers and/or employees to permit the City's Police Department, Building Department, Planning Department or any other department or agent of the city to conduct routine inspections of any licensed smoker's lounge business during the hours the establishment is conducting business and during any time that employees or managers are on the premises. The Troy Police Department and the Troy Fire Department shall be allowed unannounced access to the smoking lounge premises to inspect for violation of this Chapter.

(Rev. 05-13-2013)

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17. Revocation and Suspension of a License

The City Manager, or his or her designee, may immediately revoke or suspend a Smoking Lounge License, upon the applicant's violation of any provisions of this Ordinance or for other good cause. The procedure for the suspension and revocation of the license shall be governed by the provisions of Chapter 59 of this Code.

18. Violations and Penalties

Any person, firm or corporation convicted of violating any provision of this Chapter shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500 and/or 90 days in jail, as well as the penalties provided herein.

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