

MOTION MADE BY Christie, MOTION SECONDED BY Butler,

TO ADOPT AN ORDINANCE TO AMEND AND REVISE THE CODE OF ORDINANCES FOR THE CITY OF NEW BALTIMORE, CHAPTER 12, BUSINESS LICENSING REQUIREMENTS, INCLUDING CONDITIONS FOR ISSUANCE, DELETING THE HEALTH OFFICER'S CERTIFICATE, DELETING BONDS, REVISING FEES, REVISING SUSPENSION OR REVOCATION, DELETING PAYMENT OF FEES, REVISING TRANSFERABILITY, DELETING DISPLAY OF TAGS OR STICKERS, TO PROVIDE FOR REPEALER, SEVERABILITY, PENALTY, AND EFFECTIVE DATE.

**CITY OF NEW BALTIMORE
MACOMB COUNTY, MICHIGAN**

ORDINANCE NO. 167

THE CITY OF NEW BALTIMORE ORDAINS:

Section 1. Chapter 12, Article II, is hereby revised and amended to read as follows:

ARTICLE II. LICENSING

Sec. 12-26. Required.

No person shall engage or be engaged in the operation, conduct or carrying on of any trade, profession, business or privilege in the city without first obtaining a license from the city in the manner provided for in this article.

Sec. 12-27. 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 in this Code.

Sec. 12-28. State-licensed businesses.

The fact that a license or permit has been granted to any person by the state 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, or otherwise expressly preempted by state or federal law.

Sec. 12-29. 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 such 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 required under this Code.

Sec. 12-30. Term; expiration.

Except as otherwise provided as to certain licenses, the license year shall begin January 1 of each year and shall terminate at 12:00 midnight on December 31 of that year. Original licenses shall be issued for the balance of the license year at the full license fee if issued before July 1 and at 50 percent of the full fee if issued after July 1. License applications for license renewals shall be accepted and licenses issued for a period of 15 days prior to the annual expiration date. When any section of this Code permits the issuance of licenses for periods of less than one year, the effective date of such licenses shall commence with the date of issuance thereof.

Sec. 12-31. Conditions for issuance.

No license shall be granted to any applicant until such applicant has complied with all of the sections of this Code applicable to the trade, profession, business or privilege for which the application for the license is made nor unless the applicant agrees in writing to permit inspection of the licensed premises at reasonable hours by authorized officers of the City.

Sec. 12-32. Issuance of certain certifications required.

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

Sec. 12-33. Fire chief's certificate.

When 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 and of the city.

Sec. 12-34. Police chief's certificate.

When 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, as defined in Public Act No. 381 of 1974 (MCL 338.41 et seq.).

Sec. 12-35. Building and inspection director's certificate.

When 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 director of building and inspection shall certify that the proposed use is not prohibited by article II of chapter 24, articles II and III of chapter 28, chapter 60 or other zoning regulations of the city.

Sec. 12-36. Fees.

The fee for licenses required under this article shall be \$20.00 for each business, trade, occupation or privilege, within the meaning of the term "merchant" as that term is used and defined in Section 12-76. No license shall be issued to an applicant unless the fee is paid to the City Treasurer.

Sec. 12-37. Late renewals.

All fees for the renewal of any license which are not paid at the time such fees shall be due shall be paid as late fees, with an additional 25 percent of the license fee required for such licenses under section 12-36 for the first 15 days that such license fee remains unpaid. Thereafter the license fee shall be that stipulated for such licenses under section 12-36 plus 50 percent of such fee.

Sec. 12-38. Right to issuance.

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

Sec. 12-39. Suspension or revocation.

(a) The term "cause," as used in this section, shall include the making of fraudulent or false statements in the application and/or 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 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 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.

(b) Any license issued by the city may be suspended by the mayor for cause, and any permit issued by the city may be suspended or revoked by the issuing authority for cause, except as otherwise specifically provided in this Code. The licensee shall have the right to a hearing before the city council on any such action of the mayor, provided a written request therefor is filed with the city clerk within five business days after receipt of such notice of such suspension. The appeal shall be placed on the next regularly scheduled city council meeting agenda. The city council may confirm such suspension or revoke or reinstate any such license. The action taken by the city council shall be final. The same procedure shall apply where a license application is denied. Upon suspension or revocation of any license or permit, the fee therefor shall not be refunded. Except as otherwise provided in this Code, any licensee whose license has been revoked shall not be eligible to apply for a new license for the trade, profession, business or privilege for a period of one year after such revocation.

Sec. 12-40. 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.

Sec. 12-41. Display.

The trade, profession, business or privilege operated, conducted or carried on at a fixed place or establishment, shall display the license at all times in a conspicuous place in the licensee's 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.

Sec. 12-42. Displaying invalid license.

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

Sec. 12-43. Transferability; misuse.

No license or permit issued under this Code shall be transferable unless specifically authorized by this Code. No licensee or permittee shall transfer or attempt to transfer his license or permit to another, nor shall he make any improper use of the license or permit. In the event there is a transfer in ownership of the business, the new owner shall submit the information required as provided in the license application. No fee shall apply for such transfer.

Sec. 12-44. Automatic revocation for misuse.

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 this Code, or to use the license or permit improperly shall be void and result in the automatic revocation of such license or permit.

Sec. 12-45. Penalty.

Any violation of any section of this article shall be a misdemeanor punishable by up to 93 days in jail and/or a \$500.00 fine. The Building Inspector or his deputies, any duly appointed code enforcement officer and all police officers of the City are the authorized City officials to issue charges for violation of this article.

Section 2. Chapter 12, Article II, is hereby amended to renumber the sections to ensure chronological order reflecting the amendments provided in this ordinance, with any other sections being reserved in this Article.

Section 3. Repealer. All ordinances or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Severability. If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of remaining portions of the Ordinance, being the intent of the City that this Ordinance shall be fully severable

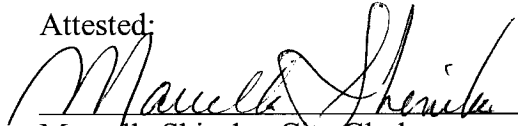
Section 5. Effective Date. This Ordinance shall become effective immediately upon adoption and publication due to the emergency nature of same.

AYES: Butler, Christie, Hayman, Duffy, Burkhardt, Aprea.

NAYS: None.

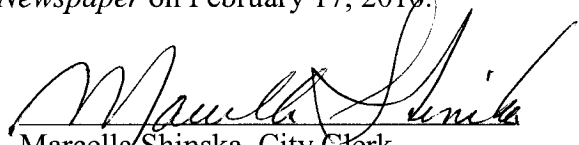
ABSENT: None.


Larry Smith, Mayor

Attested:

Marcella Shinska, City Clerk

I, Marcella Shinska, City Clerk of the City of New Baltimore, Macomb County, Michigan, do hereby certify that Ordinance No. 167 was adopted by the City Council of New Baltimore, assembled in regular session on February 8, 2010. Said Ordinance was posted in the following places:

Notice of said posting was published in *The Voice Newspaper* on February 17, 2010.


Marcella Shinska, City Clerk

PUBLICATION DATE - PLANNING COMMISSION PUBLIC HEARING:	N/A
PLANNING COMMISSION MEETING:	N/A
CITY COUNCIL DATE:	Feb. 8, 2010
PUBLICATION DATE FOLLOWING ADOPTION:	Feb. 17, 2010