

Requirements for Becoming and Operating a Winery

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Introduction - There are several steps required to establish a winery. They are all manageable and many of those who undertake this process ultimately succeed. However, the regulatory journey to establish a winery tends to be a unique travel experience for each effort. We asked people who had been through this procedure about their experiences. Their responses indicated a range of time required to complete the process from nine to twelve months and a cost ranging from \$1000 to \$5000. We have assembled information to help facilitate this process. This presentation is for educational purposes only. It is not a legal document. This material is copyrighted and may not be reproduced without permission.

Part 1 - Winery Establishment

I. TOWNSHIP ZONING APPROVAL

EXPLANATION:

Check with your local township for zoning and other requirements.

EXAMPLE: Bainbridge Township in Berrien County, Michigan

Bainbridge Township requires a Special Land Use Permit to start a winery. The process of obtaining this permit includes:

- \$250 filing fee
- Special Land Use Permit Application
- Site Plan
- Name & address of owners within 300 feet
- Copy of current paid tax bill, deed or other proof of ownership
- Statement of Compliance
- Request for Public Hearing

If the Special Land Use Permit is approved, other applications may be necessary such as a Building Permit Application and other requirements relating to particular special uses.

II. CHECKING AVAILABILITY FOR NAME OF BUSINESS

EXPLANATION:

This is a screening process only. The final determination of whether a name is available for use is made during the review process when appropriate business structure document is submitted for filing.

STEPS INCLUDE:

Go to the web site indicated and then links from that web site to check the name availability of your chosen winery name.

CONTACT INFORMATION:

Michigan Department of Licensing and regulatory Affairs

on-line www.michigan.gov/lara

Link: On line services Link: Business entity search

Or by calling Corporate Division (517) 241-6470 or faxing (517) 241-0538, or mailing PO Box 30054, Lansing, MI 48909

III. REGISTERING A BUSINESS STRUCTURE

EXPLANATION:

Depending upon the business structure of your winery, you need to register that business either at the county or state level.

- (1) Sole Proprietorship or General Partnership

STEPS INCLUDE:

- (a) Contact the county clerk's office to get forms
- (b) \$10 filing fee-renewed every 5 years along with submitting one of these forms:

Sole proprietorship - Certificate of Assumed Name (DBA) (All counties)
Form BC-CCLK-32B (part of Berrien County example)

General partnership - Certificate of Co-partnership (All counties)
Form BC-CCLK-41 (part of Berrien County example)

CONTACT INFORMATION:

County Clerk's Office

Example: Berrien County, Michigan

Berrien County Clerk's Office
701 Main Street
St. Joseph, MI 49085
269 983-7111 x 8233
www.berriencounty.org
forms

(2) Limited Partnership, Limited Liability Company or Corporation

STEPS INCLUDE:

(a) Contact the Michigan Dept of Licensing & Regulatory Affairs

(b) File one of these forms:

Corporation (domestic, profit, formed in Michigan)

Articles of Incorporation - form CSCL/CD-500

Limited partnership (domestic)

Certificate of Limited Partnership - form CSCL/CD401

Limited liability Company

Articles of Organization - form CSCL/CD-700

(c) After applicable form is filed, the original document will be returned signifying the document was filed and indexed under the name you selected.

CONTACT INFORMATION:

Michigan Department of Licensing & Regulatory Affairs Corporation
Bureau

517-241- 1820

PO Box 30004

Lansing, MI 48909

www.michigan.gov/ lara

Licensing & Regulations>

Corporations Securitiesand Commercial Licensing>

Licensing Division>

Mi Business One Stop

IV. EMPLOYER IDENTIFICATION NUMBER (EIN)

EXPLANATION:

The Employer Identification Number (EIN) is a 9 digit number assigned and required for tax filing and reporting.

STEPS INCLUDE:

- (a) Submit Form SS-4 - Application for Employer Identification Number - apply on-line, by phone, fax or mail depending on how soon you need your number.

CONTACT INFORMATION:

Internal Revenue Service
Department of the Treasury
800 829-4933
On-line Instructions - IRS.gov/businesses
click employer ID numbers (EINs)

V. FEDERAL LICENSING OF THE WINERY

EXPLANATION:

A winery must be licensed at the federal level.

STEPS INCLUDE:

- (a) All applicants file these forms:
 - TTB F 5120.25 Application to Establish and Operate Wine Premises
 - TTB F 5100.24 Application for Basic Permit
 - TTB F 5120.36 Wine Bond
 - TTB F 5000.29 Environmental Information
 - TTB F 5000.30 Supplemental Information on Water Quality Considerations
 - Diagram of premises
- (b) There are several other forms that may apply to you depending on your business structure. See Appendix A for the Checklist of Forms.

CONTACT INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)
www.ttb.gov/about/contact.shtml
)
ttbwine@ttb.gov (email address for general questions)
www.ttb.gov/wine
quick link for wine forms & instructions
Useful information:
www.ttb.gov/wine - quick link - Virtual Seminars and Online Training
> Wine Online Seminar

www.ttb.gov/wine >

Quick links for Permits, Labeling, Regulations, Forms, Publications,
Contact Information

VI. STATE OF MICHIGAN WINERY LICENSING

EXPLANATION:

A winery must also be licensed at the state level.

STEPS INCLUDE:

- A All applicants file Form LCC-3015 Application for New License Permits, or Transfer of Ownership or Interest in License.
- B Inspection fee - \$70 nonrefundable for each license applying for is required to authorize field investigation
- C License fee - amount depends on type of license being applied for
- D Property document - Proposed or executed warranty deed, lease agreement, mortgage, etc. that verifies ownership or control of proposed licensed premises.
- E Federal Basic Permit - Issued by the Alcohol & Tobacco Tax & Trade Bureau (TTB). Permit does not have to be submitted with initial application. Issuance of this Permit by TTB will need to be verified prior to Commission issuing a license

In addition to the above, Corporations, Limited Liability Companies and Partnerships must submit the following:

Corporation submit:

1. Copy of current, filed Article of Incorporation
2. Current "Certificate of Good Standing" from the state incorporated if incorporated outside of Michigan
3. Report of Stockholders / Members / Partners (form LCC-3010)

Limited Liability Companies (LLC) submit:

1. Copy of Articles of Organization and copies of any amendments
2. Copy of Certificate of Authority to do business in Michigan, if the LLC is a non-Michigan LLC
3. Copy of Operating Agreement entered into by members
4. Copy of most recent annual statement filed with the Michigan Department

of Licensing & Regulatory Affairs, Bureau of Commercial Services. Newly organized LLC's will not have filed document yet

5. Report of Stockholders / Members / Partners (Form LCC-3010)
- F The Commission's Licensing Division will conduct an initial review of the application, assign a request identification (RID) number and notify the applicant of deficient items, and provide the applicant with appropriate local and police forms, including blank fingerprint cards, where applicable.
- G It is the responsibility of the applicant to directly submit requests to the local legislative body and law enforcement, where applicable, with the forms provided by the MLCC, and to follow-up with these agencies to ensure that their recommendations are forwarded to the Commission.
- H Finger prints are required for all new license applications filed as an individual, for all stockholders holding 10% or more corporate stock, all members holding 10% or more membership interest and all general partners. Fingerprint fee of \$30 is required payable to the State of Michigan. Fingerprints are not required for an applicant previously fingerprinted for a license with the Commission.
- I Commission will review and take into consideration opinions of the local residents, local legislative body, or local law enforcement agency with regard to the proposed business.
- J Upon receipt of all required forms and information the Licensing Division will authorize an investigation and forward the file to the Commission's Enforcement Division. An investigator from the Enforcement Division will contact the applicant, advise them of documentation necessary to be provided for review and schedule to conduct the investigation. The investigation will cover areas including but not limited to: ownership structure, background checks, projected cost of project/transaction (including source of any money lenders finances) present ownership verification, and physical inspection of the facility (if built and available for inspection). Upon completion of the investigation, the investigator will submit a report to the Commission.
- K The Commission will issue a formal order approving, denying or holding the application for additional information.
- L If the application is approved the applicant will be provided with a check sheet listing any additional requirements or documentation necessary to be submitted prior to the issuance of the license.
- M If the application is denied, the applicant will have the opportunity to appeal the denial.

Contact information:

Michigan Liquor Control Commission (MLCC)

PO Box 30005

Lansing, MI 48909

866-813-0011

Teresa Whitehead

517-322-1415

whiteheadt@michigan.gov

www.michigan.gov/lcc

Useful information:

www.michigan.gov/documents/cis_lcc_winedetail_57152_7.pdf

Partnerships submit:

1. Partnership Agreement (required for limited partnerships)

CONTACT INFORMATION:

Michigan Liquor Control Commission (MLCC)
P.O. Box 30005
Lansing, MI 48909-7505
866-813-0011

whiteheadt@michigan.gov
www.michigan.gov/lcc

Useful information:
www.michigan.gov/documents/cis_lcc_winedetail_57152_7.pdf

Part 2 - Winery Operation

I. REGISTRATION FOR PAYMENT OF MICHIGAN TAXES

EXPLANATION:

New businesses must register for paying sales tax, use tax, income tax withholding, business tax and/or unemployment insurance tax. Submit application at least 6 weeks but not more than 6 months before intending to start your business.

STEPS INCLUDE:

- (a) Obtain, fill out and submit Form 518.
- (b) Instructions will be provided for making payments after approval of the application.

CONTACT INFORMATION:

Michigan Department of Treasury
PO Box 30778
Lansing, MI 48909-8278

www.michigan.gov/documents/518_3620_7.pdf - form and instructions

Other useful site:

www.michigan.gov/businessstaxes - New Business Webinar Presentation

II. MICHIGAN WINE TAX REPORT

EXPLANATION:

Michigan tax form filed on or before 15th day of each month for previous month (whether or not there were any sale transactions). This tax is on all wine sales in Michigan and is calculated by percent of alcohol and by volume of sales. A supply of these monthly reporting forms and instructions will be mailed to applicant upon licensure.

STEPS INCLUDE:

- (a) Fill out and submit Form LCC-3890

CONTACT INFORMATION:

Michigan Department of Licensing & Regulatory Affairs
Michigan Liquor Control Commission (MLCC)
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505
http://www.michigan.gov/documents/CIS_LCC_lc-890_117677_7.pdf
Form and instructions

III. PAYMENT OF FEDERAL EXCISE TAX ON WINE

EXPLANATION:

Federal Excise Tax is due semi-monthly, quarterly or annually, depending upon the amount of tax due and the size of the company's operations. Amount of tax that must be paid is determined when the wine is removed from the bonded premises for consumption or sale.

STEPS INCLUDE:

- (a) Obtain, fill out and submit Form TTB F 5000.24
- (b) Pay taxes according to the appropriate schedule for your winery

CONTACT INFORMATION:

TTB
Excise Tax
PO Box 790353
St. Louis, MO 63179-0353
ttbwine@ttb.gov
513 684-7151

TTB form is TTB F 5000.24 Excise Tax Return www.ttb.gov/forms/f5000.24.pdf

Useful information:

www.ttb.gov/wine>quick links>forms/publications>TTB F 5000.24 for return and instructions

www.ttb.gov/wine>quick links>virtual seminars & online training> wine online seminar>page 49-82

IV. OBTAIN WINE LABEL APPROVAL

EXPLANATION:

Every wine label must be approved at both the federal and the state level. Federal (TTB) approval must be obtained first and then state (MLCC) approval.

STEPS INCLUDE: (These steps are for an electronic submission)

- (a) Submit Form 50132 to obtain the Federal user ID and password.
- (b) Use ID and password to submit COLA on-line label application.

Label Information required includes:

- Brand name
- Class (grape, sparkling, fruit, etc.)
- Alcohol content
- Bottlers name & address
- Net content
- Sulfite declaration
- Health Warning Statement

- (c) Michigan approval of label (after TTB approval above)

No form to fill out

Submit:

Copy of approved Certificate of Label Approval (COLA) from TTB one set of loose labels (if available)

Or

Register products via the On-Line System for Beer, Wine or Mixed Drink Registration. A password is assigned upon issuance of a license.

Email notification is sent once product has been reviewed and approved or denied.

Tracking the status of pending registrations can be done by viewing the on the on-line site.

CONTACT INFORMATION:

Federal

TTB
Advertising, Labeling & Formulation Division
1310 G Street NW, Box 12

Washington, DC 20005
866 927-2533 or 202 453-2250
alfd@ttb.gov

Paper form - TTB F 5100.31 - Application for the Certification/Exemption of Label/Bottle Approval (COLA).

<http://ttb.gov/forms/f5100.31.pdf> - Form & instructions

Electronic Applications (preferred)

www.ttb.gov/forms/f50132.pdf - application & instructions for user ID and password

www.ttbonline.gov/colasonline - COLA'S Online Access Request -

Useful information:

2008 TTB Compliance Seminar for Bonded Wine Premises, p. 117-126
www.ttb.gov/pdf/compliance-seminar.pdf

State

Michigan Department of Licensing & Regulatory Affairs
Michigan Liquor Control Commission (MLCC)
Manufacturers & Wholesales Section
PO Box 30005
Lansing, MI 48909
517 322-1415
Teresa Whitehead
whiteheadt@michigan.gov

V. FOOD ESTABLISHMENT LICENSE

EXPLANATION:

A winery is considered a wholesale food processor and it requires a Food Establishment License.

STEPS INCLUDE:

- (1) First obtain township variance/zoning approvals as discussed above.
- (2) Contact the local MDA office to involve a local Michigan Department of Agricultural & Rural Development (MDARD) inspector in the building/remodeling process.

- (3) Food Establishment License is submitted along with appropriate fees through the Michigan Business One Stop portal
www.michigan.gov>featured links>Business One Stop

CONTACT INFORMATION

Michigan Business One Stop
MDRARD Central Licensing
PO Box 30746
Lansing, MI 48909
517 241-6666

VI. **MICHIGAN DIRECT SHIPPER LICENSE (Optional)**

EXPLANATION:

A Direct Shipper License is required from Michigan Liquor Control Commission for in-state and out-of-state wineries to ship domestic wine directly to Michigan consumers. License does not allow direct shipment of imported wines.

STEPS INCLUDE:

- (a) Obtain, fill out and submit Form LC-MW-110

CONTACT INFORMATION:

Michigan Department of Licensing & Regulatory Affairs
Michigan Liquor Control Commission (MLCC)
7150 Harris Drive
P.O. Box 30005
Lansing, MI 48909-7505

Michigan Business One Stop
www.michigan.gov.featured links> Business One Stop> License Search> Direct Shipper License

VII. OFF-SITE TASTING ROOM LICENSE (Optional)

EXPLANATION:

When a license is approved for a Wine Maker/Small Wine Maker (Form LCC-3015), this is a license to sell wine at the winery directly to a consumer for take-out and allows you to offer free samples to consumers.

A Tasting Room License is a license issued by a MLCC to a Wine Maker/Small Wine Maker to operate an OFF-SITE winery tasting room located away from the winery premises.