

CHARTER TOWNSHIP OF ZEELAND

ORDINANCE NO. 142

LIQUOR LICENSE ORDINANCE

An Ordinance to provide for the public peace and health and for the safety of persons and property in the Zeeland Charter Township and to establish standards, priorities and procedures for the application for. renewal, upgrading, revocation. and transfer of liquor licenses within the Township.

THE CHARTER TOWNSHIP OF ZEELAND ORDAINS:

Section 1. Purpose. The purpose of this Ordinance is to establish the standards, priorities and procedures to be utilized by the Zeeland Charter Township Board (the HTownship Board<sup>H</sup>) in exercising the authority granted to it by the Michigan Liquor Control Act, Michigan Act 338 of 1917, as amended (the HLiquor Control Act<sup>H</sup>) with respect to licenses to sell beer and wine or spirits for consumption on the premises. This Ordinance is intended to provide standards, priorities and procedures which will permit the Township Board to exercise its authority under the Liquor Control Act for the maximum benefit of the Township and its persons and property\_

Section 2. Scope. This Ordinance shall apply to the following actions of the Township Board concerning licenses to sell beer and wine or spirits for consumption on the premises:

- (a) Approval or disapproval of license applications.
- (b) Approval or disapproval of the transfer of existing licenses from person to person or from place to place.
- (c) Approval or disapproval for upgrading the classification of existing licenses from sales of beer and wine to sales of beer, wine and spirits.
- (d) ~~Reqtlestifigrevbta.tibfifexistihglicehses.~~
- (e) Filing objections to renewal of existing licenses with the Michigan Liquor Control Conmission (the "Commission<sup>H</sup>").

Section 3. License Application. A person (individual, partnership, corporation, or other legal entity) making application under the Liquor Control Act for a new liquor license, the transfer of an existing liquor license, or the upgrading of the classification of an existing liquor license to sell beer, wine, or spirits for consumption on the premises at any location within Zeeland Charter Township shall apply to the Township Board for approval. Application shall be made to the Township Clerk on a form prescribed by the Clerk, and shall state, under oath, such facts and information as may be reasonably necessary to determine whether the approval should be granted. The application shall be accompanied by a fee equal to TW8.!!:housct(\$2,000) dollars. The license application shall contain~ unless waived by the Township Board, the following statements and information:

(a) The name, age and business address of the applicant. If the applicant is a corporation, the names, ages and addresses of all of the directors, officers, and shareholders owning a five (5%) percent interest or more therein shall be given. If the applicant is a partnership, the name, age and address of each partner shall be given. If the applicant is a limited partnership, the name, age and address of each general partner shall be given.

(b) The place or places at which the applicant's business or businesses will be located, and the proposed hours of operation for each such business.

(c) The nature and character of the food, merchandise, or service to be sold or offered for sale by the applicant to members of the public.

(d) The applicant's experience, financial capability, history as a liquor licensee, proposed menus and other facts or proposals pertinent to the applicant's business.

(e) A list of all assumed, trade, or firm names under which the applicant intends to do business.

(f) Whether the applicant has ever made application to the Commission or any local unit of government for a similar or other license at a location other than described in this application, and the disposition of such application.

(g) Whether or not the applicant or person conducting or managing the applicant's business has been convicted of a felony or non-traffic misdemeanor, and if so, the full particulars in connection therewith. If the applicant is a corporation, this information shall be provided for all of the directors, officers, and shareholders owning a five (5%) percent interest or more therein. If the applicant is a partnership, whether or not limited, the information shall be provided for each partner.

(h) Such other information as the Township Board shall reasonably require.

The application shall be accompanied by building and site plans showing the entire structure and premises where the license is to be utilized. The building plans shall show floor plans, kitchen layout, seating arrangements, planned building alterations and other pertinent physical features. The site plan shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, and where appropriate, adequate plans for screening and noise control.

Section 4. Mandatory Grounds for Disapproval. An application for approval of a new liquor license, or transfer or upgrading of an existing liquor license, shall be denied by the Township Board if it finds that any one or more of the following conditions exist:

(a) The applicant was previously a licensee whose license was, for cause, recommended for revocation or non-renewal by the Township Board, or revoked by the Commission.

(b) The applicant is a corporation which has a director, officer, or shareholder owning a five (5%) percent interest or more therein, who, if he or she was the sole applicant, would require mandatory denial pursuant to this Section.

(c) The applicant is a partnership, whether or not limited, which has a partner who, if he or she was the sole applicant, would require mandatory denial pursuant to this Section.

(d) The applicant's place of business will be managed or controlled by a person who would, if he or she was an applicant, require mandatory denial pursuant to this Section.

(e) The applicant is a person who does not own the premises for which a license is sought or does not have a lease therefor for the full period for which the license is sought.

(f) The applicant has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of liquor.

(g) The applicant or licensee's premises has or will have one or more violations of the applicable building, electrical, mechanical, plumbing, fire, public health, housing, or other similar codes and ordinances of the Township or the State of Michigan, or is not in compliance with the Zeeland Charter Township Zoning Ordinance.

Section 5. Discretionary Grounds for Disapproval. An application for approval of a new liquor license, or transfer or upgrading of an existing liquor license, may be denied by the Township Board if, by majority vote of all members, they find that anyone or more of the following conditions exist:

(a) The sale of beer, wine, or spirits will not be incidental and subordinate to other permitted uses upon the premises such as food sales, a motel operation, or a recreational activity. If the primary use of the premises is food sales, such determination shall be made based on the applicant's compliance with the following criteria:

(1) The licensed premises must have a table dining capacity (as opposed to counter or bar seating capacity) of at least fifty (50) patrons.

(2) A counter or bar used primarily for dispensing alcoholic liquor must be separated or screened off from the dining area.

(3) The dining area must have at least twelve (12) square feet of floor space per patron, and kitchen and storage space of not less than seventy-five (75%) percent of the floor space in the dining area.

(4) The area containing the counter or bar must have floor space not less than twenty (20%) percent of the floor space of the dining area.

(5) At least sixty (60%) percent of the gross revenue is or will be derived from food sales.

(b) The premises do not, or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, or noise or other nuisance controls.

(c) The proposed location is inappropriate considering: (1) potential traffic safety hazards, (2) accessibility to the premises from abutting roads, (3) proximity to residential areas (taking into account the attitude of adjacent residents), (4) the distance from churches, schools, day care centers or similar facilities, and (5) the preference for locating such establishments in developed commercial areas rather than in rural or residential areas.

(d) The applicant's financial capability, experience with similar facilities, or other relevant factors are such that there is a likelihood that the applicant will fail to conform his conduct to the requirements

set forth in this Ordinance or other Township ordinances or any applicable State of Michigan statute or code.

(e) The applicant "has made a negligent or intentional misrepresentation concerning any material fact in the application or in any oral or written information submitted to the Township Board.

Section 6. Priorities. In exercising its authority under the Liquor Control Act for the maximum benefit of the Township and its persons and property, the Township Board shall, in deciding whether to approve a new license, the transfer of an existing license, or the upgrading of the classification of an existing license, consider the priorities set forth below, such priorities being listed in decreasing order of their importance to the Township and its persons and property:

(a) Motel, hotel or other lodging facilities which also have restaurants, meeting rooms and banquet facilities.

(b) Restaurants and banquet facilities having a table seating capacity in excess of one hundred (100) persons which are located in a general commercial zoning district.

(c) Restaurants and banquet facilities having a table seating capacity of one hundred (100) persons or less which are located in a general commercial zoning district.

(d) Restaurants and banquet facilities which are located in a neighborhood commercial zoning district.

(e) A "supper club" or "dinner theater" facility in which high quality food service is the main source of income.

(f) A bar, tavern, cocktail room, or lounge, whether or not used in combination with a restaurant, in which sixty (60%) percent or more of the gross revenue of the entire facility is derived from food sales.

Section 7. Term. Township approval of a liquor license (new, transfer or upgrade) or the renewal of a liquor license shall remain in effect for a term which shall expire on the same date as the license itself unless revocation shall be requested sooner pursuant to Section 8 of this Ordinance. All approvals shall be granted subject to the general condition that the applicant shall comply with all representations and assurances contained in the application and in any oral or written information submitted to the Township Board, including building and site plans. Approval can also be made subject to specific conditions imposed by the Township Board.

Section 8. Grounds for Revocation. The Township Board may, by majority vote of all members, object to the renewal of an existing liquor license or request revocation of an existing liquor license upon anyone (1) or more of the following grounds:

(a) Any remodeling or construction identified as necessary for the use of the licensed premises at the time the license is approved or renewed has either not been commenced within six (6) months or completed within one (1) year. These time periods shall run from the date of approval or renewal of the liquor license by the Commission.

(b) The licensee or licensed premises meets any of the mandatory grounds for disapproval set forth in Section 4 of this Ordinance.

(c) The operation of the licensee's business or the circumstances and conditions surrounding the licensee's business have changed such that the licensee or licensed premises meets any of the discretionary grounds for disapproval set forth in Section 5 of this Ordinance.

(d) The licensee maintains a nuisance upon the licensed premises.

(e) The licensee has made a negligent or intentional misrepresentation concerning any material fact.

(f) The licensee has failed to comply with any general or specific condition imposed pursuant to Section 7.

(g) The license has not been activated by the licensee within a reasonable time after approval by the Township Board.

.Section 9. Hearing. Before the Township Board may take action to deny approval of any new application, transfer, or upgrading of classification, or request revocation of an existing license or file objections to the renewal of an existing license, the applicant or licensee shall be entitled to a hearing before the Township Board. The Township Clerk shall give the applicant or licensee notice of the hearing by first class mail, mailed not less than ten (10) days prior to the hearing. Such notice shall contain the following:

(a) The date, time, and place of the hearing.

(b) A statement that the applicant or licensee may be present to present evidence and testimony and confront adverse witnesses.

(c) If the hearing is for a renewal or revocation, the tentative reason(s) for the proposed action.

Following the hearing, the Township Board shall submit to the Commission a resolution setting forth the action taken and a written statement of its findings of fact and the basis for its action. The Township Clerk shall forward, by first class mail, a copy of the Council's submission to the Commission within twenty (20) days of the date of the Council's action.

Section 10. Severability and Captions. This Ordinance and the various parts, sections, subsections, sentences, phrases; and clauses thereof are hereby declared to be severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this Ordinance shall not be affected thereby. The captions included at the beginning of each section are for convenience only and shall not be considered as part of this Ordinance.

Section 11. Administrative Liability. No officer, agent, employee, or member of the Township Board shall render himself personally liable for any damage that may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 12. Repeal. All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance are hereby repealed to the extent of such conflict.

Section 13. Effective Date. This Ordinance was approved and adopted by the Township Board on Dec. 17., 1984, after introduction and a first reading on Nov. 19, 1984, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall take effect upon publication.

Robert L. Sample  
Supervisor

Marilyn Everts  
Clerk

CERTIFICATE  
NON-ZONING

I, Marilyn Evink, the Clerk for the Charter Township of Zeeland, Ottawa County, Michigan, do hereby certify that the foregoing Zeeland Charter Township Ordinance was adopted at a regular meeting of the Zeeland Charter Township Board held on Dec. 17, 1984. The following members of the Township Board were present at that meeting: Semple, Evink, Zeerip, Berghorst, Deur, Nykamp, Walcott. The following members of the Township Board were absent: none. The Ordinance was adopted by the Township Board with members of the Board Semple, Evink, Zeerip, Berghorst, Deur, Nykamp, Walcott voting in favor and with members of the Board none voting in opposition. The Ordinance was published in the Zeeland Record on Dec 20, 1984. An attested copy of the Ordinance was sent to the Ottawa County Clerk by first class mail, postage prepaid, on Dec. 18, 1984.

  
Marilyn Evink  
Zeeland Charter Township Clerk