

ORDINANCE NUMBER 78-B

LIQUOR LICENSE ORDINANCE

An Ordinance to establish procedures and standards for review of applications for new, renewal or revocation of licenses to sell beer, wine or other spirits for consumption on the premises; to provide for limitations on the transfer of such licenses outside of the Charter Township of Eureka; for the effective date of such Ordinance and for the repeal of all Ordinances or parts of Ordinances in conflict herewith.

SECTION 1.0 TITLE

This Ordinance shall be known as and may be cited as the Eureka Charter Township Liquor License Ordinance.

SECTION 2.0 APPLICATION FOR A LICENSE

A. Application Procedure – An application for a license to sell beer, wine or spirits for consumption on the premises shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent of the applicant if the applicant is a partnership or corporation with verification of such authority and shall contain the following information:

1. The name, age and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one or more persons, the name and address of such persons.
2. The citizenship of the applicant, his place of birth, and, if a naturalized citizen, the time and place of his naturalization.
3. The character of the business of the applicant, and in the case of a corporation, the purpose for which it was formed.
4. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.

5. The location and description of the premises or place of business which is to be operated under such license.
 6. A statement whether the applicant has made application for a similar or other liquor license on premises other than described in this application, and the disposition of such application.
 7. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this Ordinance or the laws of the State of Michigan.
 8. A statement that the applicant will not violate any of the laws of the State of Michigan or of the United States or any Ordinance of the Township in the conduct of its proposed business.
 9. The application shall be accompanied by building and plot plans showing the entire structure and premises and in particular the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening, and noise control.
- B. Limitations on Issuance of Licenses – No such liquor license shall be issued to any of the following or under any of the following circumstances:
1. To a person who had a previous liquor license revoked for cause or who has a poor reputation in the community or township for compliance with local, state or federal laws and regulations and for ethical conduct.
 2. To a co-partnership unless all of the members of such co-partnership qualify for the issuance of such a license.
 3. To a corporation in which any officer, manager or director thereof, or a shareholder owning more than five percent (5%) of the stock of such corporation would not be eligible to receive such license under the within Ordinance as determined by the Township Board.

4. To a person or entity whose business is to be conducted by a manager or agent with less qualifications than required of a licensee.
5. To a person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or of a controlled substance.
6. To a person or entity that does not own the premises for which the license is sought or does not have a lease therefore for the full period for which the license is issued or does not supply evidence of sufficient financial ability to carry on or maintain the business.
7. To any law enforcing public official or township official or any entity in which such officials have a financial interest either directly or indirectly.
8. For any premises which is not in compliance with all applicable building codes, fire codes, public health regulations, zoning ordinances and other applicable Ordinances of the township.
9. To any person or entity whose principal business is the sale of beer, wine or spirits for consumption on the premises and not merely incidental and subordinate to other permitted principal business uses upon the site, such as, but not limited to, food sales, hotel or motel operations or other principal permitted uses.
10. For use on any premises which as determined by a majority of the Township Board does not have adequate off-street parking, lighting, refuse disposal facilities and necessary screening, noise and nuisance control to avoid unreasonable disturbance to adjacent premises.
11. For use on premises determined by a majority of the Township Board to be inappropriate as not within a developed commercial area; offensive to adjacent residence and property owners; inadequate and unsafe accessibility from abutting public roads; inadequacy of abutting public

roads to accommodate anticipated commercial traffic; too close to public or private schools, churches or hospitals and because of the proximity of inconsistent zoning classifications.

12. No Class C Liquor License for consumption on the premises shall be approved by the Charter Township of Eureka until a contract has been executed by the applicant with the Township prohibiting the sale or transfer of such License directly or through any escrow status for use outside the jurisdiction of the Charter Township of Eureka. Such contract shall provide for liquidated damages to the Township and sanctions for any violation thereof to compensate the Township for the reduction in the number of such liquor licenses available within the Township and as a penalty for violation of the terms and conditions of such Class C License approval. Such contract may provide for a fixed amount of liquidated damages or for forfeiture of the full sale or transfer price paid or payable to the transferor, together with interest on any unpaid balance until the same is paid.
13. Since the Charter Township of Eureka, because of its population, is limited by statute in the number of liquor licenses for consumption on the premises (which as of 2006 are two Class C Liquor Licenses), the governmental interest of the Township Board in approving any new liquor licenses is to only grant such approval where the requested license would be of the greatest developmental and economic benefit to the entire Township. Examples of such benefits would be the encouragement of shopping centers, hotels, motels, conference centers and major restaurant complexes.
14. No applicant for a liquor license for consumption on the premises has the legal right to the issuance of such license and the Township Board reserves the right to exercise reasonable discretion in determining, which, if any applicant, shall be entitled to its approval for such license. Obtaining the approval of a liquor license within the township is in the category of a privilege and no applicant has a vested or absolute right to secure such approval. Approval by

Township Board is on the basis of what it believes is in the best interests of the entire Township as distinguished from the interest of the applicant.

15. In the Township Board's discretion, it may grant a public hearing upon a license application, if it wishes to hear public comments upon such application. It may also schedule an open meeting to hear comments from the applicant in support of the approval of such application. Any final decision of the Township Board shall become part of the recorded minutes of the meeting or public hearing including a summary of the reasons for the decision.

16. Before carrying on any business selling or serving beer, wine, or spirits for consumption on the premises the requester shall pay a one-time fee to the Township Clerk, which is set annually by the Township Board.

SECTION 3.0 PROCEEDINGS FOR RENEWAL OR REVOCATION OF A LIQUOR LICENSE

Procedure – Before filing an objection with the Michigan Liquor Control Commission to the renewal of an existing liquor license for consumption on the premises or before filing a request for the revocation of a license with said commission, the Township Board shall notify the license holder by first class mail at the address of the license of a hearing on the subject not less than 10 days prior to the hearing. The notice shall contain the following statement: *(Following the hearing the Township Board shall submit to the license holder and the Liquor Control Commission, a written statement of its findings and determination.)*

SECTION 4.0 ENFORCEMENT AND PENALTIES

- A. This Ordinance shall be enforced by such persons who shall be so designated by the Township Board.
- B. Any person, firm, association, partnership, corporation or governmental entity that violates any of the provisions of this Ordinance or fails to comply with a duly authorized order pursuant to this Ordinance shall be deemed to be in violation of the Ordinance and subject to a municipal civil infraction.
- C. Fines for a civil municipal infraction shall be determined annually by the Eureka Charter Township Board.

- D. The violator shall pay costs which may include all expenses, direct and indirect, that Eureka Charter Township has incurred in connectin with the municipal infraction.
- E. The Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance.
- F. Each day that a violation of this Ordinance exits shall constitute a separate violation of the Ordinance.

SECTION 5.0 SEVERABILITY

Should any section or part of this Ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sections or parts of this Ordinance.

SECTION 6.0 REPEAL AND EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after publication. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Adopted: 3/13/06

Published: 3/18/06

Effective Date: 4/17/06

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