

Chapter 4 ALCOHOLIC BEVERAGES

- Sec. 4-1. Title.
- Sec. 4-2. Definitions.
- Sec. 4-3. Approval required.
- Sec. 4-4. Application times and procedures.
- Sec. 4-5. Application contents.
- Sec. 4-6. Restrictions on licenses.
- Sec. 4-7. Competing applications.
- Sec. 4-8. Objections to renewal and request for revocation.
- Sec. 4-9. Nudity prohibited.
- Sec. 4-10. Enforcement.
- Sec. 4-11. Inspection.
- Sec. 4-12. Penalties.
- Sec. 4-13. Severability.
- Sec. 4-14. Issuance, transfer or renewal not required.

Sec. 4-1. Title.

This chapter shall be known as the "Charter Township of Georgetown Liquor License and Control Ordinance."

(Ord. No. 2008-02, § 1, 10-27-08)

Sec. 4-2. Definitions.

For the purposes of this chapter, the terms "alcoholic liquor," "beer," wine," spirits" and all other terms which are used in this chapter and which are defined in the State Liquor Control Act shall have the meanings ascribed to them in such act. For the purposes of this chapter, "township" shall mean Georgetown Charter Township.

(Ord. No. 2008-02, § 2, 10-27-08)

Sec. 4-3. Approval required.

No person, except for a person/entity possessing a club license, special license or temporary authorization from the Michigan Liquor Control Commission, shall sell alcoholic liquor within the township for consumption on the premises unless the applicant first shall secure the approval of the township board in accordance with the terms and conditions set forth in this chapter.

(Ord. No. 2008-02, § 3, 10-27-08; Ord. No. 2009-04, § 3, 5-11-09)

Sec. 4-4. Application times and procedures.

- (a) *Application:* Prior to the applicant's application to the State Liquor Control Commission for an issuance, transfer or renewal of a license to sell beer, wine or alcoholic liquor for consumption on the premises, except for a person/entity possessing a club license, special license or temporary authorization from the Michigan Liquor Control Commission, the applicant shall make application for approval by the township. Applications shall be made upon forms to be provided by the township clerk.
- (b) *Application fee:* A fee as prescribed by resolution of the township board shall accompany all applications for new licenses, renewals or transfers pursuant to this chapter.
- (c) *Preliminary review:* Upon receipt of a completed application and the applicable license fee, the township clerk shall transmit the application to the township treasurer who shall endorse thereon a statement as to whether the applicant is in default to the township in connection with the payment of any taxes or other obligations. Following endorsement by the township treasurer, the township clerk shall transmit the application to the township board.
- (d) *License hearings:* The township board shall grant a public hearing on applications submitted in compliance with the requirements of this chapter, provided that:
 - (1) Such applications are complete;
 - (2) The application fee required by this chapter has been paid; and
 - (3) All preliminary review required by this chapter has been completed.

Following such hearing, the township board shall adopt a resolution setting forth its findings and determinations and approving or denying the application, or taking other action consistent with this chapter. In no event shall an application be approved without satisfactory compliance with the restrictions set forth in this chapter and all other ordinances.

- (e) *Reservation of authority:* No applicant for a liquor license has the right to the issuance of such license to him, her or it, and the Township Board reserves the right to exercise reasonable discretion to determine who, if any applicant, shall be entitled to the issuance of such license.
- (f) *Term of license:* Approval of a license shall be for a period of one (1) year subject to annual renewal by the township board upon continued compliance with the regulations of this chapter as set forth below. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the action of the township board and of the Michigan Liquor Control Commission approving such license, whichever last occurs. The township board may revoke a license if such remodeling or construction is not timely commenced and diligently pursued to completion.

- (g) *Renewals:* On or before the first February 1 after the first full year of licensure, and on or before February 1 of each year thereafter, each licensee licensed under this chapter shall prepare and submit an application for renewal of his, her or its license upon forms to be provided by the township clerk. The township board shall review the application for renewal and may either approve the renewal or reject the renewal and file an objection to renewal or a request for revocation of a license with the Michigan Liquor Control Commission.

(Ord. No. 2008-02, § 4, 10-27-08; Ord. No. 2009-04, § 4, 5-11-09)

Sec. 4-5. Application contents.

- (a) *Information to be submitted:* Applications for a license to sell beer, wine or (if authorized within the Township) spirits shall be in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain all of the following statements and information:
- (1) The name 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 (1) person or his nominee, the name and address of such person.
 - (2) The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
 - (3) 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.
 - (4) The location and description of the premises or place of business which is to be operated under such license.
 - (5) A statement whether the applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
 - (6) 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 chapter or the laws of the State of Michigan.
 - (7) A statement that the applicant will not violate any laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.
 - (8) The application shall be accompanied by building plans showing the entire structure and, in particular, the specific areas where the license is to be utilized.

- (9) The application shall also be accompanied by a site plan showing the entire premises along with all the required elements as per the site plan chapter in the zoning ordinance. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening and noise control.
 - (10) For premises pending or under construction, evidence of the financial capability of the applicant to satisfactorily complete the development and construction of the premises.
- (b) *Additional information:* The applicant shall also provide such other information as requested by the township board in connection with its review of an application. The township board may waive any information it deems unnecessary for the review of the application.

(Ord. No. 2008-02, § 5, 10-27-08)

Sec. 4-6. Restrictions on licenses.

- (a) *Restrictions:* Except to the extent that the township board issues a variance as permitted below, no new license, a renewal or transfer of an existing license shall be issued or approved to or for:
- (1) A person whose license, under this chapter, has been revoked for cause.
 - (2) A person, who at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
 - (3) A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
 - (4) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five (5) percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
 - (5) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
 - (6) 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 a controlled substance.
 - (7) A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued.

- (8) A person who has knowingly made any false statement in his or her application, or who has failed to fully complete the application.
- (9) Any law enforcing public official covered by the Michigan Liquor Control Code, as amended.
- (10) Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing, or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable township ordinance.
- (11) Any premises where it is determined by a majority of the township board that the premises do not or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control or where a nuisance does or will exist.
- (12) Any premises that is not commercially zoned, or any premises where the underlying zoning district or future land use map designation is not commercial in nature (for example, in the case of a planned unit development there shall be commercial components).
- (13) Any premises which the township board determines, by majority vote, to be inappropriate considering the desirability of establishing a location in developed, commercial areas, in preference to isolated, undeveloped areas; the attitude of adjacent residents and property owners and the anticipated or likely effect upon existing adjacent uses and uses in the vicinity; general traffic safety; the accessibility to the site from abutting roads and from primary roads or state highways; the capability of abutting roads to accommodate the increased commercial activity; the existence of any traffic hazards in the area or likely to be produced or exacerbated by the applicant's proposed use; the location of other licensed establishments as relates to potential traffic effects or hazards; the distance from public or private schools for minors; the zoning of the parcel and of adjacent and nearby parcels; the availability of utilities; the uses to be conducted with the license; the design and layout of improvements proposed by the applicant in relation to his, her or its proposed use; the proximity to other licensed establishments; and any information contained in the application or requirements of this chapter.
- (14) Any premises where the proposed liquor license use would not fully comply with the applicable zoning regulation or other township ordinance.
- (15) Any premises that does not contain a bona fide restaurant (meaning a restaurant serving complete meals selected by the patron from a menu which includes a choice of appetizer, salad, entree, vegetable, bread, dessert and beverage and which is served by waitpersons) that utilizes the license only in conjunction with the operation of the bona fide restaurant and, in addition, unless the bona fide

restaurant has a dining capacity of at least fifty (50) patrons at a ratio of not less than fifteen (15) square feet of dining area for each patron.

- (16) Any premises unless at least fifty (50) percent of the bona fide restaurant's gross receipts from the sale of food and beverages, including alcoholic liquors, shall be derived from the sale of food and beverages other than alcoholic liquors. All establishments shall maintain accurate records of receipts and disbursements in such a manner that receipts from food and beverages other than alcoholic liquors can be readily distinguishable from receipts for alcoholic liquors. Such records shall be available for inspection by the township or its agent from time to time during normal business hours. In the event that any establishment with a liquor license ceases to meet the requirements of this section and fails to come into compliance with this section within six (6) weeks, the township board may suspend or revoke its approval and the continued sale of liquor for consumption on the premises shall constitute a violation of the Charter Township of Georgetown Liquor License and Control Ordinance.
- (17) Any person who has not demonstrated sufficient financial assets:
 - a. To carry on or maintain the licensed business;
 - b. If the specific areas where the license is to be utilized are part of a new premises, to complete construction of the new premises according to the approved site plan and building plans filed with the township; and
 - c. To otherwise comply with the requirements of this chapter.
- (b) *Continued compliance:* Should any licensee or licensed premises at any time cease to meet the requirements of this section or have any delinquent outstanding tax, utility bill, assessment or personal property tax following the issuance of a license, the township board may suspend or revoke its approval pursuant to section 4-8 below and the continued sale of liquor for consumption on the premises shall constitute a violation of this chapter. All licensees shall maintain accurate records of receipts and disbursements in such a manner that receipts from food and beverages other than alcoholic liquors can be readily distinguished from receipts for alcoholic liquors. Such records shall be available for inspection by the township or its agent from time to time during normal business hours.
- (c) *Variances:*
 - (1) In connection with the issuance, transfer or renewal of a license, the township board, in its sole discretion, may allow a variance from the strict requirements of this chapter where it is shown by the applicant that:

- a. It would be impossible or very difficult for the applicant to comply with the strict requirements of this chapter (financial hardship alone shall not satisfy this requirement);
 - b. The variance provides for adequate alternate means of ensuring that the spirit and intent of this chapter is maintained;
 - c. The variance sought is sufficient to protect the health, safety and general welfare of the township and its residents;
 - d. The variance sought will not contradict with other applicable laws, rules or regulations.
- (2) In connection with the grant of a variance, the township board may impose other requirements to ensure that the spirit and intent of this chapter is maintained and that the health, safety and general welfare of the township and its residents is protected.
 - (3) A variance granted pursuant to this section is not transferable to another licensee or location.

(Ord. No. 2008-02, § 6, 10-27-08)

Sec. 4-7. Competing applications.

Additional criteria: Where there are competing applications for an available liquor license, the township board shall compare the relative strength of each application in light of the criteria described in section 4-6 and the township's interest in promoting the creation of suitable dining establishments for the residents of the township in determining which, if any, of the competing applications should be approved.

(Ord. No. 2008-02, § 7, 10-27-08)

Sec. 4-8. Objections to renewal and request for revocation.

- (a) *Procedure:* Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the township board shall hold a hearing and shall serve the license holder, by first class mail, mailed not less than ten (10) days prior to the hearing with notice of the hearing and shall publish a notice of the hearing in a paper of general circulation not less than ten (10) days prior to the hearing, which notice shall contain the following:
 - (1) Notice of proposed action.
 - (2) Reasons for the proposed action.

- (3) Date, time and place of the hearing.
 - (4) A statement that the license holder may present evidence and testimony and confront adverse witnesses.
- (b) *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.
- (c) *Criteria for nonrenewal or revocation:* The township board shall recommend nonrenewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, any of the following exist:
- (1) Violation of any provision of this chapter or of the restrictions on the license.
 - (2) Maintenance of a nuisance (defined as any violation of this chapter or any other township ordinance, or any state or federal law, rule or regulation, or the maintenance of any common law nuisance) upon the premises.
 - (3) Fraudulent information provided upon original application or application for transfer or renewal.
 - (4) The consumption of spirits on the premises, if it is licensed to sell only beer and wine or both beer and wine.
 - (5) Dancing or live entertainment open to the public, with or without an admission charge, unless holding a valid dance or dancing entertainment permit; or any live entertainment featuring lewd, lascivious, erotic, sensual or blatantly sexual themes, including, without limitation, exotic dance and countertop dance.
 - (6) Any disorderly conduct or action which disturbs the peace and good order of the neighborhood.
 - (7) Any incidents of prostitution, solicitation for prostitution, or larceny.
 - (8) Any unlawful gambling activity or the placing or using of any unlawful gambling apparatus or paraphernalia therein.
 - (9) Any unlawful possession, sale or use of any controlled substance.
 - (10) Use of interior lighting which is insufficient to enable a person with average vision to clearly see all persons within the premises.
 - (11) Any violation of any other provision of any township ordinance, or any violation of any law, rule, regulation or lawful order or directive which is designed to protect the public health, safety or welfare.

- (12) Any violation of the Michigan Liquor Control Act or any rule or regulation promulgated by the Michigan Liquor Control Commission.
 - (13) Nonpayment of any federal, State of Michigan or local tax or special assessment.
 - (14) Nonpayment or repeated delinquency payment of utility or other bills outstanding and owing to the township.
 - (15) Any failure by the licensee, or the licensee's agent or employee to fully cooperate with any federal, state, county or township official.
 - (16) Any failure by the licensee, or the licensee's agent or employee to fully cooperate with any law enforcement officer.
- (d) *Existing license renewals:* Existing licenses are subject to annual renewal by the township board.

(Ord. No. 2008-02, § 8, 10-27-08)

Sec. 4-9. Nudity prohibited.

- (a) A licensee shall not allow in or upon the licensed premises any person in a state of nudity.
- (b) A licensee shall not hire, employ, or procure a person to appear in or upon the licensed premises in a state of nudity.
- (c) No person shall appear in or upon premises licensed for the sale of alcoholic liquor in a state of nudity.
- (d) A licensee shall not allow in or upon the licensed premises the showing of films, television, slides or other electronic reproductions which depict scenes wherein any person appears in a state of nudity. This prohibition does not apply to any public broadcast television transmission from a federally licensed station.
- (e) For the purposes of this section, "nudity" means a state of undress so as to expose to the view of another person body parts without any covering or with less than a fully opaque covering specified anatomical areas as defined in the sexually oriented businesses section of the zoning ordinance. A woman's breast feeding of a baby does not constitute nudity.

(Ord. No. 2008-02, § 9, 10-27-08)

Sec. 4-10. Enforcement.

For the purpose of the enforcement of the Michigan Liquor Control Act within the township, there is hereby established a liquor control enforcement department with full power, authority, and duty to see that the provisions of said act and the rules and regulations of the Michigan Liquor Control Commission adopted pursuant to said act are enforced within said township. Such department shall consist of not less than one (1) Ottawa County Sheriff's Department deputy appointed by the township board and such other personnel as the township board may, in its discretion, appoint. Such department or a member thereof shall be reasonably available to investigate complaints received under this chapter and enforce the provisions hereof.

(Ord. No. 2008-02, § 10, 10-27-08)

Sec. 4-11. Inspection.

The township liquor control enforcement department shall periodically inspect all liquor establishments in the township licensed under the Liquor Control Act of the State of Michigan and report the results of all inspections promptly to the township board. The township liquor control enforcement department shall further promptly investigate all complaints received by it concerning violations of the Michigan Liquor Control Act or improper operations and practices concerning alcoholic liquor traffic with the township and report the same to the township board and, where appropriate under the Michigan Liquor Control Act, to the Michigan Liquor Control Commission for appropriate proceedings against the violator. Inspectors may also issue and/or obtain, as applicable, misdemeanor complaints and warrants for violations of this chapter. All inspectors shall carry appropriate cards issued by the township clerk clearly identifying them as township liquor control inspectors and shall present said cards to the owner or manager of every place inspected by them when making an inspection upon demand for identification by such owner or manager. Inspectors shall have the right to inspect any place in the township where alcoholic liquor manufactured, sold, offered for sale, kept for sale, possessed or transported, or where the inspector suspects the same is being thus manufactured, sold, offered for sale, kept for sale, possessed or transported.

(Ord. No. 2008-02, § 11, 10-27-08)

Sec. 4-12. Penalties.

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00), or both, at the discretion of the court. Any licensee who shall violate any of the provisions of the Michigan Liquor Control Act or any rule or regulation of the Michigan Liquor Control Commission promulgated thereunder, or who violates any of the provisions of this chapter, and any person who prohibits or interferes with the authorized inspection of a member of the township liquor control enforcement department shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than ninety (90) days or by a fine of not more than five hundred dollars (\$500.00), or both, at the discretion of the court. Each day that a violation continues to exist shall constitute a separate offense. It is the intent of the township board that the court, in imposing punishment under the provisions of this chapter, should discriminate between casual or slight violations and

habitual sales of alcoholic liquor or attempts to commercialize violations of this chapter promulgated under the Michigan Liquor Control Act.

(Ord. No. 2008-02, § 12, 10-27-08)

Sec. 4-13. Severability.

Should any section or part thereof of this chapter 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 thereof of this chapter.

(Ord. No. 2008-02, § 13, 10-27-08)

Sec. 4-14. Issuance, transfer or renewal not required.

Nothing in this chapter shall be construed to require the township or the township board to issue or approve the issuance of a license that may be available for issuance, whether due to population quotas or otherwise, nor to approve the transfer or renewal of a license that was previously issued. Whether a license is issued, transferred or renewed shall be determined in the sole discretion of the township board.

(Ord. No. 2008-02, § 14, 10-27-08)