

BROOKS TOWNSHIP
LIQUOR LICENSES
NEWAYGO, MICHIGAN

ORDINANCE NO. 96-10

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01 TITLE

This article shall be known and may be cited as the “Brooks Township Liquor License Chapter.”

02 PURPOSES

This article is established to cause the greatest benefit to the Township in its use of powers with regard to the issuance, transfer, renewal or revocation of Liquor Licenses within its jurisdiction. This article is established in order to provide an orderly and nondiscriminatory procedure for the review and approval, by the Township, of any and all requests for Liquor Licenses or any matter relating thereto, for the sale or dispensation of alcoholic beverages within the Township, and each person who desires such a license, or the approval or renewal of the same, shall comply with this article.

03 DEFINITIONS

As used in this article:

- (a) “Alcoholic Beverages” means any spirituous, vinous, malt or fermented liquor, liquid or compound, whether or not medicated, proprietary or patented, and by whatever name called, which contains one-half of one percent or more of alcohol by volume and which is fit for use for beverage purposes.
- (b) “Person” means and includes any person or legal entity of any kind, either non-profit, that desires to have or is already in possession of any license issued by the State of the sale and dispensation of alcoholic beverages in the Township pursuant to a Liquor License of any kind.

04 APPLICATIONS FOR NEW LICENSES

- (a) Submission to State. An applicant for a liquor license under this article shall submit an application for a liquor license to the State Liquor Control Commission at such time and in the manner as may be specified from time to time by the State Liquor Control Commission.
- (b) Submission to township. The Applicant for a liquor license under this article shall submit a current and fully completed application to: Brooks Township Clerk, P.O. Box 625, Newaygo, Michigan 49337.
- (c) Required Information. The Township application shall be signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, and shall include at least 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, or in the case of a corporation, the names and addresses of the officers and directors thereof, and, if an aggregate of more than ten percent of the stock of such corporation is owned by any one person or his or her nominee, the name and address of such person;
 - (2) The type of licensed desired;
 - (3) The nature of the business of the applicant and, in the case of a corporation, the object for which it was formed;
 - (4) A written statement as to the applicant's character, experience and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the period of time such applicant has been in the business of that nature or, in the case of corporation, the date when its certificate of incorporation was issued;
 - (5) The location and description of the premises which is to be operated under such license;
 - (6) If the business of the applicant is to be operated or conducted by a local manager or agent, the name and address of such manager is required. Also required is a written statement as to the manager's character, criminal history, experience and ability to meet the obligations and business undertakings for which the license is to be issued;
 - (7) A statement as to whether or not the applicant has, prior to the application, applied for a license to sell beer and wine or spirits and, if so, the date, place disposition of such application;

(8) A statement that the applicant has never been convicted of a felony and is not disqualified from receiving approval for a license by reason or any matter or thing contained in this article or laws of the State;

(9) A statement that the applicant will not violate any of the ordinances of the Township or laws of the State or of the United States in the conduct of his or her business;

(10) A statement that the applicant, should any of the information provided in his or her application or any attachment thereto change during the term of the license or any renewal thereof, will notify the Township Clerk, in writing, within thirty days of such change;

(11) An eight and one-half by eleven inch building and grounds layout diagram showing the entire structure, premises and grounds, specific areas where the license is to be utilized and the relationship of the proposed structure to the surrounding property and land use, and demonstrating adequate off-street parking, lighting and refuse disposal facilities and, where appropriate, adequate plans for screening and noise control;

(12) A minimum of three character endorsements of the applicant, partners or stockholders, as the case may be, and

(13) Any other information pertinent to the applicant and to the operation of the proposed facility as may be required by the Township Board (hereinafter referred to a "Board") by prior notice to the applicant.

- (d) Fee. The application shall be accompanied by a nonrefundable fee, in an amount determined by Board, to cover the cost of investigation, review and inspection by the Township of the application.
- (e) Administrative Recommendations. Following receipt of the fully completed application, the fee and such other information as may be requested by the Township, the Township Clerk shall forward the application to the Sheriff Department, the Fire Department, the County Building Inspector, the County Health Department and such other departments shall make their recommendations prior to consideration of the application by the Board. In making its review, the Township may request from the applicant other pertinent information.
- (f) Placement of Board Agenda. Upon receipt by the Township Clerk's Office of the recommendation of the Sheriff Department, the Fire Department, the County Building Inspector, the County Health Department and other departments as required, the Clerk shall cause the application to be placed upon the agenda of the Board within sixty days after receipt of the same in his or her office. All applications are subject to the final approval of Board.
- (g) Board Action. At the initial meeting before Board to consider the application, Board shall generally take one of the following steps:

- (1) Recommend to the State Liquor Control Commission approval of the application above all others for the issuance of a liquor license;
 - (2) Reject the application stating the reasons for such rejection;
 - (3) Ask the applicant to proceed with the submitted plans so that a more detailed and complete proposal may be heard by Board at a later date, provided however, that this action by Board shall not be interpreted to mean approval of the application or the general details of the proposal; or
 - (4) Postpone action on the application for a period not to exceed sixty days. The sixty-day limitation for postponement of action may be waived by the applicant if the postponement is for the purpose of supplying Board with additional information requested of the applicant by Board, when the applicant is unable to supply the requested information within the stated time period.
- (h) Decision Criteria. Board, in making its decision, shall consider the following criteria on the application:
- (1) The applicant's management experience in the alcohol liquor business;
 - (2) The applicants' general business management experience;
 - (3) The applicant's general business reputation;
 - (4) The applicant's financial status and ability to build and/or operate the proposed facility on which the proposed liquor license is to be located;
 - (5) The applicant's excessive use of alcoholic beverages;
 - (6) The effect that the issuance of a license would have upon the economic development of the surrounding area;
 - (7) The effect that the issuance of a license would have on the health, welfare and safety of the general public;
 - (8) The recommendations of the local law enforcement agency, the County Building Inspector, the County Health Department and/or the Fire Department with respect to the proposed facility;
 - (9) Whether the applicant has demonstrated the public need or convenience for the issuance of the liquor license for the business facility at the location proposed;
 - (10) The uniqueness of the proposed facility when contrasted against other existing or proposed facilities;
 - (11) The number of liquor licenses issued by the Township within the past 72 months;

- (12) Whether the facility to which the proposed liquor license is to be issued complies, or will comply, with the Building, Plumbing, Electrical, Fire Prevention and Zoning Codes of the Township and any other building, plumbing, electrical, fire prevention and zoning statues and ordinances applicable to the Township;
 - (13) The effect that the business facility to which the proposed license is to be issued will have upon vehicular and pedestrian traffic in the area;
 - (14) The proximity of the proposed business facility to other similarly situated licensed liquor facilities;
 - (15) The effect that the business facility to which the proposed license is to be issued will have upon the surrounding neighborhood and/or business establishments;
 - (16) The permanence of the establishment in the community as evidenced by the proposed or actual commitments made by the applicant; and
 - (17) Such other considerations as Board may deem proper. In making its determination under this section, the Board may weigh variously the above factors.
- (i) Applicant Qualification and Grounds for Denial. Notwithstanding any other section of the Ordinance to the contrary, no license shall be approved for;
- (1) A person, for any location which Board determines, by a majority vote, is unsuitable for on-premises consumption of beer and wine or spirits, considering;
 - A. The Proximity of other premises licensed to sell beer and wine or spirits for on premises consumption;
 - B. The lack of any other facilities or uses on the premises to be licensed which are compatible with a license for on-premises consumption of beer and wine or spirits (e.g. a restaurant or hotel);
 - C. The distance from public or private schools for minors, playgrounds, public parks or churches;
 - D. The proximity of an inconsistent zoning classification or land use;
 - E. Traffic safety;
 - F. The accessibility to the site from abutting roads;
 - G. The capability of abutting roads to accommodate the commercial activity; and
 - H. Such other relevant factors as Board may deem appropriate;
 - (2) A person, for any premises which Board determines, by a majority vote, does not or will not, within six months of the approval of the license by Board, or prior to

- the commencement of business, whichever occurs first, have adequate off-street parking, lighting, refuse disposal facilities, screening or noise or nuisance control, provided, however, that upon timely request and for good cause shown, Board may extend any deadline established by this paragraph;
- (3) A person, for any premises which does not comply with applicable building, electrical, mechanical, plumbing, fire prevention, zoning or public health codes and regulations, provided, however, that Board may approve an application subject to compliance with the applicable codes and regulations within sixty days;
 - (4) A person who does not own the premises for which the license approval is sought or does not have a lease therefore for the full period for which the license is to be issued;
 - (5) A law enforcing public official or a member of Board, and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic beverages;
 - (6) A person who, at the time of application for such approval, transfer or renewal, is delinquent in the payment of any taxes, fees or other charges owed to or collected by the Township.
 - (7) A person whose liquor license has been revoked or not renewed for cause under this article, or a comparable City, Township, County Ordinance, or State Law, whether in Michigan or otherwise;
 - (8) A co-partnership, unless all of the members of such co-partnership qualify for approval of a license;
 - (9) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than ten percent of the stock of such corporation, would not be eligible to receive approval for a license hereunder for any reason;
 - (10) A person whose place of business is operated or conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;
 - (11) A person who has been convicted of a crime punishable by imprisonment in excess of one year under the law under which he or she was convicted, or of a crime involving theft, dishonestly or false statement (including tax evasion) regardless of punishment, or of crime or administrative violation of a Federal or State Law concerning beverages or controlled substances; or
 - (12) A person based upon such other relevant factors as Board may deem appropriate.
- (j) Consideration of Conditional Approval. Once an applicant who has been asked to proceed by presenting a more detailed and complete proposal has sufficiently

completed his or her plans, and obtained site plan, engineering, zoning, planning and other necessary approvals from the Township, the applicant may then request consideration by Board of a conditional approval. Upon the receipt of a written notice by an applicant that he or she requests consideration of a conditional approval, the Township Clerk shall cause the application to be placed on the agenda of Board for Board's action within sixty days of the receipt of the same by the office of the clerk. At that meeting, the applicant shall be prepared to discuss the following;

- (1) Cost estimates for the building, furnishings and fixtures as part to proposal;
 - (2) Site plan information, including landscaping and other aesthetic features of the proposal;
 - (3) Estimates of the number of employees required for the operation;
 - (4) Information on the individuals expected to manage the operation, as well as information as to how the facility would actually be managed;
 - (5) Information about any entertainment or dancing that might be involved; and
 - (6) Answers to any related questions about the proposed improvements and/or general operation of the facility.
- (k) Disposition of Request for and Contingencies of Conditional Approval. Following this presentation by the applicant, Board may conditionally approve, above all others, the application, postpone consideration for a reasonable period or reject the application. Conditional approval will be contingent upon obtaining building permits and any other necessary permits, licenses or approvals from the Township within six months from the date of such conditional approval, including the correction of any existing noncompliance with codes and regulations referred to in paragraph (i) (3) hereof. The construction of new buildings and alterations of existing buildings shall commence within six months after the date of the conditional approval, with a completion date of not more than one year after the issuance of the relevant building permit. Extensions for completion of construction or alterations may be granted by Board for good cause. The applicant shall execute in writing an acknowledgement and appearance of all conditions under which the Board has determined to recommend approval of licensure for the applicant.
- (l) Change of Approval Requirements for Conditionally Approval Applicants. After receipt of a conditional approval by Board, no floor plan, building elevation, site plan, seating arrangement, kitchen layout or other pertinent fact, drawing or document submitted to Board shall be changed without the applicant first receiving approval from the Board. Conditional approval by the Board shall not be transferable by applicant. A change of partners in a partnership or a corporation shall be deemed a transfer hereunder. A transfer made without prior approval by the Board shall cause revocation, without further action by the Board,

of conditional approval, and the applicant shall be required to resubmit the application.

- (m) Recommendation of Conditionally Approval Applicant to State Liquor Control Commission. Upon completion of the building and in accordance with the prior conditional approval of Board, Board shall recommend the applicant, above all others, to the State Liquor Control Commission for approval of the liquor license.
- (n) Reservation of Authority. No applicant for a liquor license has right to the issuance of such license to him or her. Board reserves the right to exercise the maximum discretion as is allowed by law to determine who, if anyone, shall be entitled to the issuance of such a license.
- (o) Criteria for Selecting Among Qualified Applicants. When any such license available for issuance to a new applicant, either by elapse of a current license or by the authorization and allocation of additional licenses to the Township, and there exist more qualified applicants for such licenses than the number of new licenses available for issuance, Board shall choose the most qualified applicant or applicants for approval based upon the following criteria;
 - (1) The location of the proposed new business and its desirability in light of its location, the surrounding land uses and its proximity to other premises licenses for on-premises consumption;
 - (2) The experience of the applicant;
 - (3) The other uses proposed to be included on the premises or in the development (e.g. a restaurant or motel);
 - (4) The cost and size of the overall project and the number of new jobs to be created or current jobs retained;
 - (5) The relative suitability of the design and size of the business to the property on which it is proposed to be located, as evidenced by any building and grounds layout diagram required to be submitted with application;
 - (6) The overall development of redevelopment of the Township; and
 - (7) Such other relevant factors as Board may deem appropriate. In making its determination under this section, the Board may weigh variously the above factors under the circumstances of each application.

05 TRANSFER OF EXISTING LICENSES

The transfer of any existing liquor license covered under this article shall be subject to each of the requirements, criteria and procedures, including fees, set forth in this article for the granting of a new liquor license. In addition, the transferee-applicant shall agree, and sign releases if necessary for that

purpose, to allow the Township of Brooks, its agents or employees, to review and inspect any and all records and files which may be in the possession of the State Liquor Control Commission or the possession of the applicant regarding the commissioner's investigation of the transferee as a present licensee or as a previous licensee, or of a business or other legal entity in which the transferee has had an interest.

(06) OBJECTIONS TO RENEWAL AND REQUESTS FOR REVOCATION

- (a) Board Action. Board may object to a renewal of a liquor license or request the revocation of a liquor license by the State Liquor Control Commission.
- (b) Procedure. Before filing an objection to a renewal or a request for revocation of a license with the State Liquor Control Commission, Board shall serve the license holder, by first class mail, mailed not less than ten days prior to the hearing, a notice of such hearing, which notice shall contain the following information:
 - (1) Notice of the proposed action;
 - (2) The reasons for the proposed action;
 - (3) The date, time and place of such hearing; and
 - (4) A statement that the licensee may present evidence and testimony, may confront witnesses and may be represented by a licensed attorney.
- (c) Hearing. Such hearing may be conducted by Board as a whole or by a hearing officer appointed by Board for such purpose. If a hearing is appointed, it shall be that officer's duty to undertake such hearing and to hear and take evidence and testimony of the licensee or of witnesses on his or her behalf or in opposition to such licensee. The licensee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing and make a transcript of the testimony. After such hearing, the hearing officer shall take a recommendation to Board for the latter's ultimate final review and decision. Board shall submit to the license holder and State Liquor Control Commission a written statement of its ultimate findings and determination.
- (d) Criteria for Non-renewal or Revocation. Board may recommend non-renewal or revocation of a license upon a determination by it that, based upon the evidence presented at the hearing, any of the following exists:
 - (1) A violation of any of the restrictions on licenses set forth in Section 04 (i);
 - (2) Maintenance of a nuisance upon the premises;
 - (3) Failure to comply with the requirements of the State Liquor Control Act or the Administrative Rules of the Liquor Control Commission;

- (4) Failure to comply with any of the requirements of this article;
- (5) A violation of any law or ordinance in the conduct of the licensee's business;
or
- (6) Failure to comply with any promise or representation made by the applicant to Board or with any condition imposed upon the applicant as a basis for the approval.

07 APPLICABILITY

This article shall apply only to applications for licenses to sell beer, wine or spirits for on-premises consumption, including, but not limited to, Class "B" licenses, Class "C" licenses, resort licenses, tavern licenses, club licenses and hotel licenses. This shall not, in any event, apply to applications for SDM or SDD licenses, special licenses granted by the State Liquor Control Commission or one-day permits as allowed by statute.

08 FEES

The Township Board may from time to time, by resolution, set fees to be paid to the Township of Brooks for license transfers, issuance of original licenses, and investigation of applicants, provided same shall not be in conflict with statutes of the State of Michigan or rules or regulations adopted by the Michigan Liquor Control Commission.

09 REVOCATION OF PRIOR POLICIES

All prior policies affected by the board regarding the subject matter of this ordinance are hereby revoked. This Ordinance shall become effective ten days following its publication, said effective date being October 31, 1996.

PROCEDURAL CHECKLIST

Date of Passage of Ordinance: October 21, 1996

Members Voting Aye:

Members Voting Nay:

Hummel

Jones

North

Hulst

Besser

Date of Publication of the Ordinance: October 29, 1996

Newspaper In Which Publication Was Made: Times Indicator

STATE OF MICHIGAN)

COUNTY OF NEWAYGO)

I, the undersigned, being the duly elected, qualified and acting Clerk of the Township of Brooks, County of Newaygo and State of Michigan, do hereby certify that the foregoing ordinance was duly adopted by the Township Board of the Township of Brooks as hereinabove set forth; and that said Ordinance was duly published on the date indicated above by the insertion of a true copy thereof in the Times Indicator, which is a duly qualified newspaper circulating within the Township of Brooks.

In Testimony Whereof, I have hereunto set my hand this 30th day of October, 1996.

Township Clerk – Lora L. Jones

CERTIFICATE

STATE OF MICHIGAN)

COUNTY OF NEWAYGO)

I, the undersigned, being the duly elected, qualified and acting Township Clerk of the Township of Brooks, County of Newaygo, State of Michigan, do hereby certify that annexed hereto is a true, complete and correct copy of an ordinance duly adopted by the Township of Brooks, at the regular meeting thereof duly called and held on the 21st day of October, 1996, the original of which is recorded in the Book of Ordinances of the Township of Brooks.

I do hereby further certify that public notice of said meeting was given in the manner required by law, including the Open Meetings Act, 1976 PA 267, including in the case of a rescheduled meeting notice by publication or posting at least 18 hours prior to the time set for the meeting, and that the meeting was held and conducted in compliance with the provisions of said Act.

I do hereby further certify that the Township of Brooks maintains a township office open to the public during regular hours on each business day, and that the Book of Ordinances is readily available to the public at the Township office.

I do hereby further certify that said ordinance was published, within thirty (30) days after the passage thereof, by causing a true, correct and complete copy thereof to be inserted in the Times Indicator, a newspaper circulating within the Township of Brooks.

I do hereby further certify that within one (1) week after the publication of the said ordinance as aforesaid, I duly recorded said ordinance in the Book of Ordinances of the Township of Brooks, together with the date of the passage of said ordinance, the names of the members voting thereon and how each member voted.

I do hereby further certify that I have duly certified, under the said ordinance in a blank space provided therefore in the Book of Ordinances of the Township of Brooks, the date of publication of said ordinance, and the name of the newspaper in which publication was made; and that annexed hereto is a true, correct and complete copy of such certificate as contained in the Book of Ordinances of the Township of Brooks.

In Testimony Whereof, I have hereunto set my hand this 30th day of October, 1996.

Township Clerk – LORA L. JONES

