

**HOWELL TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN
LIQUOR LICENSE ORDINANCE**

Ordinance No. 286

At a meeting of the Howell Township Board of Howell Township, Livingston County, Michigan, held at the Howell Township Hall on March 15, 2021, at 6:30 p.m., Township

Board Member Rudnicki moved to adopt the following Ordinance, which motion was seconded by Board Member Hohenstein:

An Ordinance entitled “Howell Township Liquor License Ordinance,” to regulate the issuance, transfer, renewal, and revocation of liquor licenses in Howell Township.

HOWELL TOWNSHIP, LIVINGSTON COUNTY, MICHIGAN ORDAINS:

SECTION 1: TITLE.

This ordinance shall be known and may be cited as the “Howell Township Liquor License Ordinance.”

SECTION 2: PURPOSE AND APPLICABILITY.

This ordinance is established to provide an orderly and nondiscriminatory procedure for the issuance, renewal, revocation, and transfer of licenses for sale, service or allowing the consumption of alcoholic beverages within the Township. No person shall engage in the sale, service or allowing the consumption of alcoholic beverages on the premises without first complying with this Ordinance and receiving the Township Board’s approval of issuance of a new license or recommendation for transfer of a license.

SECTION 3: DEFINITIONS.

As used in this ordinance:

“*Alcoholic Beverages*” means “alcoholic liquor,” including without limitation, “beer,” “brandy,” “mixed spirit drink,” “mixed wine drink,” “spirits,” and “wine” as defined in the Michigan Liquor Control Code of 1998, Act 58 of 1998, MCL 436.1101, *et seq.*

“*Person*” or “*Applicant*” means and includes any person or legal entity of any kind, either profit or non-profit, that seeks to have or is already in possession of any license issued by the State for the sale or dispensing of Alcoholic Beverages in the Township pursuant to a liquor license of any kind.

SECTION 4: LICENSES.

I. Application for Issuance of New Liquor Licenses.

- A. An applicant for issuance of a new liquor license for consumption of alcoholic beverages on the premises within the Township shall submit an application for approval under this ordinance. An application to the State Liquor Control Commission shall satisfy the requirements necessary for submission to the Township under this ordinance to the extent that the information required by the State Liquor Control Commission duplicates the application requirements necessary for submission to the Township.
- B. Under no circumstances is the Township Board obligated to issue an available new liquor license for sale, service or allowing the consumption of alcoholic beverages on the premises. The Board reserves the right to exercise reasonable discretion to determine who, if anyone, shall be entitled to the issuance of such license. Additionally, no applicant for a liquor license has the right to have such application processed, and the Board further reserves the right to take no action with respect to any application filed with the Board.
- C. Applications for approval of issuance of a new liquor license for sale, service or allowing the consumption of alcoholic beverages on the premises under this Ordinance shall be made to the Township Board in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership, limited-liability company, or corporation, verified by oath or affidavit, and shall contain the following statements and information:
 - 1. The name, age, address, and telephone number 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 limited-liability company or corporation, the names and addresses of the managers, members, officers and directors thereof, and if an aggregate of more than 10 percent of the stock of such company or corporation is owned by any one person of his or her nominee, the name and address of such person;
 - 2. The type of license desired;
 - 3. Address and telephone number of the registered agent for accepting service of process, if the applicant is an entity;
 - 4. Name and address of the financial institution where an applicant's funds for establishment and operation of the entity sought to be licensed are deposited, as well as the sources of all funds which will be relied upon in the establishment and operation of the entity sought to be licensed;
 - 5. The character of business of the applicant and, in the case of a limited-liability company or corporation, the object for which it was formed;
 - 6. 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 length of time such applicant has been

in business of that character or, in the case of a limited-liability company or corporation, the date when its certificate of incorporation was issued;

7. The location of the premises or place of business which is to be operated under such license, including its legal description, address, and zoning classification for the location where business is proposed;
8. A plan of operation which shall contain an operational statement outlining the proposed manner in which the establishment will be continuously operated, including, but not limited to, the opening date, the concept, the format, a schedule of the hours of operation, alcohol management, and food service;
9. A statement as to whether the applicant has, prior to the application, applied for a similar or other license to sell alcoholic beverages and, if so, the date and the disposition of such application;
10. A statement that the applicant has never been convicted of a felony and is not disqualified from receiving approval for a license by reason of any matter or thing contained in this ordinance or the laws of the state;
11. A statement that the applicant will not violate any of the laws of the state or of the United States or any ordinances of the Township in the conduct of their business;
12. The application shall be accompanied by an eight and one-half by eleven-inch building and plat diagram showing the entire structure, premises and grounds, and in particular, the specific areas where the license is to be utilized, and the relationship of the proposed structure to the surrounding property and land use. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities, and, where appropriate, adequate plans for screening and noise control;
13. A statement as to whether the applicant is leasing or purchasing the building, premises, grounds, or other area where the license is to be utilized;
14. A minimum of three character endorsements of the applicant, members, managers, partners or stockholders, as may be required by the Township Board by prior notice to the applicant;
15. Any other pertinent information as may be required by the Township Board by prior notice to the applicant; and
16. A statement that the applicant, should any of the information provided in their application or any attachment thereto change during the term of the license or any renewal thereof, will notify the Township Clerk, in writing, within 30 days of such change.

- D. If the Township decides to, in its sole discretion, process an application under this ordinance, the applicant shall provide the Township a nonrefundable fee, in the amount of Twenty-Five Hundred Dollars (\$2,500.00), to cover the cost of the investigation, review and inspection by the Township.
- E. The Township Clerk shall not cause an application to be placed on the agenda of the Township Board for review unless and until the Clerk deems the application complete by having the necessary statements and information as required under this section, or if the Township otherwise declines to process the application under this ordinance.
- F. Following receipt of the fully completed application chosen for processing under this Ordinance, 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 Township Fire Department, the Township Building Inspector, the Township Zoning Administrator, and such departments may make their recommendations prior to consideration of the application by the Township Board. In making its review, the Township may request from the applicant other pertinent information.

II. Township Board Application Review.

- A. Upon receipt by the Township Clerk's Office of a completed application chosen for processing under this ordinance, and any recommendations of the Sheriff Department, the Township Fire Department, the Township Building Inspector, the Township Zoning Administrator, and other departments as requested, the Clerk shall cause the application to be placed on the agenda of the Township Board. Due notice will be given to the applicant. The applicant will be required to appear before the Board and answer any questions pertaining to the application. All applications chosen for processing under this ordinance are subject to the final approval of the Board.
- B. The Township Board shall conduct a public hearing prior to making a decision regarding the application.
- C. Following the public hearing, the Township Board shall make a determination based upon satisfactory compliance with the standards of review set forth in this Ordinance and take any of the following steps, which shall be submitted to the applicant in writing:
 - 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. Postpone action on the application; or
 - 4. Take other appropriate action in the discretion of the Township Board.

D. The Township Board, in making its decision on the application shall consider the following criteria:

1. The applicant's management experience in the alcoholic beverage business;
2. The applicant's 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 amount invested in the facility/establishment and the extent and nature of renovation to existing buildings;
6. The effect that the issuance of a license would have on the health, welfare and safety of the general public;
7. The recommendations of any state, county or local agencies and departments that provided comment regarding the application;
8. 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;
9. The uniqueness of the proposed facility when contrasted against other existing or proposed facilities;
10. The number of outstanding liquor licenses that may be issued by the Township;
11. 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 statutes and ordinances applicable to the Township;
12. 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;
13. The proximity of the proposed business facility to other similarly situated licensed liquor facilities;
14. 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;

15. The permanence of the establishment in the community as evidenced by the proposed or actual commitments made by the applicant;
 16. Input from residents and surrounding business owners; and
 17. Such other considerations as the Board may deem proper. In making its determination under this section, the Board may weigh the above factors.
- E. Notwithstanding any other section of the Ordinance to the contrary, the Township Board may deny an application for the issuance of a new liquor license for sale, service or allowing the consumption of alcoholic beverages on the premises:
1. For a location which the Board determines, by a majority vote, is unsuitable for an on-premises license to sell, serve or allow the consumption of alcoholic beverages considering:
 - i. The proximity of other premises licensed to sell alcoholic beverages for on-premises consumption;
 - ii. 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 alcoholic beverages (e.g., a restaurant or hotel);
 - iii. The distance from public or private schools for minors, playgrounds, public parks or churches;
 - iv. The proximity of an inconsistent zoning classification or land use;
 - v. Traffic safety;
 - vi. The accessibility to the site from abutting roads;
 - vii. The capability of abutting roads to accommodate the commercial activity; and
 - viii. Such other relevant factors as the Board may deem appropriate, including without limitations, Section II.D of this Ordinance.
 2. To a person whose alcoholic beverage license has previously been revoked or not renewed for cause under this ordinance, or a comparable local ordinance, or state Law, whether in Michigan or otherwise;
 3. To a person who, at the time of application, is delinquent in the payment of any taxes, fees or other charges owed to or collected by the Township;
 4. To a co-partnership, unless all of the members of such co-partnership qualify for approval of a license;

5. To a limited-liability company or corporation, if any officer, manager, member or director thereof, or a stockholder or stockholders owning in the aggregate more than 10 percent of the stock of such corporation, would not be eligible to receive a favorable recommendation to issue an alcoholic beverage license for any reason;
6. To a person whose place of business is conducted by a manager, member, or agent, unless such manager, member or agent possesses the same qualifications required of the licensee;
7. To a person who has been convicted of a crime punishable by imprisonment in excess of one year under the law which he or she was convicted, or of a crime involving theft, dishonesty, or false statement (including tax evasion), regardless of punishment, or of a crime or administrative violation of a federal or state law concerning beverages or controlled substances;
8. To a person who does not own the premises for which a license recommendation is sought or does not have a lease for the premises for the full period for which the license is issued;
9. To any law enforcing public official or any member of the Township Board;
10. For any premises which does not comply with applicable building, electrical, mechanical, plumbing, fire prevention, zoning, and public health codes and regulations, provided, however, that the Board may approve an application subject to compliance with the applicable codes and regulations within a specified time period;
11. For any premises where any real or personal property taxes, special assessments, sewer charges, or water charges are delinquent and remain unpaid; or
12. A person or premises based upon such other relevant factors as the Board may deem appropriate.

III. Criteria for Selecting Among Qualified Applicants.

When any license is 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, the Board may choose the qualified applicant or applicants for approval based upon the criteria provided in Section 4 of this Ordinance.

IV. Transfer of Existing Licenses.

The transfer of the location of an existing liquor license or the transfer of ownership of an existing liquor license for sale, service or allowing the consumption of alcoholic beverages on the premises shall be subject to a recommendation by the Township Board based upon the requirements, criteria, and procedures set forth in this ordinance for the granting of a new liquor license. The Township Board shall not review an application for a transfer of the location of an existing liquor license until the applicant has received applicable local zoning approvals. In addition, the transferee-applicant shall agree, and sign releases if necessary, to allow Howell Township, its agents or employees, to review and inspect any and all records and files which may be in possession of the State Liquor Control Commission or the possession of the applicant regarding the Commission'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. The Township Board may, by resolution, establish a fee for review of a transfer.

V. Objection to Renewal or Request for Revocation.

- A. The Township Board may object to a renewal of a liquor license or request the revocation of a liquor license by the State Liquor Control Commission, upon majority vote of the Board's members.
- B. Before filing an objection to a renewal or a request for revocation of a license with the State Liquor Control Commission, the Township Board shall serve the license holder, by first class mail, mailed not less than 10 days prior to the hearing with notice of a hearing, which notice shall contain the following:
 - 1. Notice of proposed action;
 - 2. Reasons for the proposed action;
 - 3. Date, time, and place of hearing; and
 - 4. A statement that the licensee may present evidence and testimony, may confront adverse witnesses, and may be represented by a licensed attorney.
- C. Such hearing may be conducted by the Board as a whole or by a hearing officer appointed by the Board for such purpose. If a hearing officer is appointed, it shall be that officer's duty to undertake such hearing and to hear and take evidence, including testimony of the Township or other government officials, employees, or agents, 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 court reporter to transcribe the testimony. After such hearing and if the Township designates a hearing officer, the hearing officer shall, in writing, prepare his or her findings and a recommendation to the Board for the Board's review and decision. Following the hearing or upon receipt of a hearing officer's recommendation, the Township Board shall make a written resolution as to its findings and determination. If the Township Board objects to renewal or recommends revocation, it shall forward an adopted resolution to the State Liquor Control Commission, copying the license holder. In

addition to the adopted resolution, the Township shall forward the following documents to the State Liquor Control Commission in a timely fashion:

1. A copy of this Ordinance, including the date(s) of adoption, and when and how it was published;
2. A certified copy of the notice of hearing sent to the licensee;
3. Proof of service of the notice of hearing sent to the licensee; and
4. Any separate findings or determinations not included within the adopted resolution.

D. The Township Board may object to renewal or request revocation of a license upon a determination by it that any of the following exist:

1. Violation of any of the standards for licensure, or restrictions placed thereon, set forth in this Ordinance, or violation of any of the laws of the State of Michigan or of the United States, or any other ordinances of the Township;
2. Maintenance of a nuisance upon the premises as provided by state law, local ordinance, or common law;
3. Failure to comply with the requirements of the State Liquor Control Act or Administrative Rules of the Liquor Control Commission;
4. Failure to comply with any of the requirements of this Ordinance or any Township ordinance;
5. Failure to comply with any promise or representation made by applicant to the Board or with any condition, standard, plan, or agreement entered into or imposed upon the applicant as a basis for the approval, transfer or renewal;
6. Noncompliance with the plan of operation;
7. Refusal to respond to written warnings that revocation proceedings may be commenced unless the licensee or licensee's representative appears before the Township Board to show cause as to why revocation should not be initiated;
8. Excessive police contacts with licensed premises, or its patrons of the premises determined to be the fault of the licensee;
9. Repeated instances where the licensee is serving minors or intoxicated persons;

10. A material change in those conditions, statements, or representations contained in the written application by the licensee, upon which the Township Board based its approval, when that change is found to be contrary to the best interest of the township residents, in the judgment of the Township Board; or
 11. Discontinuance or termination of the sale of alcoholic beverages under the license at the premises for 12 consecutive months.
- E. The Township Board may, by resolution, request the State Liquor Control Commission to revoke a liquor license issued to a licensee sold, or furnished on at least three separate occasions in a single calendar year, to a person who is less than 21 years of age, provided said violations did not involve the use of falsified or fraudulent identification by the person who is less than 21 years of age.

SECTION 5: FEES.

The Township Board may from time to time, by resolution, set additional fees to be paid to Howell Township for administering this Ordinance, provided same shall not be in conflict with state law or rules and regulations adopted by the Michigan Liquor Control Commission.

SECTION 6: VALIDITY AND SEVERABILITY.

Should any portion of this Ordinance be found invalid for any reason, such holding shall not be construed as affecting the validity of the remaining portions of this Ordinance.

SECTION 7: EFFECTIVE DATE.

This Ordinance shall be effective immediately after publication as provided by law.

(Effective: 4/02/2021)