CHARTER TOWNSHIP OF WEST BLOOMFIELD

ORDINANCE NO. C-775

ALCOHOLIC LIQUOR ORDINANCE AMENDMENT

An Ordinance to amend Chapter 5 of the Code of Ordinances entitled Alcoholic Liquor which regulates alcoholic liquors and establishments dealing in alcoholic liquors for the public health, safety and welfare of the Township and persons within its jurisdictional boundaries.

THE CHARTER TOWNSHIP OF WEST BLOOMFIELD ORDAINS:

Section 1 of Ordinance

Chapter 5 of the West Bloomfield Charter Township Code of Ordinances is hereby amended by repealing Chapter 5 in its entirety, and replacing it with a new Chapter 5, entitled Alcoholic Liquors”, containing sections 5-1 through 5-27, to read as follows:

ARTICLE 1. GENERAL PROVISIONS

Sec. 5-1. Purpose.

The purpose of this Chapter is to regulate alcoholic liquors and establishments dealing in alcoholic liquors for the public health, safety, and welfare of the Township and persons within its jurisdictional boundaries.

This Chapter is designed to establish reasonable and uniform regulations to prevent potential adverse impacts relating to alcoholic liquor. The regulations of this Chapter, including those provisions relating to the issuance, transfer, renewal, or revocation of liquor licenses and permits, are designed to provide objective and orderly procedures for the administration of this Chapter.

The Township Board finds that nudity, partial nudity, and sexualized conduct in alcoholic liquor establishments begets undesirable behavior, including violations of the law and dangers to health, safety, and welfare of the public, and based on evidence of adverse secondary effects associated with certain conduct in alcoholic beverage establishments, which effects have been presented in hearings and reports made available to the Township Board, and on findings, interpretations, and narrowing constructions incorporated in numerous cases presented and made a part of the record and listed in the Resolution Supporting Ordinance No. C-775 adopted on June 3, 2013, published on June 12, 2013, and made available at the Office of the Township Clerk. It is neither the purpose nor the effect of this Chapter to impose a limitation or restriction on the content or reasonable access to any communicative materials or performances protected by the First Amendment. Where necessary, this Chapter shall be construed to comply with all applicable constitutional requirements.
Sec. 5-2. Definitions.

For purposes of this Chapter, the words, terms, and phrases defined as follows shall have the meanings ascribed to them, unless a different meaning is clearly stated by the context:

a) **Alcoholic liquor** shall mean any beverage or compound containing one-half of one percent or more of alcohol by volume, which is used for human consumption. The term includes, but is not limited to beer, wine, and spirits.

b) **Approval** shall mean the consent of the Township Board or the recommendation of the Township Police Department for a Michigan Liquor Control Commission required alcoholic liquor-related license or permit, and the consent of the Township Board or the recommendation of the Township Police Department is either sought for an entity or establishment; or where the consent is required to be considered, as applicable. *See*, Michigan Department of Licensing and Regulatory Affairs, Liquor Control Commission (MLCC), Approval Chart LC_1305, as updated.

c) **Church, synagogue, mosque, temple** or other place of worship shall mean an entire house or structure set apart primarily for use of public worship, and which is tax exempt under the laws of this state, in which religious services are held and with which a clergy person is associated, and the entire structure is kept for that use and not put to any other inconsistent use.

d) **Commission** shall mean the Michigan Liquor Control Commission (MLCC).

e) **Disqualifying Criminal Act** shall mean any of the following:

1) An offense punishable by death or imprisonment in excess of one year under any of the following statutes, as amended, for which less than seven (7) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

   i Michigan Penal Code, Chapter IV, Adulterating and Misbranding;
   ii Michigan Penal Code, Chapter X, Arson and Burning;
   iii Michigan Penal Code, Chapter XI, Assaults, except MCL 750.81(1) and (2);
   iv Michigan Penal Code, Chapter XVII, Bribery and Corruption;
   v Michigan Penal Code, Chapter XXII, Compounding Offenses;
   vi Michigan Penal Code, Chapter XXVA, Criminal Enterprises;
   vii Michigan Penal Code, Chapter XXVIII, Disorderly Persons;
   viii Michigan Penal Code, Chapter XXXI, Embezzlement;
   ix Michigan Penal Code, Chapter XXXIII, Explosives, Bombs, Harmful Devices;
   x Michigan Penal Code, Chapter XXXIV, Extortion;
   xi Michigan Penal Code, Chapter XLIII, Frauds and Cheats;
   xii Michigan Penal Code, Chapter XLIV, Gambling;
   xiii Michigan Penal Code, Chapter XLV, Homicide;
xiv Michigan Penal Code, Chapter XLVIII, Indecency and Immorality;  
oxv Michigan Penal Code, Chapter LVIII, Mayhem  
xvi Michigan Penal Code, Chapter LXVII, Prostitution;  
xvii Michigan Penal Code, Chapter LXVIIA, Human Trafficking;  
xviii Michigan Penal Code, Chapter LXXVI, Sexual Conduct;  
xix Michigan Penal Code, Chapter LXXVIII, Robbery;  
xx Michigan Penal Code, Chapter LXXXIII-A, Michigan Anti-Terrorism Act;  
xxi Michigan Compiled Laws, 333, Part 74, Controlled Substances –  
Offense and Penalties;  
xxii Michigan Compiled Laws Section 205.27, Taxation-Prohibited Acts,  
including tax evasion;  
xxiii Michigan Compiled Laws Sections 257.625 and 257.625a, Operating  
Motor Vehicle While Intoxicated or Operating Motor Vehicle When  
Visibly Impaired;

2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;  
or  
3) Any offense enumerated in the Township Code of Ordinances which substantially  
corresponds to one of the foregoing state offenses; or  
4) Any offense in another jurisdiction that, had the predicate act(s) been committed  
in Michigan, would have constituted any of the foregoing offenses.

f) Employee shall mean any person who performs a service on the premises of an  
alcoholic liquor establishment on a full time, part time, or contract basis, regardless of  
whether the person is denominated an employee, independent contractor, agent,  
lessee, or otherwise. Employee does not include a person exclusively on the premises  
for repair or maintenance of the premises or for the delivery of goods to the premises.

g) Influential interest shall mean any of the following:

1) actual power to operate or control the operation, management, or policies of a  
current or prospective alcoholic liquor business; or  

2) ownership of a financial interest in the alcoholic liquor business, or ownership of  
an interest that is ten percent (10%) or more of the total interest of a current or  
prospective alcoholic liquor business, including such business entities as firm,  
partnership, limited partnership, association, limited liability company, or  
corporation.

3) holding an office, such as, e.g. president, vice president, secretary, treasurer,  
managing member, managing director, etc., in a legal entity which operates a current  
or prospective alcoholic liquor business.
h) *License* shall mean a license issued by the Michigan Liquor Control Commission to sell, produce, or warehouse alcoholic liquor for consumption on or off the premises.

i) *Licensee* shall mean a person holding a license to sell or store alcoholic liquor for consumption on or off the premises, as well as such person's agents, servants and employees.

j) *Licensed Premises* sell mean the location where the licensee is authorized to sell or store alcoholic liquor on or off the premises.

k) *Person* shall mean an individual, firm, partnership, limited partnership, association, limited liability company, or corporation.

l) *Premises* shall mean the location for which a license has been issued by the Michigan Liquor Control Commission which includes the land, and all improvements located thereon, including the primary building and all accessory and out-buildings.

m) *Related Permit* shall mean any activity permit issued by the Michigan Liquor Control Commission to a licensee for entertainment or other activities at the licensed premises, which legally require such a permit.

n) *Sale* shall mean, the exchange, barter, traffic, furnishing, or giving away of alcoholic liquor which is regulated by the Michigan Liquor Control Act and this Chapter.

**Sec. 5-3 to 5-4. Reserved.**

**ARTICLE II. REGULATIONS.**

**Sec. 5-5. Unlawful purchases, consumption or possession by persons under twenty-one (21).**

a) *Under twenty-one.* A person less than twenty-one (21) years of age shall not purchase or attempt to purchase, consume or attempt to consume, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content except as provided in this section. A person less than twenty-one (21) years of age who violates this subsection is guilty of a misdemeanor, punishable by the following sanctions, and therefore is not subject to the sanctions prescribed by section 909 of the Liquor Control Code, MCL 436.1909:

1) *First offense.* For a first violation, by a fine of not more than one hundred dollars ($100.00). A court may order a person less than twenty-one (21) years of age under this subdivision to perform community service, to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services, and/or to undergo substance abuse screening at his or her own expense.
2) \textit{Second offense}. For a second violation, by imprisonment for not more than thirty (30) days but only if the person less than twenty-one (21) years of age has been found by the court to have violated an order of probation, has failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than two hundred dollars ($200.00), or both. The court may order the person under this subdivision to perform community service, participation in substance abuse prevention services or substance abuse treatment and rehabilitation services and/or undergo substance abuse screening and assessment at his or her own expense.

3) \textit{Third or subsequent offense}. For a third or subsequent violation, by imprisonment for not more than sixty (60) days but only if the person less than twenty-one (21) years of age has been found by the court to have violated an order of probation, failed to successfully complete any treatments, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, by a fine of not more than five hundred dollars ($500.00), or both. The court may order the person under this subdivision to perform community service, participate in substance abuse prevention services or substance abuse treatment and rehabilitation services and undergo substance abuse screening and assessment at his or her own expense.

b) \textit{Deferral}. When a person who has not previously been convicted of a prior violation pleads guilty to a violation of subsection (a), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in section 5-5(a)(1); payment of a probation supervision fee as prescribed in Section 3c of Chapter XI of the Code of Criminal Procedure, MCL 771.3c; and payment of court ordered costs pursuant to Chapter IX of the Code of Criminal Procedure, MCL 769.1j. Upon violation of a term or condition of probation, the court may enter a plea of guilt and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section; or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime; or for purposes of imposing additional penalties for second or subsequent convictions under section 5-5(a)(2) and (3). There may be only one (1) discharge or dismissal under this subsection as to any individual. If there is a discharge and dismissal under this subsection, the court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation; and the secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this subsection. These records shall be furnished to any of the following:
1) To a court, prosecutor, or police agency upon request for the purpose of showing that a defendant in a criminal action under subsection (a) has already once utilized this subsection.

2) To the department of corrections, a prosecutor, or a law enforcement agency, upon request of the department of corrections, a prosecutor, or a law enforcement agency, subject to all of the following conditions:

   i. At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department, the prosecutor, or the law enforcement agency.

   ii. The record is used by the department of corrections, the prosecutor, or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

c) Prior violation. A prior violation is a conviction or juvenile adjudication for violating this section, MCL 436.1703, or any local ordinance substantially corresponding to MCL 436.1703. A prior violation that was successfully deferred, discharged, and dismissed, is considered a prior violation for the purposes of section 5-5(a)(2) and 5-5(a)(3).

d) Suspension. The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of violating section 5-5(a) or 5-5(f) as provided the Michigan Vehicle Code section 319, MCL 257.319.

e) Preliminary breath test requested. A peace officer who has reasonable cause to believe a person less than twenty-one (21) years of age has consumed alcoholic liquor or has any bodily alcohol content may request the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The result of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person under twenty-one (21) has consumed or possessed alcoholic liquor.

f) Fraudulent identification. A person who furnishes fraudulent identification to a person less then twenty-one (21) years of age, or notwithstanding section 5-5(a), a person less then twenty-one (21) years of age who uses a fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor.

g) Parental notice. A law enforcement agency, upon determining that a person less than eighteen (18) years of age who is not emancipated under the Status of Minors and Child Support Act, MCL 722.1 to 722.6, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic
liquor, or had any bodily alcohol content in violation of subsection (a) shall notify, in person, by telephone or by first class mail, the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The law enforcement agency shall notify the parent, guardian, or custodian not later not later than forty-eight (48) hours after the law enforcement agency determines that the person who allegedly violated section 5-5(a) is less than eighteen (18) years of age and not emancipated under MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt and actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than seventeen (17) years of age is incarcerated by violating section 5-5(a), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

h) **Exceptions.** This section shall not be construed to prohibit a person less than twenty-one (21) years of age from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the State, by the Liquor Control Commission, or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

i) **Healthcare exception.** The following individuals are not considered to be a violation of section 5-5(a):

1) A person less than twenty-one (21) years of age who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, MCL 750.520b to 750.520g, criminal sexual conduct, committed against the person less than twenty-one (21) years of age.

2) A person less than twenty-one (21) years of age who has consumed alcoholic liquor and who accompanies:

i) An individual who has consumed alcoholic liquor and:

ii) The individual voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, MCL 750.520b to 50.520g, criminal sexual conduct, committed against the person less than twenty-one (21) years of age.

3) A person less than twenty-one (21) years of age who has consumed alcoholic liquor and initiates contact with a peace officer or emergency medical services
personnel for the purpose of obtaining medical assistance for a legitimate health care concern.

j) Parental notification. If a person under the age of 18 who is not emancipated under MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (i), and if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency, the health facility or agency shall notify, by telephone or by regular first class mail, the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation.

k) Liability. This section shall not be construed to limit the civil or criminal liability of the vendor of the vendor’s clerk, servant, agent, or employee for a violation of this Chapter.

l) Educational Institution. The consumption of alcoholic beverages by a person under twenty-one (21) years of age who is enrolled in a course offered by an accredited post secondary educational institution in an academic building of the institution under the supervision of a faculty member shall not be prohibited by this Chapter if the purpose is solely educational and a necessary ingredient of the course.

m) Religious services. The consumption by a person less than twenty-one (21) years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this Chapter.

n) Undercover operation. Section 5-5(a) does not apply to a person less then twenty-one (21) years of age who participates in either or both of the following:

1) An undercover operation in which the person less then twenty-one (21) years of age purchases or receives alcoholic liquor under the direction of the person’s employer and with the approval of the local prosecutor’s office as part of an employer-sponsored internal enforcement action.

2) An undercover operation in which the person less than twenty-one (21) years of age purchases or receives alcoholic liquor under the direction of the state police, the commission, the police department as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the person less then twenty-one (21) years of age was not under the direction of the state police, the commission, or the police department and was not part of the undercover operation.

o) Recruitment. As prohibited by MCL 436.1703(16), the state police, the commission, or the police department shall not recruit or attempt to recruit a person less than twenty-one (21) years of age for participation in an undercover operation at the scene of a violation of section 5-5(a), MCL 436.1701(1), or MCL 436.1801(2).
p) *Affirmative defense.* In a criminal prosecution for the violation of section 5-5(a) concerning a person less than twenty-one (21) years of age having any bodily alcohol content, it is an affirmative defense that the person less than twenty-one (21) years of age consumed the alcoholic liquor in a venue or location where that consumption is legal.

q) *Additional definitions.* As used in this section:

1) *Any bodily alcoholic content* means either of the following:

   i) An alcohol content of not less than 0.02 grams or more per one hundred (100) milliliters of blood per two hundred ten (210) liters of breath or per sixty-seven (67) milliliters of urine.

   ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.

2) *Emergency medical services personnel* means that term as defined in the public health code, section 20904, MCL 333.20904.

3) *Health facility or agency* means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

State law reference: MCL 436.1703

**Sec. 5-6. Sale or furnishing to persons under twenty-one (21) prohibited; defenses.**

a) *Misdemeanor.* Alcoholic liquor shall not be sold or furnished to a person unless the person has attained twenty-one (21) years of age, except as otherwise provided in section 5-6(b) and subject to section 5-6(e), a person who knowingly sells or furnishes alcoholic liquor, or who fails to make diligent inquiry as to whether the person is twenty-one (21) years of age to a person who is less than twenty-one (21) year of age and is guilty of a misdemeanor.

b) *Municipal Civil Infraction.* If the violation set forth in section 5-6(a) is the result of an undercover operation in which the person who is less than twenty-one (21) years of age received alcoholic liquor under the direction of the State police, Commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent, or employee is responsible for a municipal civil infraction and may be ordered to pay a civil fine of not more than $100.00.

c) *Licensed establishment.* If a violation occurs in an establishment that is licensed by the Commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of section 5-6(a) or 5-6(b) unless the licensee of the clerk,
agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than twenty-one (21) years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action:

1) Corrective action. Corrective action means action taken by a licensee or a clerk, agent, or employee of a licensee designated to prevent a person under twenty-one (21) from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes, but is not limited to, contacting a law enforcement agency and ejecting the person under twenty-one (21) and any other person suspected of aiding and abetting the person under twenty-one (21).

d) Defense. In an action for the violation of this section, proof that the defendant or the defendant’s agent or employee demanded and was shown, before furnishing alcoholic liquor to a person who is less than twenty-one (21) years of age, a motor vehicle operator’s or chauffeur’s license, a military identification card, or other bona fide documentary evidence of the age and identify of that person, shall be a defense to an action brought under this section.

e) Police department enforcing agency. If the police department is the enforcing agency, a licensee shall not be charged with a violation of section 5-6(a) or 5-6(b) unless all the following occur, if applicable:

1) Enforcement action is taken against the person less than twenty-one (21) years of age who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.

2) Enforcement action is taken under this section against the person twenty-one (21) years of age or older who is not the retail licensee or the retail licensee’s clerk, agent, or employee who sold or furnished the alcoholic liquor to the person less than twenty-one (21).

3) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the person less than twenty-one (21) years of age.

f) Undercover operation. If a person who is less than twenty-one (21) years of age participates in an undercover operation in which the person is to purchase or receive alcoholic liquor under the supervision of the law enforcement agency, his or her parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

g) Diligent inquiry. Diligent inquiry shall mean a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator’s or chauffeur’s license, an official Michigan personal identification card, a
military identification card, or any other bona fide picture identification which establishes the identity and age of the person.


Sec. 5-7. Children in places where liquor is sold.

A minor child under seventeen (17) years of age shall not be permitted to remain in an alcoholic liquor licensed establishment, unless the minor is accompanied by a parent, guardian or adult custodian. A proprietor, keeper or manager who permits a minor child to remain, or any person who encourages or induces in any way a minor child to enter the place or to remain there, shall be deemed guilty of a misdemeanor.

State law reference: MCL 750.141

Sec. 5-8. Consumption on unlicensed premises.

a) Unlicensed premise. A person shall not do either of the following:

1) Maintain, operate, or lease, or otherwise furnish to any person, any premise or place that is not licensed under the Liquor Control Code, MCL 436.1 et seq., where a person may engage in the drinking of alcoholic liquor for consideration.

2) Obtain by way of lease or rental agreement, and furnish or provide to any other person, any premises or place that is not licensed under the Liquor Control Code, MCL 436.1 et seq., within which any person may engage in the drinking of alcoholic liquor for consideration.

b) Unlicensed premise. A person shall not consume alcoholic liquor in a commercial establishment selling food if the commercial establishment is not licensed under the Liquor Control Code, MLC 436.1 et seq. A person owning, operating, or leasing a commercial establishment selling food which is not licensed under the Liquor Control Code, MCL 436.1 et seq., shall not allow the consumption of alcoholic liquor on its premises.

c) Exception. This section shall not apply to any hotel or any licensee under the Liquor Control Code, MCL 436.201 et seq.

d) Exception. This section shall not be construed to repeal or amend MCL 436.2019, Sales in Hotel Rooms.

e) Consideration defined. As used in this section, “consideration” includes any fee, cover charge, ticket purchase, the storage of alcoholic liquor, the sale of food, ice, mixers, or other liquids used with alcoholic liquor drinks, or the purchasing of any service or item, or combination of service and item; or includes the furnishing of
glassware or other containers for use in the consumption of alcoholic liquor in conjunction with the sale of food.


Sec. 5-9. Specific prohibitions on premises licensed for on-premises consumption.

No licensee shall knowingly or recklessly engage in or permit on the licensed premises any of the following live conduct:

1) Act of sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, or flagellation;

2) The engaging in physical contact with, touching, caressing, or fondling, by an employee, of the breast, buttocks, lap, pubic region, or genitals of a patron, whether directly or through clothing or other covering;

3) The engaging in physical contact with, touching, caressing, or fondling, by a patron, of the breast, buttocks, lap, pubic region, or genitals of an employee, whether directly or through clothing or other covering, or

4) The display or exposure, by an employee to a patron, of the employee’s genitals, pubic hair, pubic region, buttocks, natal cleft, perineum, anus, vulva or any portion of the female breast at or below the areola thereof; excluding any portion of the cleavage of the female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part. This subsection (4) does not apply to conduct in theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value. The exception in the previous sentence shall not be construed to apply to any sexually oriented business as defined by applicable law.

Sec. 5-10 – 5-20. Reserved.

ARTICLE III. LICENSE

Sec. 5-21. Application for local approval required.

a) Michigan Liquor Control Commission. An applicant for local approval must first submit an application for a liquor license or related permit to the Michigan Liquor Control Commission and receive, upon submission of same, a Request Identification (RID) number from the MLCC. Upon receiving the notice from the Liquor Control Commission that a liquor license application has been filed, the Township Clerk shall forward the notice of application to the Police Administration. Upon receipt of the notice that a liquor license application has been filed, the Police Administration
shall send to the Applicant, a Township Application form with notice that the completed application be returned within 21 days.

b) *Township Application.* An applicant for local approval shall file with the Township Attention: Police Administration, 4530 Walnut Lake Road, West Bloomfield, Michigan 48325, a complete application made on a form provided by Police Administration within 21 days of receipt of the form. The application shall be signed by each person with an influential interest in the business for which local approval is sought. The application shall be notarized, and shall contain the following:

1) The applicant's name and business or mailing address. If the applicant is a partnership, corporation, limited liability company, or other legal entity, then all persons with an influential interest in the entity shall be deemed an applicant and shall provide the information required by this Chapter.

2) Type of license, permit, or alcoholic liquor-related approval desired, the type of establishment proposed, and for on-premise licenses, include the type of restaurant and seating capacity.

3) Address, parcel identification number, legal description, zoning classification of the property where the license is to be located.

4) A sketch plan which complies with the requirements of Zoning Ordinance section 6.1.3.

5) The applicant's employment and business history, which shall set forth the number of years, if any, that the applicant has worked in liquor licensed establishment(s) and the position or role that the applicant held in such establishment(s).

6) A set of the applicant’s fingerprints. Fingerprinting service shall be provided by the Township Police Department upon request during normal business hours. The fee for fingerprinting service shall be prescribed by established by resolution of the Township Board.

7) A personal financial statement showing:

   i) The applicant’s net worth as a function of assets compared to liabilities;

   ii) The applicant’s capital investment in the venture for which approval of a liquor license or permit is sought;

   iii) Loans or lines of credit that have been secured to meet the obligations and business undertakings related to the venture;
iv) Insurance policies which have been issued related to the venture.

8) The applicant’s criminal history, including all convictions, guilty pleas, Alford pleas, and pleas of no contest or nolo contendere. For each of these, the applicant shall provide:

i) The offense charged;

ii) The date of the offense;

iii) The jurisdiction of the offense;

iv) The date of the conviction, guilty plea, Alford plea, or plea of no contest or nolo contendere;

v) If the applicant was incarcerated for the offense, the date on which the applicant was released from confinement; and

vi) Whether the applicant is still on probation for the offense.

9) Each applicant requesting the approval of a new license, the transfer of ownership or location of an existing license, or the approval of any permits related to the license under this Article, shall pay to the Township Treasurer a non-refundable application fee in the amount prescribed by resolution of the Township Board at the time the request or application is made.

c) Notice of Completeness. Within ten (10) days of receipt of an application pursuant to section 5-21(b), the Police Administration shall mail the applicant(s), a notice indicating that the application is complete, or shall mail the applicant(s) a notice indicating that the application is incomplete, specifying which portions(s) of the application are incomplete. With the notice required by the preceding sentence, the Police Administration may request any additional information related to an applicant’s personal, employment, or business history, financial condition, and/or criminal history that relates directly to the applicant’s ability to operate an alcoholic liquor-licensed establishment consistent with the public health, safety, and welfare. The notice shall include a statement that the Police Administration will issue a decision of approval or disapproval within thirty (30) days of receipt of a complete application; and the Township Board will consider the application and render a decision within thirty (30) days of receipt of the decision of the Police Administration.

d) Consent. By submitting an application pursuant to section 5-21(b), the applicant consents to a background investigation, including, but not limited to an investigation of criminal history, civil actions, investigations by other governmental bodies, penalties imposed by same, moral character, business reputation, or any other background area deemed necessary by the Police Administration.
Sec. 5-22. Review of application by township departments.

a) Upon receipt of a complete application that complies with the requirements of section 5-21(b), the Police Administration will forward the application to the following Departments: Police Investigations, Fire, Community Development, Planning, Treasurer’s Office, Water and Sewer, and any other department, to review as follows:

1) Police. The Police Department shall conduct an investigation to determine if the application meets the standards set forth in section 5-22(c).

2) Fire. The Fire Department shall determine whether the use of the premises as proposed complies with all applicable fire safety codes, ordinances, regulations and laws; and forward its findings together with a written recommendation to the Police Administration within twenty-one (21) days.

3) Community Development.
   a) The Community Development Department shall determine whether the use of the premises as proposed complies with all applicable codes and ordinances, including the State Construction Code; whether there are any uncured violations; and forward its findings together with a written recommendation to the Police Administration within twenty-one (21) days.
   
   b) The Planning Division shall conduct a sketch review pursuant to section 6.1.3 of the Zoning Ordinance and determine whether 1) the use complies with all applicable provisions of the Zoning Ordinance; 2) the ingress and egress to the parking lot for the establishment is on a major thoroughfare with a designated right-of-way of one hundred and twenty (120) feet or greater; and shall forward its findings together with a written recommendation to the Police Administration within twenty-one (21) days.

4) Treasurer. The Treasurer’s Office shall determine whether there are outstanding real estate taxes due and owing, or other unpaid fees; and forward its findings together with a written recommendation to the Police Administration within twenty-one (21) days.

5) Water and Sewer. The Water and Sewer Department shall review the account to determine if all required fees are paid, and if there are any outstanding fees or charges on the account; and forward its findings together with a written recommendation to the Police Administration within twenty-one (21) days.

b) Applicant delay. Upon the written request for delay by the applicant, the deadlines for review as required by this section, or for a decision by the Police Administration, or the Township Board under this Chapter, may be tolled for a reasonable period of time for the applicant to obtain and present all information requested by the reviewing department, Police Department or Township Board, that is related to the applicant’s project or the applicant’s ability to operate an alcoholic liquor-licensed establishment.
consistent with public health, safety, and welfare. A copy of the applicant's request for delay shall be forwarded to the MLCC. The deadline for the decision of the Township Board may also be tolled by the Township Board, for a period of up to thirty (30) days, to permit the gathering of additional information related to the project or the applicant's ability to operate an alcoholic liquor-licensed facility consistent with public health, safety, and welfare.

Sec. 5-23. Grant or denial of local approval.

a) Local Police. Within thirty (30) days of receipt of a complete application pursuant to section 5-21(b), the Police Administration shall:

i) Issue a decision either approving or disapproving the application, specifying the reasons therefore, pursuant to the standards set forth in section 5-22(c) below; and

ii) Transmit its decision to the Township Board for consideration at its next meeting.

b) Township Board. Within Thirty (30) days of the Police Administration's issuance of its decision, the Township Board shall:

i) Issue a decision either approving or disapproving the application, specifying the reasons therefore, pursuant to the standards set forth in section 5-22(c) below; and

ii) Transmit its decision in writing to the Michigan Liquor Control Commission, with a copy sent to the applicant.

c) Standards for Approval. The Police Administration and the Township Board shall approve an application unless:

1) An applicant is less than twenty-four (24) years of age;

2) An applicant has had less than three (3) years management experience in a business with an alcohol or liquor license;

3) An applicant has not paid the liquor license application fee;

4) The subject premises is not in compliance with the Zoning Ordinance;

5) The subject premise's lacks a current certificate of occupancy or does not comply with applicable building, zoning, plumbing, mechanical, electrical, health or fire prevention codes;
6) The Community Development Department, the Treasurer’s Office, the Water and Sewer Department, or the Fire Department has indicated that there are unpaid fees or uncured violations under its purview related to the subject premises;

7) The Township Treasurer’s Office has denied a real estate tax clearance pertaining to the subject premises;

8) The business 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 sought;

9) An applicant has had a liquor license revoked, or not renewed for cause, in the last seven (7) years under this Article or a comparable city or township ordinance or state law, whether in Michigan or otherwise;

10) An applicant has been found in violation of regulations promulgated by the Michigan Liquor Control Commission, or a similar agency regulating alcohol or liquor, on more than four (4) occasions in the last seven (7) years;

11) An applicant has had an influential interest in a business that has been declared by a court of law to be a nuisance, as defined under the Revised Judicature Act, MCL 600.3801, within seven (7) years prior to the filing of the application for local approval, if the conditions creating the nuisance occurred during the time that the applicant had the influential interest in the business;

12) An applicant has been convicted of, or pled guilty, or nolo contendere, or no contest or entered an Alford plea, to a disqualifying criminal act as defined in this Chapter;

13) The business is not licensed to do business in Michigan or has not obtained a sales tax license;

14) An applicant has failed to provide information required by this Chapter, or has falsely answered a question, or has failed to answer a request for information related to the applicant’s ability to operate an alcoholic liquor-licensed establishment, consistent with the public health, safety, and welfare;

15) The Police Administration or the Township Board finds, based on specified information available to the Police Department or Township Board, that issuance of an alcoholic liquor-related license would have a substantial negative effect upon vehicular traffic, pedestrian traffic, noise, or economic development in the surrounding area;
16) The Police Administration or the Township Board finds, based on specified information available to the Police Department or Township Board, that the applicant lacks the demonstrated ability to operate an alcoholic liquor-licensed establishment consistent with the public health, safety, and welfare.

d) Reservation of Authority. Notwithstanding anything to the contrary in this Chapter, no applicant for local approval has a right to the issuance of an alcoholic liquor-related license to the applicant; and the Township hereby reserves the right to determine who, if anyone, shall be entitled to the issuance of such a license, based on the objective criteria listed above in subsections 1 through 16 which relate to concerns of the public health, safety, and welfare as they correlate to the project.

Sec. 5-24. Local approval of liquor license and related permit applications.

If an application for local approval of a liquor license also seeks local approval for a Michigan Liquor Control Commission dance, entertainment, or dance-entertainment activity permit, local approval for such permit(s) shall be granted provided that the application meets all of the requirements in this Chapter for approval of a liquor license. In such situations, local approval of the liquor license application shall constitute local approval of the requested activity permit(s). No local approval shall be given for a topless activity permit or for an extended hours permit.

Sec. 5-25. Transfer of existing licenses.

An application for local approval of a transfer related to any existing alcoholic liquor license shall be subject to the same procedures, standards, and fees contained in this Chapter that apply to an application for local approval of a liquor license or related permit. In addition, when submitting the application, the transferee-applicant shall furnish a copy of any and all files which may be in the Michigan Liquor Control Commission’s possession regarding that Commission’s investigation of the transferee as a present or previous licensee, or regarding any license(s) in which the transferee has or has had a financial interest.

Sec. 5-26. Objections to renewal; requests for revocation.

(a) Objection. The Township Board may object to a renewal of a liquor license or request the revocation of a liquor license with the Michigan Liquor Control Commission, based on the licensee’s failure to comply with the requirements of this Chapter or based on the licensee’s violation(s) of this Chapter.

(b) Procedure. Before filing an objection to the renewal or a request for revocation of a license with the Michigan Liquor Control Commission, the Township Board shall provide the licensee with notice and an opportunity to be heard. The Township
Board shall serve notice upon the licensee by certified mail, return receipt requested, not less than twenty (20) days prior to the hearing. The notice shall state:

(1) The proposed action.

(2) The specified grounds for the Township’s proposed action.

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

(4) A statement that the licensee may present evidence and testimony, may cross-examine witnesses, and may be represented by an attorney.

(c) Hearing and Decision. The hearing shall be conducted by the Township Board and shall be open to the public. The Township Board shall submit to the licensee and the Michigan Liquor Control Commission, a written statement of its findings, determination, and specific grounds therefore.

(d) Criteria for Nonrenewal or Revocation. The Township Board may recommend nonrenewal or revocation of a license upon a determination by it that, based upon a preponderance of the evidence presented at the hearing, the licensee has violated any of the following criteria:

(1) The licensee would not meet the standards set forth in section 5-22(c) if the licensee were an applicant for a new license.

(2) The licensee has knowingly or recklessly allowed three (3) or more violations of the regulations of this Chapter in the preceding calendar year.

(3) The licensee has knowingly or recklessly allowed a nuisance, as defined under the Revised Judicature Act, MCL 600.3801, to be maintained upon the premises.

(4) The subject premises has existing violations of building, zoning, plumbing, mechanical, electrical, health or fire prevention codes.

(5) The operation of the licensed establishment has resulted in a pattern of patron conduct in the neighborhood of the establishment that substantially disturbs the peace, order, and tranquility of the neighborhood.

(6) The licensee has failed to maintain the grounds and exterior of the licensee’s establishment by allowing litter, debris, and/or refuse to unreasonably remain on the property or adjoining properties.
Sec. 5-27. Severability.

The provisions of this Chapter are declared to be independent and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Chapter, or the application of any provision to any person or circumstance is held to be invalid, the remaining provisions and the application of all provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby. It is further declared that such provisions would have been adopted independently of the provision found to be invalid. Should any procedural aspect of this Chapter be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Chapter.

Section 2 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this Ordinance, be declared by the Courts to be invalid, it shall not affect the validity of the remainder of the Ordinance or any part other than the part invalidated.

Section 3 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of West Bloomfield at a meeting duly called and held on June 17, 2013.

CHARTER TOWNSHIP OF WEST BLOOMFIELD

June 17, 2013
Date

By: Catherine Shaughnessy, Clerk