

## Ordinance No. 96

**AN ORDINANCE OF BENNER TOWNSHIP, CENTRE COUNTY, AMENDING THE BENNER TOWNSHIP ZONING ORDINANCE BY AMENDING THE PLANNED-OFFICE COMMERCIAL (C-1) AND GENERAL COMMERCIAL DISTRICT (C-2) ZONING CHART TO ADD BOTTLE OR BYOB (BRING-YOUR-OWN BOTTLE) CLUBS AS CONDITIONAL USES WITH ASSOCIATED BULK REQUIREMENTS; AMENDING ARTICLE IV, SECTION 2.2.3 TO ADD USE REQUIREMENTS; AND AMENDING ARTICLE XII DEFINITIONS TO ADD DEFINITION OF BOTTLE OR BYOB CLUBS**

Pursuant to the powers vested in the Township of Benner, Centre County, Pennsylvania, under the provisions of the Second Class Township Code 53, P.S. 65101 *et. seq.* and the Pennsylvania Municipalities Planning Code 53 P.S. 10101 *et. seq.*, Benner Township hereby enacts the following Ordinance.

**SECTION 1.** *The Benner Township Zoning Ordinance No. 70, is amended as hereinafter set forth. All other sections of the aforesaid Benner Township Zoning Ordinance are hereby ratified, approved, and reenacted.*

**SECTION 2.** Article II, Planned-Office Commercial (C-1) and General Commercial (C-2) Zoning District Charts, are amended as follows:

PLANNED-OFFICE COMMERCIAL ZONING DISTRICT (C-1) Criteria and Standards for Benner Township, Centre County, PA							
Permitted Uses	Lot Requirements			Yard Setbacks			
PRIMARY USES AND STRUCTURES	Minimum size	Minimum Width (at street line)	Maximum Height	Maximum Lot Coverage (impervious included)	Front Yard	Side Yard	Rear Yard
<b>CONDITIONAL USES</b>							
1. Bottle / BYOB Club	40,000 sq. ft.	50 ft.	35 ft.	80%	50 ft.	50 ft.	50 ft.

GENERAL COMMERCIAL ZONING DISTRICT (C-2) Criteria and Standards for Benner Township, Centre County, PA							
Permitted Uses	Lot Requirements			Yard Setbacks			
PRIMARY USES AND STRUCTURES	Minimum size	Minimum Width (at street line)	Maximum Height	Maximum Lot Coverage (impervious included)	Front Yard	Side Yard	Rear Yard
<b>CONDITIONAL USES</b>							
1. Bottle / BYOB Club	40,000 sq. ft.	50 ft.	35 ft.	80%	50 ft.	50 ft.	50 ft.

**SECTION 3.** *Article IV, Use Regulations*, as amended by adding *Section 2.2.3 Bottle or BYOB (Bring-Your-Own Bottle) clubs*, as listed below. The remaining subsections of *Article IV, Section 2.* shall be renumbered accordingly.

**2.2.3 Bottle or BYOB (Bring-Your-Own Bottle) Club**

Bottle or BYOB club is permitted as a "Conditional Use" in the Planned-Office Commercial (C-1) and General Commercial (C-2) Zoning Districts, subject to the following criteria:

- A. **Purpose.** The Board of Supervisors finds that it is in the best interest of the general health, safety and welfare that reasonable regulations governing operation of bottle or BYOB clubs in Benner Township be established and that provisions be made for enforcement of the regulations to preserve the character of neighborhoods and to protect the rights of its citizens to the quiet enjoyment of the same.
- B. **Lot area, width and yards and other requirements**
- (1) *Lot area:* 40,000 sq ft. with public sewer
  - (2) *Minimum lot width:* 50 ft. at street line.
  - (3) *Minimum yard setbacks:* 50 ft for front, side, and rear yard setbacks.
  - (4) *Height:* Maximum height of structures permitted shall be 35 ft.
  - (5) *Parking:* Parking shall comply with the requirements of *Article V, Section 10.8* of this Ordinance.
  - (6) *Conditional use approval:* Applicant shall comply with the requirements of Conditional Use under *Article X, Section 9.*
- C. **Regulations on Operation**  
Bottle or BYOB Clubs shall comply with the following requirements:
- (1) Obtain and maintain in force and effect at all times board form general liability coverage in the minimum amount of, \$1,000,000 per occurrence, proof shall be filed with the Township prior to any Certificate of Occupancy;
  - (2) Obtain a valid Club permit pursuant to this Article and prominently display such permit as required;
  - (3) Conspicuously post the hours of operation at the business premises;
  - (4) Possess a valid Certificate of Occupancy and prominently display said certificate at the premises.
- D. **Club Permit**
- (1) Any person or persons desiring to operate or continue to operate a Bottle or BYOB Club shall file with the Township an application for a Club permit, which application shall include the following information: the name and address of the Club; a statement whether the business premises is leased or owned by the Club; the name and address of the lessor of the business premises; if applicable, the nature of the ownership of the Club, (i.e. corporation, partnership, joint venture,

association) and the names and addresses of the officers and/or financial interest in the Club.

- (2) The Club shall pay an administrative fee of \$250.00 for a Club permit and \$250.00 for each renewal thereof. Said Club permit shall be effective for a period of one year following the date of issuance; provided, in the event the Club fails to fully and completely comply with the provisions hereof or is convicted of any unlawful activities during the term of the Club permit so issued, the Township shall have the authority to revoke the Club permit due to BYOB Club's lack of compliance.

E. ***Unlawful Activities***

In any zoning district where Bottle or BYOB Clubs are otherwise permitted, it shall be unlawful for any person or persons who own, operate, lease, manage or control a Bottle or BYOB Club to:

- (1) Remain open and/or to transact business between the hours of midnight and 11:00 a.m., prevailing time. In all cases, the premises must be vacated within 15 minutes after the required closing time.
- (2) Conduct activities to which this Ordinance applies without possessing a valid Club permit as specified herein.
- (3) To allow entry thereto by or allow provision to or consumption by persons under the age of 21 years of any alcoholic liquors, alcohol or malt or brewed beverages.
- (4) The principal structure of a Bottle or BYOB Club shall not be located within 300 ft. from the nearest property line of any residential district, church, school, other institution of learning or education, hospital, library, park, and /or playground.
- (5) Bottle or BYOB Club shall not occur in any residential structure.
- (6) In addition to any monetary penalties for violations involved, Benner Township shall revoke the Club Permit required upon conviction of any unlawful activities.

F. ***Enforcement*** The State Police Department and the Code Administrator are hereby authorized and directed to enforce the terms of this Section

**SECTION 4.** Article XII, Definitions, Section 2. "Definitions." are amended to include:

**BOTTLE CLUB** means an establishment operated for profit or pecuniary gain which is not licensed by the *Pennsylvania Liquor Control Board* and admits patrons upon payment of a fee, cover charge or membership fee and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption. The term shall not include a licensee under the *Liquor Code* or any organization as set forth in *Section 6 of the Solicitation of Funds for Charitable Purposes Act*.

**BYOB CLUB** means a place of assembly or any other use defined in this Ordinance, other than a dwelling unit, including but not limited to, taverns, clubs, and social buildings, that is not licensed by the *Pennsylvania Liquor Control Board*, in which no alcoholic beverages are sold, but where patrons are permitted to bring alcoholic beverages upon the premises for their own use and consumption. A facility which is rented for a limited period of time, but in no event to exceed 6 hours in length, nor to exceed one rental in a 24-hour period, nor to occur between the hours of 12:00 p.m. midnight and 11:00 a.m. by individuals or an organization for the purpose of a private party in which alcoholic beverages are carried onto the premises, shall not be considered a BYOB. Club under the terms hereof. BYOB. Club shall not include a restaurant as defined at Article XII of the Benner Township Zoning Ordinance

**ALCOHOLIC BEVERAGES** means any and all beverages, including malt beverages, which contain alcohol, liquor or such other intoxicating substances as are further defined in the *Pennsylvania Liquor Code, 47 P.S. § 1-101 et seq.*

**SECTION 5.** Repealer. Any Ordinance or part of any Ordinance conflicting with the terms of this Ordinance is hereby specifically repealed.

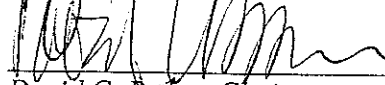
**SECTION 6.** Severability. The provisions of this Ordinance shall be severable and if any of its provisions shall be held to be unconstitutional, illegal, invalid or otherwise unenforceable by a court of competent jurisdiction, the remaining portions hereof shall not be affected thereby.

**SECTION 7.** The remainder of Ordinance No. 70 will remain fully in force and effect as originally ordained.

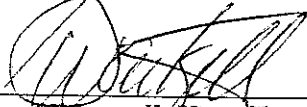
**SECTION 8. Effective date.** *This Ordinance shall become effective five days its reenactment or adoption.*

ENACTED AND ORDAINED, this 6<sup>th</sup> day of JULY, 2006.

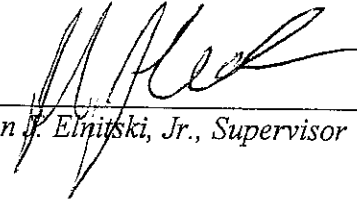
TOWNSHIP OF BENNER



David C. Breon, Chairman

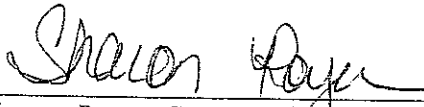


James Swartzell, Vice Chairman



John J. Elniski, Jr., Supervisor

ATTEST:



Sharon Royer, Secretary/Treasurer