

MONTEREY TOWNSHIP  
ALLEGAN COUNTY, MICHIGAN

ORDINANCE NO. \_\_\_\_\_

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

An ordinance to establish procedures and standards for the review of applications of licenses to sell beer, wine, or spirits within the Township of Monterey, Allegan County, Michigan; pursuant to authority granted under Public Act 58 of 1998, as amended, and Public Act 246 of 1945, as amended; to provide for the public health, safety and general welfare of the people and property of the Township; to provide penalties for the violation of this Ordinance; and to repeal all ordinances and parts of ordinances in conflict hereof.

MONTEREY TOWNSHIP  
ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION I  
TITLE

This ordinance shall be known as the "Monterey Township Liquor License and Control Ordinance."

SECTION II  
DEFINITIONS

Words used herein shall have the definitions as provided for in the Michigan Liquor Control Code, Public Act 58 of 1998, MCL 436.1101 et seq, as may be amended. For the purposes of this ordinance, "township" shall mean Monterey Township.

SECTION III  
APPROVAL REQUIRED

No person, except for a person/entity possessing a club license, special license or temporary authorization from the Michigan Liquor Control Commission, shall sell alcoholic liquor within the township for consumption on the premises unless the applicant first shall

secure the approval of the township board in accordance with the terms and conditions set forth in this ordinance.

SECTION IV  
APPLICATION TIMES AND PROCEDURES

1. *Application*: Prior to the applicant's application to the State Liquor Control Commission for an issuance, transfer or renewal of a license to sell beer, wine or alcoholic liquor for consumption on the premises, except for a person/entity possessing a club license, special license or temporary authorization from the Michigan Liquor Control Commission, the applicant shall make application for approval by the township. Applications shall be made upon forms to be provided by the township clerk.
2. *Application fee*: A fee as prescribed by resolution of the township board shall accompany all applications for new licenses, renewals or transfers pursuant to this ordinance.
3. *Preliminary review*: Upon receipt of a completed application and the applicable license fee, the township clerk shall transmit the application to the township treasurer who shall endorse thereon a statement as to whether the applicant is in default to the township in connection with the payment of any taxes or other obligations. Following endorsement by the township treasurer, the township clerk shall transmit the application to the township board.
4. *License hearings*: The township board shall grant a public hearing on applications submitted in compliance with the requirements of this ordinance, provided that:
  1. Such applications are complete;
  2. The application fee required by this ordinance has been paid; and
  3. All preliminary review required by this ordinance has been completed.
  4. The applicant will be given the opportunity to appear at the public hearing before the Township Board to present their plans and answer questions.
  5. Following such hearing, the township board shall adopt a resolution setting forth its findings and determinations and approving or denying the application, or taking other action consistent with this ordinance. In no event shall an application be approved without satisfactory compliance with the restrictions set forth in this ordinance.
5. *Notice of Hearing*: Notice of the hearing shall be published in a newspaper of general circulation in the Township not less than ten (10) days before the hearing. The notice shall contain the following:

1. Notice of license application – applicant name, location (address), type of license requested.
  2. Date, time and place of the hearing.
  3. A statement that the license holder may present evidence and testimony in support of the application and that public comment will be taken.
6. *Reservation of authority:* No applicant for a liquor license has the right to the issuance of such license to him, her or it, and the Township Board reserves the right to exercise reasonable discretion to determine who, if any applicant, shall be entitled to the issuance of such license.
7. *Term of license:* Approval of a license shall be for a period of one (1) year subject to annual renewal by the township board upon continued compliance with the regulations of this ordinance as set forth below. Approval of a license shall be with the understanding that any necessary remodeling or new construction for the use of the license shall be commenced within six (6) months of the action of the township board and of the Michigan Liquor Control Commission approving such license, whichever last occurs. The township board may revoke a license if such remodeling or construction is not timely commenced and diligently pursued to completion.
8. *Renewals:* On or before the first February 1 after the first full year of licensure, and on or before February 1 of each year thereafter, each licensee licensed under this ordinance shall prepare and submit an application for renewal of his, her or its license upon forms to be provided by the township clerk. The township board shall review the application for renewal and may either approve the renewal or reject the renewal and file an objection to renewal or a request for revocation of a license with the Michigan Liquor Control Commission.

SECTION V  
APPLICATION CONTENTS

1. *Information to be submitted:* Applications for a license to sell beer, wine or (if authorized within the Township) spirits shall be in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, verified by oath or affidavit, and shall contain all of the following statements and information:
  1. The name and address of the applicant in the case of an individual; or, in the case of a co-partnership, the persons entitled to share in the profits thereof; in the case of a corporation, the objects for which organized, the names and addresses of the officers and directors, and, if a majority interest in the stock of such corporation is owned by one (1) person or his nominee, the name and address of such person.

2. The character of business of the applicant, and in the case of a corporation, the object for which it was formed.
  3. The length of time said applicant has been in business of that character, or, in the case of a corporation, the date when its charter was issued.
  4. The location and description of the premises or place of business which is to be operated under such license.
  5. A statement whether the applicant has made application for a similar or other license on premises other than described in this application, and the disposition of such application.
  6. A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in this ordinance or the laws of the State of Michigan.
  7. A statement that the applicant will not violate any laws of the State of Michigan or of the United States or any ordinances of the township in the conduct of its business.
  8. The application shall be accompanied by building plans showing the entire structure and, in particular, the specific areas where the license is to be utilized.
  9. The application shall also be accompanied by a site plan showing the entire premises along with all the required elements as provided in the Township zoning ordinance. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and where appropriate, adequate plans for screening and noise control.
  10. For premises pending or under construction, evidence of the financial capability of the applicant to satisfactorily complete the development and construction of the premises.
2. *Additional information:* The applicant shall also provide such other information as requested by the township board in connection with its review of an application. The township board may waive any information it deems unnecessary for the review of the application.

SECTION VI  
RESTRICTIONS ON LICENSES

1. *Restrictions:* Except to the extent that the township board issues a variance as permitted below, no new license, a renewal or transfer of an existing license shall be issued or approved to or for:
  1. A person whose license, under this ordinance, has been revoked for cause.

2. A person, who at the time of application or renewal of any license issued hereunder, would not be eligible for such license upon a first application.
3. A co-partnership, unless all of the members of such co-partnership shall qualify to obtain a license.
4. A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than five (5) percent of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
5. A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
6. A person who has been convicted of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor or a controlled substance.
7. A person who does not own the premises for which a license is sought or does not have a lease therefore for the full period for which the license is issued.
8. A person who has knowingly made any false statement in his or her application, or who has failed to fully complete the application.
9. Any law enforcing public official covered by the Michigan Liquor Control Code, as amended.
10. Any premises where there exists a violation of the applicable building, electrical, mechanical, plumbing, or fire codes, applicable zoning regulations, applicable public health regulations, or any other applicable township ordinance.
11. Any premises where it is determined by a majority of the township board that the premises do not or will not reasonably soon after commencement of operations, have adequate off-street parking, lighting, refuse disposal facilities, screening, noise or nuisance control or where a nuisance does or will exist.
12. Any premises where the proposed liquor license use would not fully comply with the applicable zoning regulations or other township ordinances.
13. Any premises unless at least fifty (50) percent of the bona fide restaurant's gross receipts from the sale of food and beverages, including alcoholic liquors, shall be derived from the sale of food and beverages other than alcoholic liquors, or from indoor or outdoor recreational activities such as golf, bowling or other similar activities. All establishments shall maintain

accurate records of receipts and disbursements in such a manner that receipts from food and beverages other than alcoholic liquors can be readily distinguishable from receipts for alcoholic liquors. Such records shall be available for inspection by the township or its agent from time to time during normal business hours. In the event that any establishment with a liquor license ceases to meet the requirements of this section and fails to come into compliance with this section within six (6) weeks, the township board may suspend or revoke its approval and the continued sale of liquor for consumption on the premises shall constitute a violation of the Monterey Township Liquor License and Control Ordinance.

14. Any person who has not demonstrated sufficient financial assets:

1. To carry on or maintain the licensed business;
2. If the specific areas where the license is to be utilized are part of a new premises, to complete construction of the new premises according to the approved site plan and building plans filed with the township; and
3. To otherwise comply with the requirements of this ordinance.

15. Any premises for a distillery, brewery or brew pub or winemaking unless approved as part of a bona fide restaurant on the premises pursuant to this ordinance and the Monterey Township Zoning Ordinance. The township board may attach conditions to the operation of any such distillery, brewery or brew pub or wine making facility.

2. *Continued compliance:* Should any licensee or licensed premises at any time cease to meet the requirements of this section or have any delinquent outstanding tax, utility bill, assessment or personal property tax following the issuance of a license, the township board may suspend or revoke its approval pursuant to Section VIII below and the continued sale of liquor for consumption on the premises shall constitute a violation of this ordinance. All licensees shall maintain accurate records of receipts and disbursements in such a manner that receipts from food and beverages other than alcoholic liquors can be readily distinguished from receipts for alcoholic liquors. Such records shall be available for inspection by the township or its agent from time to time during normal business hours.

3. *Variances:*

1. In connection with the issuance, transfer or renewal of a license, the township board, in its sole discretion, may allow a variance from the strict requirements of this ordinance where it is shown by the applicant that:

1. It would be impossible or very difficult for the applicant to comply with the strict requirements of this ordinance (financial hardship alone shall not satisfy this requirement);

2. The variance provides for adequate alternate means of ensuring that the spirit and intent of this ordinance is maintained;
  3. The variance sought is sufficient to protect the health, safety and general welfare of the township and its residents;
  4. The variance sought will not contradict with other applicable laws, rules or regulations.
2. In connection with the grant of a variance, the township board may impose other requirements to ensure that the spirit and intent of this ordinance is maintained and that the health, safety and general welfare of the township and its residents is protected.
  3. A variance granted pursuant to this section is not transferable to another licensee or location.

#### SECTION VII COMPETING APPLICATIONS

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

#### SECTION VIII OBJECTION TO RENEWAL AND REQUEST FOR REVOCATION

1. *Procedure:* Before filing an objection to renewal or request for revocation of a license with the Michigan Liquor Control Commission, the township board shall hold a hearing and shall serve the license holder, by first class mail, mailed not less than ten (10) days prior to the hearing with notice of the hearing and shall publish a notice of the hearing in a paper of general circulation not less than ten (10) days prior to the hearing, which notice shall contain the following:
  1. Notice of proposed action.
  2. Reasons for the proposed action.
  3. Date, time and place of the hearing.
  4. A statement that the license holder may present evidence and testimony and confront adverse witnesses.

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



13. Nonpayment of any federal, State of Michigan or local tax or special assessment.
  14. Nonpayment or repeated delinquency payment of other bills outstanding and owing to the township.
  15. Any failure by the licensee, or the licensee's agent or employee to fully cooperate with any federal, state, county or township official.
  16. Any failure by the licensee, or the licensee's agent or employee to fully cooperate with any law enforcement officer.
4. *Existing license renewals*: Existing licenses are subject to annual renewal by the township board.

#### SECTION X ENFORCEMENT

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

#### SECTION XI INSPECTION

The township liquor control enforcement department shall periodically inspect all liquor establishments in the township licensed under the Liquor Control Act of the State of Michigan and report the results of all inspections promptly to the township board. The township liquor control enforcement department shall further promptly investigate all complaints received by it concerning violations of the Michigan Liquor Control Act or improper operations and practices concerning alcoholic liquor traffic with the township and report the same to the township board and, where appropriate under the Michigan Liquor Control Act, to the Michigan Liquor Control Commission for appropriate proceedings against the violator. Inspectors may also issue and/or obtain, as applicable, misdemeanor complaints and warrants for violations of this ordinance. All inspectors shall carry appropriate cards issued by the township clerk clearly identifying them as township

liquor control inspectors and shall present said cards to the owner or manager of every place inspected by them when making an inspection upon demand for identification by such owner or manager. Inspectors shall have the right to inspect any place in the township where alcoholic liquor manufactured, sold, offered for sale, kept for sale, possessed or transported, or where the inspector suspects the same is being thus manufactured, sold, offered for sale, kept for sale, possessed or transported.

SECTION XII  
PENALTIES

Any person, firm, association, partnership, or corporation violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<i>Minimum Fine</i>	<i>Maximum Fine</i>
- 1st Offense within 3-year period*	\$100.00	\$500.00
- 2nd Offense within 3-year period*	250.00	500.00
- 3rd Offense within 3-year period*	350.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

\*Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Monterey Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that a violation exists shall constitute a separate offense.

Any licensee who shall violate any of the provisions of the Michigan Liquor Control Act or any rule or regulation of the Michigan Liquor Control Commission promulgated thereunder, or who violates any of the provisions of this ordinance, and any person who prohibits or interferes with the authorized inspection of a member of the township liquor control enforcement department shall be guilty of a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine determined in accordance with the following schedule:

	<i>Minimum Fine</i>	<i>Maximum Fine</i>
- 1st Offense within 3-year period*	\$100.00	\$500.00

- 2nd Offense within 3-year period*	250.00	500.00
- 3rd Offense within 3-year period*	350.00	500.00
- 4th or More Offense within 3-year period*	500.00	500.00

\*Determined on the basis of the date of commission of the offense(s).

Each day that a violation continues to exist shall constitute a separate offense. It is the intent of the township board that the court, in imposing punishment under the provisions of this ordinance, should discriminate between casual or slight violations and habitual sales of alcoholic liquor or attempts to commercialize violations of this ordinance promulgated under the Michigan Liquor Control Act.

SECTION XIII  
ISSUANCE, TRANSFER OR RENEWAL NOT REQUIRED

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

SECTION XIV  
SEVERABILITY

Should any section or part thereof of this ordinance be declared unconstitutional, null or void by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining sections or parts thereof of this ordinance.

SECTION XV  
REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION XVI  
SAVINGS

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect, are saved and may be consummated according to the law in force when they were commenced.

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION XVII  
EFFECTIVE DATE

This ordinance shall take effect thirty days after the date of publication of a summary of the ordinance after adoption.

Monterey Township  
Megan Frank, Clerk  
2999 30<sup>th</sup> Street  
Allegan, MI 49010  
269-793-2014