

**CHARTER TOWNSHIP OF CALEDONIA**

**COUNTY OF KENT, MICHIGAN**

At a regular meeting of the Township Board of the Charter Township of Caledonia, held at the Township Hall, 8196 Broadmoor Avenue, Caledonia, Michigan on the 17<sup>th</sup> day of August, 2022, at 7:00 p.m.

PRESENT: Harrison, Robertson, Henry, Zoller, Bradshaw, Hermenet

ABSENT: Snoeyink

The following ordinance was offered by Harrison and supported by Robertson.

**ORDINANCE NO. 2022-03**

**AN ORDINANCE TO ESTABLISH PROCEDURES AND STANDARDS FOR THE REVIEW OF APPLICATIONS, RENEWALS, AND REVOCATION OF LICENSES TO SELL BEER, WINE, OR SPIRITS; AND TO PROVIDE PENALTIES FOR THE VIOLATIONS THEREOF**

THE CHARTER TOWNSHIP OF CALEDONIA ORDAINS:

Section 1. Title. This ordinance shall be known as the Caledonia Charter Township Liquor License Control Ordinance.

Section 2. Findings and Purpose. In the interest of maintaining public health, safety and general welfare and the comfort and repose of Caledonia Township residents, the Charter Township of Caledonia hereby provides for the procedures for the application, review, and revocation of licenses to sell beer, wine, or spirits in Caledonia Township, as provided in PA 58 of 1998, as amended (MCL 436.1101, et seq.).

Section 3. Definitions. The definitions of the words, terms, and phrases defined in the Michigan Liquor Control Code, MCL 436.1101 et seq., are incorporated by reference. Any word,

term, or phrase that is defined in the Michigan Liquor Control Code shall be deemed to have the same meaning, except where the context clearly indicates a different meaning. The words, terms, and phrases, when used in this Ordinance, shall generally have the same meaning provided in the Michigan Liquor Control Code, MCL 436.1101 et seq., where not in conflict with the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) *Alcohol service area* means the portion of a licensed establishment where persons are permitted to consume alcoholic liquor.
- (b) *Applicant* means any person or entity who is seeking approval from the Township Board to sell alcohol.
- (c) *Licensee* means any person or entity that has been granted a license to sell alcohol in the Township by the state liquor control commission.
- (d) *Premises* includes all of the areas used in carrying out the primary functions of the business of the licensee, except such areas that are specifically excluded in other provisions of this Ordinance.
- (e) *Full menu restaurant* means a sit down restaurant that prepares food on the premises and serves meals selected by a patron from a menu which includes choices of appetizers, salads, entrees (which feature a variety of meat, poultry, vegetarian or fish dishes), side dishes, desserts, and beverages. All meals and beverages must be served by wait staff and food service must be available to the public at least ten hours a day for at least five days a week.
- (f) *Limited menu restaurant* means a sit down restaurant that serves short order type foods from a menu, such as hamburgers, pizza, chicken sandwiches, or tacos. Food is available and prepared on site. A limited menu restaurant must have its food service available to the public at least ten hours a day for at least five days a week.

Section 4. Applications. Applications for licenses to sell alcoholic liquor for on-premises consumption shall be made in writing to the Township Clerk. The Township Clerk shall not accept applications if no licenses are presently available. The application shall be made in the manner and on such forms as may be required by the Michigan Liquor Control Commission

(“MLCC”) and the Township Clerk. The application shall be signed by the applicant, if the applicant is an individual, or by the duly authorized agent of the applicant, if the applicant is not an individual, and the application shall be verified by oath or affidavit. The application shall contain the following information:

- (1) The name, age, address, and e-mail address of the applicant if the applicant is an individual. The name and address of the applicant, and the names and addresses of each partner if the applicant is a partnership. The name and address of the applicant and the names and addresses of the officers and directors if the applicant is a corporation. If a majority of interest in the stock of a corporation is owned by one person or his or her nominee, the applicant shall also provide the name and address of that person. The applicant must also provide the social security number of any individual, partner, officer, director, or stockholder listed on the application.
- (2) If the applicant is an individual, the application shall include the citizenship and place of birth of the applicant, and if the applicant is a naturalized citizen the application shall include the date and place of his or her naturalization.
- (3) The length of time the applicant has been in a business of the same nature, or in the case of a corporation or other entity, the date of its incorporation or formation.
- (4) The location and description of the premises or place of business or place of business which will be operated under such license.

- (5) A statement whether the applicant has applied for a similar or other license on a premises other than the premises described in the application, and the disposition of the application(s).
- (6) A statement that the applicant has never been convicted of a felony and is not disqualified to receive a license by reason of this Ordinance or by state or federal law.
- (7) Whether the applicant is proposing a full menu restaurant or a limited menu restaurant. Licenses will only be granted to restaurants. The applicant should include the proposed menu for the premises.
- (8) The application shall be accompanied by building and site plan showing the entire structure and premises and, in particular, the specific areas where the license is to be utilized. The plans shall demonstrate adequate off-street parking, lighting, refuse disposal facilities and, where appropriate, adequate plans for screening and noise control, as well as compliance with all other Township ordinances and requirements.

Section 5.     Granting Cycles. The Township may by resolution provide for granting cycles to approve available licenses over time.

Section 6.     Administrative Review. Upon receipt of the application, and if the type of license sought is available for issuance, the Township Clerk shall refer the application to the Kent County Sheriff's Office, the Township Fire Chief, and any other necessary departments of the Township. The Kent County Sheriff's Office, the Township Fire Chief, and other necessary

departments shall investigate the persons and premises identified in the application, and shall prepare and forward a report detailing the results of their investigation to the Township Clerk. In cases where the premises is not completely built, the applicant shall also file a complete set of plans and any necessary specifications to the building inspector and Township Fire Chief to determine whether the premises, when completed, will meet all requirements of the Township's Zoning Ordinance. The Township Clerk shall assemble all the reports and forward them to the Township Board. The Township Board shall review the application and reports. Approval of a license shall be by majority vote of the Township Board.

Section 7.     Determination. The Township Board shall make its determination with respect to a license application at a Township Board meeting. The Township Board's decision shall be based upon compliance with the standards set forth in this Ordinance.

Section 8.     Transferability. The approval given to an applicant is not transferable without the prior consent of the Township Board. After an application has been approved, the applicant may not move the location of the establishment for which approval was given without the prior consent of the Township Board. Further, transferability is subject to the requirements of state law:

- (1) New licenses cannot be transferred for three years after issuance absent unusual hardship.
- (2) Licenses cannot be transferred to locations that are within 500 feet of a church or school.

Section 9.     Term. Approval of a license shall be for one year, subject to annual renewal by the Township Board upon continued compliance with this Ordinance. Approval of a license shall be conditioned on commencement of any necessary remodeling or construction for use of the license within six months of the approval of the Township Board or the MLCC, whichever occurs

last. Failure to complete remodeling or construction within one year may subject the license to revocation.

Section 10. Reservation. Nothing in this Ordinance shall be construed to require the Township Board to issue or approve the issuance of a license that may be available. The decision whether a license should be issued shall remain in the sole discretion of the Township Board.

Section 11. Standards for Review. In assessing the merits of an application, the Township Board will consider a wide variety of factors. Township recommendations to the MLCC will be based on, but not limited to, the following factors:

- (1) Location. Preference shall be given to the M-37 commercial corridor (between or near 100th Street and 84th Street) and on Main Street over locations near the M-6 interchange. Licenses shall be located in commercial retail areas instead of isolated, rural areas.
- (2) Size. All facilities must have a minimum seating capacity of 50 persons. Larger facilities, with greater seating capacity, have preference over facilities that only meet minimum capacity requirements.
- (3) Menu. All applicants must propose either a full menu restaurant or a limited menu restaurant, and restaurants with a wide variety and diversity of entrees are preferred.
- (4) Local Ownership. Locally owned restaurants have preference over restaurants that are owned or operated by franchises.
- (5) Experience. The applicant must provide evidence of general business management experience as well as specific experience as a restaurateur with a positive track record or history with the Township and/or the greater Grand Rapids metropolitan area and/or in the alcohol or liquor business.
- (6) Financial Status. The applicant must provide evidence of its financial status and its ability to build and/or operate the proposed facility in which the proposed liquor license will be utilized.
- (7) Minimum Investment Requirements. The applicant must provide evidence of a minimum \$75,000 investment in the facility in which the proposed liquor license is to be located within 36 months before the application or must agree to make a minimum \$75,000 investment which must be expended before the issuance of the

license unless the location has already been equipped with a kitchen capable of supporting a full menu restaurants with a seating capacity for at least 50 patrons.

- (8) Retention of Quota Licenses within the Township. An application for a new quota license or who transfers an existing quota liquor license (whether active or in escrow) must enter into an agreement with the Township, in a form acceptable to the Township, to return the license to the MLCC and request that its right to the license be terminated and the license be returned to the Township to be added to its available licenses under the quota provisions of the Michigan Liquor Control Act in the event that the use and operation of the license is discontinued for a period in excess of ninety (90) consecutive days without prior written consent of the Township. In addition, the applicant must agree not to transfer the license outside the boundaries of the Township.
- (9) Other Factors. The Township may consider any other factor(s) it deems relevant in determining whether approval of a particular license application is in the Township's best interests.

Section 12. Reasons for Denial. A license application shall be denied:

- (1) For any person, partnership or corporation whose license to sell alcoholic beverage has been revoked for cause.
- (2) For a partnership, unless each partner would qualify to obtain a license.
- (3) For a corporation or other entity, if any officer, manager or director of the corporation, or a stock owner or stockholder owning, in the aggregate, more than five percent of the stock of such corporation, would not be eligible to receive a license under this Ordinance for any reason.
- (4) For any person, partnership or corporation whose business is conducted by a manager or agent unless such manager or agent possesses the qualifications required to obtain a license.
- (5) For any person who has been convicted of a felony in a court of law.
- (6) For any person, partnership or corporation who has been convicted of or found responsible for three or more liquor license violations by any administrative tribunal, including the MLCC, at any one licensed establishment.

- (7) For a person who does not own or have an option to purchase the location for which a license is sought or does not have a lease therefor for the full period for which the license was issued.
- (8) For a location where there exists an uncorrected violation of the applicable construction, building, electrical, mechanical, plumbing or fire code, applicable zoning regulations, applicable public health regulations or any violation of any Township ordinance or other applicable law, rule, regulation, order or directive.
- (9) When a majority of the Township Board determines that the premises does not or will not reasonably soon after commencement of operations have adequate off-street parking, lighting, refuse disposal facilities, screening, or noise or nuisance control.
- (10) The applicant does not propose to use the premises as either a full menu restaurant or a limited menu restaurant.
- (11) When the Township Board determines, by majority vote, that the proposed location is inappropriate considering the desirability of establishing a location in developed, commercial areas instead of isolated, undeveloped areas; the attitude of adjacent residents and property owners traffic safety; accessibility to the site from abutting roads; capacity of abutting roads to accommodate the commercial activity; distance from public or private schools for minor children; proximity to an inconsistent zoning classification; and accessibility from primary roads or state highways.
- (12) For any person, partnership or corporation that is in default of any financial or contractual obligation to the Township, including, but not limited to the payment of any administrative fee, civil or criminal fine, real or personal property tax, special assessment or any Township administered utility fee or the breach of any contract, pledge or similar binding commitment to which the Township is a party.

Section 13. Renewal and Revocation.

- (1) Authority of Township Board. The Township Board may, by resolution, recommend to the MLCC the nonrenewal or revocation of an existing license if it determines, based upon evidence presented at a public hearing, that the licensee has violated any standard or prohibition contained in this Ordinance.
- (2) Hearing Notice; Statement of Findings.
  - (a) Before filing an objection to a renewal or a request for revocation of a license with the MLCC, the Township Board shall hold a public hearing. The

Township Clerk shall send a notice of the hearing to the license holder, by first class mail, which shall be mailed not less than 10 days prior to the hearing. The notice shall contain the following information:

- i. A description of the proposed action.
- ii. The reason(s) for the proposed action.
- iii. The date, time and place of the hearing.
- iv. A statement that the licensee may present evidence and testimony.

(b) Following the hearing, the Township Commission may file a written statement of its findings and determination with the MLCC. The Township Clerk shall send a copy of any such statement to the license holder by first class mail.

(3) Standards for Recommendations. The Township Board may recommend to the MLCC that a license not be renewed or that a license be revoked upon its determination, based on evidence presented at a public hearing, that the licensee has engaged or permitted any of the following on the licensed premises:

- (a) A violation of any of the restrictions on licenses provided in this Ordinance.
- (b) Maintenance of a public nuisance.
- (c) The licensee has provided false, fraudulent or misleading information in the original license application or in an application for a license renewal.
- (d) The licensee has permitted the consumption of alcohol on the premises during a period in which the licensee was not licensed to sell or allow the consumption of alcohol.
- (e) The licensee has permitted dancing or live entertainment that is open to the public without first obtaining a valid dance or entertainment permit.
- (f) The licensee, or any agent or employee of the licensee, has, on any portion of the premises, sold, given or delivered alcohol to any person who has not attained the age of 21 years.
- (g) The licensee, or any agent or employee of the licensee, has, on any portion of the premises, sold, given or delivered alcohol to any person who is visibly intoxicated because of the consumption of alcohol or any controlled substance.

- (h) Any disorderly conduct is allowed, or any conduct or activity that disturbs the peace, tranquility and good order of the surrounding neighborhood, within or upon any portion of the premises, including the parking areas of the premises.
- (i) Any incident of larceny or fraud involving the licensee, or any agent or employee of the licensee, within or upon any portion of the licensed premises, including parking areas of the premises.
- (j) Any unlawful gambling activity on the licensed premises, including allowing any gaming device prohibited by law on the any portion of the licensed premises, including parking areas.
- (k) Any unlawful possession or use of any substance regulated by the Michigan Controlled Substance Act on any portion of the premises including the parking areas.
- (l) The licensee has utilized interior lighting which is insufficient to enable a person with average vision to clearly see all persons and potential hazards within the premises.
- (m) Any violation of any other provision of this Ordinance, or any violation of any statute or governmental code, regulation, standard or directive, or any violation of any order of a court, commission, or tribunal that has jurisdiction over the licensee or the premises of the licensee.
- (n) Nonpayment or repeated delinquent payment of any local personal property or real property tax or special assessment.
- (o) Nonpayment or repeated delinquent payment of any civil or criminal fine, or any Township administered utility bill or administrative service fee.
- (p) Any failure by the licensee to obtain, or maintain, any license or permit required by the Township or any unit of federal, state, county, or Township government.
- (q) Any failure by the licensee to keep any portion of the license in good condition or failure to maintain any portion of the licensed premises, including parking areas, in full compliance with any law or standard of the Township or any unit of federal, state or county government.

(r) Any failure by the licensee or any of the licensee's agents or employees, to cooperate with any law enforcement offer in the lawful performance of his or her duty.

(s) Any failure by the licensee or the licensee's agents or employees to cooperate with any federal, state, county or Township official acting in the lawful performance of his or her duty.

(t) Any breach or partial breach of a contract or obligation to which the Township is a party by the licensee or the licensee's agent or officers.

Section 14. Penalties. Any person other than a person required to be licensed under the Michigan Liquor Control Act who violates any provision of this Ordinance shall be guilty of a misdemeanor. Any licensee who violates any provision of the Michigan Liquor Control Act or any rule of regulation of the Michigan Control Commission, or who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500 or both, in the discretion of the court. Each day that a violation continues shall constitute a separate offense.

Section 15. Severability. The Ordinance and its various parts, sections, subsections, sentences, and phrases and clauses are severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected.

Section 16. Repeal. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 17. Publication; Effective Date. This Ordinance shall become effective upon publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Harrison, Robertson, Henry, Zoller, Bradshaw, Hermet

NAYS: None

ORDINANCE DECLARED ADOPTED.

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Bryan Harrison, Supervisor  
Charter Township of Caledonia

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Joni Henry, Clerk  
Charter Township of Caledonia

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Charter Township of Caledonia at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

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Joni Henry, Clerk  
Charter Township of Caledonia

First Reading: July 20, 2022

Second Reading: August 17, 2022

Ordinance becomes effective: August 20, 2022