

Upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the following Ordinance was duly enacted, \_\_\_\_\_ voting in favor of enactment, \_\_\_\_\_ voting against enactment.

## **ORDINANCE 98-18**

### **An Ordinance of the Township of Millcreek establishing regulations governing operation of bottle or BYOB clubs; establishing penalties for violation and including severability and repealor clauses.**

**WHEREAS**, the Board of Supervisors in the Millcreek Township Zoning Ordinance, No. 74-29 as amended, has provided for use of land as bottle clubs; and

**WHEREAS**, 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 clubs or BYOB clubs in Millcreek Township be established and that provision be made for enforcement of the regulations.

**IT IS HEREBY ORDAINED AND ENACTED** by the Board of Supervisors of Millcreek Township, Erie County, Pennsylvania as follows:

#### 1.01 Purpose of Ordinance

The purpose of this Ordinance is to define and regulate the hours of operation of bottle clubs and BYOB clubs in order to preserve and protect the health, safety and general welfare of the citizens of Millcreek Township and to protect the rights of citizens to the quiet enjoyment of their property.

#### 1.02 Definitions

1.02.1 As used in this Ordinance, **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.

1.02.2 As used in this Ordinance, **BYOB CLUB** means any facility operated for profit or

pecuniary gain which is not licensed by the Pennsylvania Liquor Control Board wherein patrons may consume alcoholic liquors, alcohol or malt or brewed beverages which said patrons have carried or brought into the premises. The term shall not include a licensee under the Liquor Code, any organization as set forth in Section 6 of the Solicitation of Funds for Charitable Purposes Act or any facility which is rented for a limited period of time, not to exceed ten (10) hours, by an individual or organization for the purpose of a private party.

1.02.3 As used in this Ordinance, **ALCOHOLIC LIQUORS, ALCOHOL and MALT or BREWED BEVERAGES** shall be defined as set forth in the Liquor Code, 47 P.S. §1-101, et seq.

1.03 Regulations on Operation

1.03.1 It shall be unlawful and a violation of this Ordinance for any person(s), corporation, partnership, firm or other entity to own, operate, lease, manage or control a Bottle Club or a BYOB Club without having first obtained a valid certificate of occupancy for such use as required in Article IX of the Millcreek Township Zoning Ordinance.

1.03.2 It shall be unlawful and a violation of this Ordinance for any person(s), corporation, partnership, firm or other entity to own, operate, lease, manage or control a Bottle Club or a BYOB Club without maintaining in force and effect at all times broad form general liability coverage with limits of one million dollars (\$1,000,000.00) per occurrence, proof of which coverage shall be required prior to issuance of any certificate of occupancy.

1.03.3 It shall be unlawful and a violation of this Ordinance for any person(s), corporation, partnership, firm or other entity owning, operating, leasing, managing or controlling a Bottle Club or BYOB Club 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.

1.03.4 It shall be unlawful and a violation of this Ordinance for any person(s), corporation, partnership, firm or other entity owning, operating, leasing, managing or controlling a Bottle Club or BYOB Club to be open for business or transact business between the hours of 2:00 a.m. and 8:00 a.m. prevailing time of each day, and/or before noon (12:00 p.m.) on Sundays.

1.03.5 This Ordinance shall not be interpreted to modify or supersede express regulations established in the Zoning Ordinance governing Bottle Clubs or BYOB Clubs, the regulations of this Ordinance being intended to be in addition to such regulations.

1.04 Enforcement The Millcreek Township Police Department and the Code Administrator are hereby authorized and directed to enforce the terms of this Ordinance.

1.05 Penalties for Violation Any person or entity committing any act(s) prohibited herein shall violate this ordinance. This ordinance shall be enforced pursuant to the provisions of Ordinances Nos. 96-8 and 96-9 governing civil enforcement of ordinances and attorney's fees and costs payable in enforcement actions. An administrative fine of Five Hundred Dollars (\$500.00) is prescribed for any violation of this ordinance. If the administrative fine is not paid within thirty (30) days after the date of the enforcement notice, then a civil action shall be brought in the office of the District Justice having jurisdiction, the civil fine upon a finding of violation being Six Hundred Dollars (\$600.00). In any civil action, a person or entity found to have violated this ordinance shall also be obligated within the judgment to pay all costs and attorney's fees incurred by the Township in the enforcement action. Each day a violation of this ordinance continues shall constitute a separate offense. Each violation of this ordinance shall constitute a separate offense, subject to the prescribed fine for each violation.

1.06 Severability If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person, property or circumstances is for any reason held invalid or unconstitutional by any court, such holding shall not be construed to affect the validity of any of the remaining provisions of this Ordinance or its application, for such portion shall be deemed as a separate, distinct and independent provision from the remaining provisions which shall be and remain in full force and effect. It is declared the legislative intent that this Ordinance would have been adopted had such valid or unconstitutional provision of its application not been included herein.

1.07 Repealor All Ordinances or parts of any Ordinances inconsistent herewith are hereby repealed.

**BE IT ENACTED** this 22<sup>nd</sup> day of December, 1998.

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Suzanne R. Weber, Secretary