

**AN ORDINANCE TO PROVIDE FOR THE REGULATION AND CONTROL OF DISTILLED SPIRITS; TO PROVIDE FOR THE CONTENTS OF APPLICATIONS FOR LICENSES TO SELL DISTILLED SPIRITS; TO PROVIDE FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; AND FOR OTHER PURPOSES.**

BE IT ORDAINED by the Mayor and Council of the Town of Lyerly, and it is hereby ordained by authority of the same, that with respect to the retail sale of distilled spirits, the following policy is adopted.

**SECTION 1: Definitions**

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular include the plural number.

- a. Alcoholic Beverage means and includes all alcohol, distilled spirits, malt beverages, wine or fortified wine.
- b. Board shall mean the Mayor and Council of the Town of Lyerly.
- c. Building shall mean any structure having a roof supported by columns or walls intended for shelter, housing or enclosure of persons.
- d. Clerk shall mean the Clerk of the Town of Lyerly.
- e. County shall mean Chattooga County, Georgia.
- f. Distilled Spirits shall mean all beverages containing any alcohol obtained by distillation or containing more than twenty-one (21) percent alcohol by volume including, but not limited to, all fortified wines.
- g. Department shall mean the Department of Revenue, State of Georgia.
- h. Licensed Premises means the building and real property described in the license application as approved by the Mayor and Council of the Town of Lyerly where the sale of distilled spirits is permitted.
- i. Licensed Retailer means any person (not a producer) selling or offering to sell distilled spirits in an original package not for consumption on the premises where sold and holding a valid license issued by the Town of Lyerly and the State of Georgia.
- j. Licensed Wholesaler refers to any person (not a producer) who sells or offers to sell distilled spirits for purposes of resale to Licensed Retailers or to Licensed Wholesalers.

- k. Malt Beverage shall be defined to mean any alcoholic beverages obtained by fermentation of any infusion or decoction of barley, malt, hops, or any similar product, or any combination of such product in water, containing not more than six (6) percent alcohol by volume.
- l. Package means a bottle, can, keg, barrel or other original consumer container, as delivered by a Licensed Wholesaler to Licensed Retailer.
- m. Package Store shall mean a store licensed by the State of Georgia to sell distilled spirits not for consumption on premises.
- n. Person means an individual, firm, partnership, corporation, association, company, agency, syndicate, estate, trust, business trust, receiver, fiduciary or any combination acting as a unit, body politic, or political subdivision whether public, private or quasi-public.
- o. Sheriff shall mean the Sheriff of Chattooga County, Georgia.
- p. Town refers to and shall include all property within the corporate limits of the municipal corporation of Lyerly.
- q. Wine means all alcoholic beverages containing not more than twenty-one (21%) percent alcohol by volume made from fruit, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

**SECTION 2: License Required for Sale or Possession for Sale**

It shall be a violation of this Ordinance for any person to sell or possess for the purpose of sale, distilled spirits when such person does not hold a valid license issued by the Town of Lyerly and the State of Georgia to sell or possess for sale such items.

**SECTION 3: Sale of Distilled Spirits – Not for Consumption on Premises**

Distilled spirits shall only be sold in retail establishments duly licensed by the State of Georgia, to sell distilled spirits by the package, which establishments are devoted exclusively to sale of distilled spirits or alcoholic beverages in a package. The licensee holding such a license shall not permit the breaking of said package or packages containing any distilled spirit, malt beverage or wine on the Licensed Premises and shall not permit the drinking of any alcoholic beverage at the Licensed Premises.

No distilled spirits shall be sold at retail except as follows:

- a. In a facility duly licensed by the Town of Lyerly to sell at retail alcoholic beverages in the original unbroken package.

**SECTION 4: Application on Form Prescribed by Board**

Any person desiring to sell alcoholic beverages shall make application therefore on a form to be furnished by the Board, and in connection therewith shall answer all questions, supply all information, and furnish all certificates, affidavits and other supporting data as required thereby. It shall be subscribed by the applicant under oath, and shall be fully and completely executed. If applicant is a

partnership, all partners shall execute the same, and if the applicant is a corporation, it shall be executed by the president and secretary of the corporation. Any knowingly untrue, misleading or omitted statement or information contained in any such application shall be cause for denial or suspension and if a license has been granted, shall be cause for revocation of the same.

The application shall be reviewed under the retail license qualifications and standards for review contained in this Ordinance, together with any and all other applicable Federal, State, or Local laws which may govern the issuance of this alcoholic beverage license.

Each application shall be filed together with a certified check or cashier's check in payment of the license fee, and if an initial application, the investigative fee required by Section 9. The application shall contain the following information:

- a. The name, age, address, and length of residency of the applicant.
  1. Where the applicant is a domestic corporation lawfully registered and doing business under the laws of the State of Georgia, or any foreign corporation lawfully registered under the laws of the State of Georgia to do business in this State, the applicant may be permitted to apply for such license in the name of the corporation as registered in the Office of the Secretary of State. The applicant shall provide the Licensing Officer with the name of its agent authorized to receive service of process under the laws of this State and also provide the Licensing Officer with the address of its registered office.
- b. The name, location, and description of the premises or place of business which is to be operated under such a license.
- c. The name and address of the owner or landlord or resident manager of the property proposed for said license, and a copy of the deed evidencing ownership of the property.
- d. Whether any previous alcoholic beverage license issued to the applicant, or if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has been revoked by any Federal, State, or Local government authority, together with a statement of the reasons for such revocation.
- e. A statement of whether the applicant, or if the applicant is a partnership, corporation, LLC, or other legal entity, any officer or other person with an interest in the application, has made application at any previous time with the Town or any other governing authority for any alcoholic beverage license, and, if so, the disposition of such application.
- f. If the applicant is a partnership, corporation, LLC, or other legal entity, a copy of the partnership agreement, articles of incorporation, bylaws, operating agreement, or other agreements or documents reflecting the creation, organization, and/or operation of the entity, together with a certificate of good standing from the Georgia Secretary of State.
- g. The license application shall require the disclosure of any conviction of a felony of the owner, agent or any proposed employee for any offense under Federal, State or local law involving moral turpitude.

- h. The license application shall require the disclosure of any conviction of a misdemeanor of the owner, agent or any proposed employee for any offense under Federal, State or local law involving alcoholic beverages, malt beverages and wine, in any form; gambling or tax law violations.
- i. The license application shall list the names of any persons having an interest in the operation of a Proposed Licensed Premises or control over or ownership interest in such Proposed License Premises. Such persons must meet the same requirements as set forth in this Ordinance for the licensee.
- j. An accurate sketch or diagram drawn to scale showing the location of the Building, the area thereof to be used, and the property lines of the real property where the applicant proposes to carry on the business of selling alcoholic beverages. The diagram shall also show the location of all churches or recognized place of worship and schools in the immediate area, and the distance between property line of the proposed place of business and the property line of schools, churches or recognized place of worship as measured along a straight line. The Board may require a statement from a civil engineer or registered land surveyor at applicant's expense certifying the correctness of the distances shown on the diagram or sketch.
- k. The license application shall contain a statement as to whether applicant holds any other license for the sale of alcoholic beverages, malt beverages or wine, and the location thereof.
- l. If the Proposed Licensed Premises is not in existence or requires substantial renovation, the applicant shall submit a detailed set of plans and working drawings showing the exact location of the Proposed Licensed Premises and the construction proposed to be carried out by the applicant and the anticipated time for completion of said construction or renovation.
- m. Consent statement by the applicant that all necessary investigation reports on applicant and any employees in the applicant's establishment including, but not limited to, credit reports and reports from law enforcement agencies may be obtained; that any information in such reports may be furnished to the licensor; and that applicant will be responsible for the cost thereof. If so requested, applicant shall also obtain such consent forms from each employee who will be employed in applicant's establishment. Licensor may, at its option, require fingerprinting and/or photographs of applicant and applicant's employees for the purposes of conducting its investigation.
- n. All applications shall include a copy of applicant's application or proposed applications for a license from the State of Georgia.
- o. The written application for a license on file in the Clerk's Office shall be a permanent record which the licensee must maintain current with correct information at all times. The failure to maintain a current license application shall be grounds for revocation of a license.
- p. The Board may, in the exercise of its discretion, require a Personnel Statement as to any employee or agent of an applicant for licensing purposes.

- q. Such other information as the Board may require.

**SECTION 5: Consideration for a License**

In determining whether or not any license applied for hereunder shall be granted, in addition to all other provisions of the Ordinance, the following shall be considered in the public interest and welfare:

- a. The applicant's reputation, character, and mental capacity to conduct this business, personal associations, record of arrest or reputation in any community in which he or she has resided, and whether or not applicant is likely to maintain the operation of the business for which he or she is seeking a license in conformity with Federal, State or local laws.
- b. If applicant is a previous holder of a license to sell alcoholic beverages, malt beverages and wine, whether or not he has violated any law, regulation or ordinance relating to such business.
- c. If applicant is a previous holder of a license to sell alcoholic beverages, malt beverages or wine, the manner in which he conducted the business thereunder as it pertains to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business; and
- d. Whether a person has previously had a similar license suspended or revoked and the reason therefore.
  - 1. When any application is denied or any license is revoked because of a decision by the Board that such licensee or applicant fails to meet the requirements of subsections (a) through (d) of this section or in any case where such a decision was made because of the ineligibility of the applicant to receive or the licensee to retain an alcoholic beverage license, that applicant or former licensee may not apply for an alcoholic beverage license in the Town of Lyerly until at least one year has elapsed from the date the previous application was denied or revoked or, if that decision was appealed to any court, until one year after a final, unappealed or unappealable disposition was made of such appeal.
- e. The Board shall also give consideration to such other factors as may affect the health and general welfare of the incorporated area of the Town of Lyerly, to include the type of license applied for, the effect that license will have on schools, public parks and churches in the area, the effect the granting of the license will have on existing land uses in the area, the character of the area and its peculiar suitability for the particular use sought, and the congestion of roads and streets. These items shall receive reasonable consideration with a general view of promoting desirable living conditions, and sustaining the stability of neighborhood property values.
  - 1. When any application is denied or any license is revoked because of a decision by the Board that such license or application fails to meet any of the factors or requirements of subsection (e) of this section or in any case where such a decision was made because of the undesirability of the location itself, no application can be made until at least one year has elapsed from the date the previous application was

denied or revoked or, if that decision was appealed to any court, until one year after a final, unappealed or unappealable disposition was made of such appeal.

**SECTION 6: Persons Prohibited from Holding Licenses**

Licenses shall not be issued to:

- a. A person who is not a citizen of the United States or a resident alien.
- b. A person who is under the age of twenty-one (21) years.
- c. An officer or employee or their spouse of the Town of Lyerly, Georgia.
- d. A person who has in Georgia or any other jurisdiction been convicted of a misdemeanor or a violation of a municipal or county ordinance involving driving under the influence of intoxicants or drugs, or who has pled nolo contendere or forfeited bond in connection with any such charge of the same within the preceding two (2) years.
- e. A person who has in Georgia or any other jurisdiction been convicted of a felony, or who has pled nolo contendere or forfeited bond in connection with any charge of the same within the preceding five (5) years.
- f. A person who has been convicted or pled nolo contendere or forfeited bond for a violation of a law or ordinance pertaining to the sale of alcoholic beverages or the sale or possession of a controlled substance within the preceding five (5) years.
- g. A person not residing where distilled spirits may be legally sold for at least 12 months prior to applying for a license, pursuant to O.C.G.A. §3-4-23.
- h. A person holding or having beneficial interest in more than two retail dealer licenses, regardless of the degree of such interest, pursuant to O.C.G.A. §3-4-21.
- i. A partnership, unless all partners qualify.
- j. A corporation, unless all officers and stockholders qualify.
- k. A person whose place of business is managed, operated or owned by a person who could not acquire a license hereunder, except as to the residence requirements herein above provided.
- l. Any person whose license to sell alcoholic beverages, malt beverages and wine has been revoked by any licensing authority, during the immediately preceding five (5) years.

**SECTION 7: Processing Application**

- a. All applications filed with the License Officer after investigation of the fitness of the applicant and the proposed location shall be approved or disapproved by the Board at a public meeting. In cases where applications are disapproved, the Clerk shall return the amount of the fee submitted with the application to the applicant (excluding in the case of a

new application, the investigative fee). In cases where such applications are approved by the Board, the Board shall issue a proper license to the applicant authorizing the applicant to engage in the particular business and at the particular location applied for. All new license applications shall, in addition to the license fee, include a non-refundable fee in the amount of \$250.00 to cover the cost of the investigation into whether or not applicant should be granted the license applied for.

- b. Copies of each application received shall be forwarded to all members of the Board.
- c. After the application is complete and all information is received by the Board, a public hearing will be scheduled on the application by the Board. All applicants must publish notice of the public hearing on the application for the license once a week for two (2) weeks in the local newspaper where in the Sheriff's advertisements are published. In addition, if the proposed location does not have an existing license, a sign shall be posted by the applicant on premises at least fifteen (15) days prior to the public hearing.
- d. The Board shall have full power to determine whether the applicant for a license under the provisions of this Ordinance is a fit and proper person to operate the type of business involved, and whether the location of such business is proper and in the best interest of the Town of Lyerly, and the Board's determination of these requirements shall be final, except where a right of appeal exists under applicable law.
- e. All decisions approving, denying, suspending or revoking such license shall be in writing, with the reasons therefore stated, and mailed or delivered to the applicant personally.

**SECTION 8: Initial Application**

- a. Persons making an application for a license to operate an existing licensed premise may be issued a temporary license for a period not to exceed ninety (90) days by the Board. Before a temporary license is issued, the applicant must have filed a complete application, and the following documents and material must be furnished to the Board:
  - 1. A valid state application with all questions answered which indicates that applicant is eligible to hold the license sought; and
  - 2. When preliminary records check indicates applicant is eligible to hold license.
- b. All persons making an application for an initial license shall be required to attend the hearing on such application and to answer such questions and provide such information, as the Board deems necessary and proper. The applicant's presence at the hearing to issue a provisional license may not be required when the applicant is suffering under a hardship or extenuating circumstances that prevent the applicant's attendance, such as a serious health condition of the applicant or a member of the applicant's immediate family, or the death of a member of the applicant's immediate family, or acts of God. If the applicants fail to appear at such hearings, and does not qualify under the excepting circumstances in this paragraph, the application shall be deferred to the next meeting. If the applicants fail to appear at the next meeting, the application shall be treated as having been withdrawn.
- c. The issuance of any provisional license pursuant to the above conditions is within the discretion of the Board and such temporary license may be withdrawn by the Board at any

time without notice or hearing, if final record check, including the response to the fingerprint search shows applicant was not entitled to the license issued.

**SECTION 9: Familiarity with Ordinance**

It shall be the duty of each licensee to maintain a copy of this Ordinance on the premises, and to instruct each employee as to the terms thereof; and each licensee and employee shall at all times be familiar with this Ordinance.

**SECTION 10: Responsibility for Acts of Employees and Others**

Licensees are charged with the responsibility for compliance with this Ordinance by their officers, agents, servants, and employees. Licensees are responsible and shall be subject to license probation, suspension, or revocation for any violations occurring upon the Licensed Premises by any officer, agent, servant, or employee.

**SECTION 11: Annual License Fee**

Before such license shall be granted, the applicant shall pay an annual license fee for the privilege of engaging in the business of selling distilled spirits at retail, in original packages only, not to be consumed on premises, within the incorporated areas of the Town of Lyerly, which shall be \$5,000 or the maximum annual license fee allowable as provided by O.C.G.A. §3-4-50 or subsequent amendments thereto, whichever is greater.

**SECTION 12: Expiration; Renewal**

All licenses granted hereunder shall expire on December 31 of each license year. Licensees who desire to renew their license shall file application together with the requisite fee with the Clerk on the form provided for renewal of a license for the ensuing year. Applications for renewal must be filed on or before November 1 of each year, otherwise no license, except for good cause shown, shall be renewed. If a license is not renewed in a timely manner, the application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of license to the same extent as if no previous license had been held. All licenses issued hereunder shall be for the balance of the calendar year as herein provided, and the full license fee shall be paid.

**SECTION 13: Prohibited Locations**

- a. No license shall be issued where the property line of the proposed Licensed Premises for the sale, either at retail or wholesale, of distilled spirits is located within 100 yards of any church building, as measured by the most direct route of travel on the ground along a straight line from the front door of the Licensed Premises to the front door of the building of the church. For the purpose of this Ordinance, a church is hereby defined as an organization for the purpose of preaching the gospel and other related religious activities located within a permanent structure either owned or leased by such organization and must consist of at least ten (10) adult members on its official rolls that meet on a regularly scheduled basis not less than one time per week at said location. Such organization must also qualify under the rules of Internal Revenue Service as an organization to which contributions may be deducted for Federal Income Tax purposes.
- b. No license shall be issued where the property line of the proposed Licensed Premises for the sale, either at retail or wholesale, of distilled spirits is located within 200 yards of any school ground or college campus, as measured by the most direct route of travel on the ground along a straight line from the front door of the Licensed Premises to the nearest property



line of the school. A school referred to in this section shall mean a State or County school, or private school (including church schools) which normally teaches the same subjects as commonly taught in public schools.

- c. No license shall be issued for a new retail package liquor business or relocation of an existing retail package liquor business engaged in the retail package sale of distilled spirits within 500 yards of any other business licensed to sell package liquor at retail as measured by the most direct route of travel on the ground.
- d. No license shall be issued where the property line of the proposed Licensed Premises for the sale, either at retail or wholesale, of distilled spirits is located within 100 yards of any Town park or recreation area; as measured by the most direct route of travel on the ground along a straight line from the property line of any park or recreation area to the nearest corner of the proposed Licensed Premises.
- e. There shall be no retail package stores as defined in Section 1 in any predominantly residential neighborhood except adjacent to a State Highway.
- f. No retail sales of distilled spirits shall be made from a temporary building, tent, mobile home, motor home, or any vehicle or container which is mobile in nature or removable from the real estate upon which it is located.
- g. It shall be unlawful to grant a license for the sale of distilled spirits where the proposed location does not have a front entrance to the premises which is clearly visible from a public street, road or highway.
- h. No license shall be issued for a location at which the operation of such a licensed business would violate the zoning rules and regulations of the County and Town.
- i. No license shall be issued for a location where it would violate State or Local laws, rules, regulations, or articles.
- j. Nothing contained in this Section shall prohibit the issuance of a license to an existing Licensed Premises, licensed under this or any proceeding Ordinance during the preceding twelve (12) months.

**SECTION 14: Financial Responsibility**

No license shall be issued to any applicant who has not provided proof that all property taxes, both real and personal, due the Town and County by the applicant and all property taxes, both real and personal, due the Town and County by the owner of the establishment have been paid.

**SECTION 15: Hours of Sale**

Licensed retailers shall not engage in the sale of distilled spirits at any time on Sundays, Christmas Day and any other day on which State Law prohibits the sale of distilled spirits. Licensed retailers shall not engage in the sale of distilled spirits on any day during the hours of 12:00 midnight and 7:00 A.M.

The sale of distilled spirits shall be unlawful during the polling hours of any election, pursuant to O.C.G.A. §3-3-20.

**SECTION 16: Display at Place of Business**

All licenses required under this Ordinance must be posted in a conspicuous place within the Licensed Premises, and if said license is not so posted the licensee shall not be authorized to continue in business until same shall be posted.

**SECTION 17: Transferability**

No license for the sale of alcoholic beverages shall be transferred from one location to another. The holder of any license issued under this Ordinance must inform the Board in writing whenever such owner sells, surrenders, loses or transfers in any way any ownership interest or managerial rights with respect to the establishment for which the license is issued. No license for the sale of alcoholic beverages shall be transferred or continued after a licensee dies or severs their ownership of the licensed establishment except as provided herein:

- a. In the case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of thirty (30) days from the date of death of the licensee or any one of the licensees or until the expiration of the existing license or until the approval of a new license for the establishment, whichever occurs first.
- b. In the event that a licensee who holds a license with other licensees severs his association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of thirty (30) days from the date of surrender or the date determined by the Board to be the date of severance based upon a reasonable interpretation of the information available to him. PROVIDED, HOWEVER, that no such continued sales shall be allowed until such time as an application for a transfer to the name(s) of the new owners shall have been filed with the Board. Such application for transfer shall set forth the new ownership of the establishment or the licensed corporation, name the severed licensees and provide such information as the Board shall request to document the change of interest, control or ownership. For purposes of this Ordinance, a severance shall have occurred when any partner or joint venturer or other holder of a license shall have sold his ownership interest in said licensed establishment except that no severance shall have occurred where the licensee is a corporation and less than 20% of any class of stock of the corporation shall be sold. A name change without any transfer of stock of any corporation or ownership of any partnership shall not be a severance.
- c. Except as provided herein, any change in the ownership of an entity holding a license shall cancel and revoke any alcoholic beverage license issued by the Town of Lyerly for the establishment automatically, without the necessity for any hearing.
- d. A non-refundable transfer fee of \$100.00 and a non-refundable investigation fee of \$250.00 per license to be transferred shall accompany any application for transfer.
- e. No license shall be transferred if any prospective owner fails to meet the requirements of a licensee as set forth in this Ordinance or in State Law at the time of transfer.
- f. Any violation of this section shall result in revocation of the license for the establishment involved and a fine up to \$1,000.00 for both the old and the new ownership.

**SECTION 18: Refund**

No fees paid for an alcoholic beverage license shall be refunded whether partially or in full once the license is issued.

**SECTION 19: License Granted Only After Applicant Receives Business License**

No license shall be granted under this Ordinance until the business establishment referred to in the license application has been granted a Business License by the Town of Lyerly.

**SECTION 20: Compliance with Applicable Laws Necessary**

Each licensee shall comply with all applicable rules, regulations, laws and statutes of the State of Georgia, and all local ordinances, and shall, in addition thereto or in furtherance thereof:

- a. Prohibit the sale or serving of alcoholic beverages in automobiles or other vehicles, or anywhere outside the main building or accessory thereto in which the business of such licensee is operated.
- b. Strictly adhere to the laws of the State of Georgia respecting the sale of alcoholic beverages to minors, intoxicated persons or habitual drunkards. The term "minor" shall be construed in accordance with Section 3-3-23 et. seq. of the O.C.G.A., as now or hereafter amended.
- c. Shall keep the Licensed Premises free and clear of cans, bottles, paper and other debris.
- d. The licensees shall not sell to, give away, or permit the consumption of alcoholic beverage by any minor as that term is defined by O.C.G.A. §3-3-23 et.seq. or by any person who is mentally incompetent.
- e. Strictly adhere to the laws of the State of Georgia regarding the forbiddance of various particular sexual activities on the premises of licensed establishments as provided by O.C.G.A. §3-3-40 et.seq.

**SECTION 21: Compliance with Rules and Regulations of Health Authorities**

All retail licensees under this Ordinance are hereby required to comply with all rules, regulations and requirements of the Chattooga County Board of Health, State Board of Health and any and all other Federal, State and Local authorized public health authorities. No license shall be granted to any applicant who has not obtained a certificate from the County Health Department, that water and other facilities meet health department standards, and the burden shall be upon the applicant to obtain and submit, at the time of filing the application, such a certificate.

**SECTION 22: Employment of Minors Restricted**

- a. No licensee hereunder shall employ any minor in his establishment.
- b. The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenience stores from selling or handling alcoholic beverages, malt beverages or wine which are sold for consumption off the premises.

**SECTION 23: Revocation Hearing**

Each license issued pursuant to this Ordinance is granted as a mere privilege and not a right. Upon violation of any provision of this Ordinance or of any law or regulation of the State relating to alcoholic beverages, malt beverages and wine, the Board, at a regular or specifically called meeting, after reasonable written notice of the pending violations to the license and after said licensee has been afforded an opportunity to be heard as to the proposed grounds for revocation, may revoke or suspend the license. When a license is revoked or suspended, no portion of the license fee shall be refundable.

The Board may temporarily suspend any license involving the sale of alcoholic beverages if the manner of operation poses a serious safety or health hazard, for a period not to exceed thirty (30) days pending a hearing and final action by the Board.

**SECTION 24: Denial, Suspension or Revocation of a License**

The Commission may deny, suspend, revoke, or refuse to renew any license required under this Ordinance if:

- a. The license application is not filed in good faith or is filled by some person as a subterfuge for any other person.
- b. Any applicant for a license or any license under this Ordinance willfully fails to comply with any provision of this Ordinance or with rules and regulations adopted by the Board.
- c. Any person to whom a license has been issued is no longer engaged in the sale of alcoholic beverages, malt beverages, malt beverages or wine, or no longer qualifies as a licensee under this Ordinance.
- d. In the event applicants permit the Licensed Premises to be operated in a disorderly manner so as to constitute a public nuisance after (i) applicant has been advised in writing by the Board of the unsatisfactory manner in which the business is being operated and (ii) after applicant has been given a reasonable opportunity to cure said deficiencies.

**SECTION 25: Notice of Decision; Grievances**

All decisions approving, denying, suspending or revoking such licenses shall be in writing, with the reasons therefore stated, and mailed or delivered to the applicant personally. Within thirty days of any such decision, any applicant or license holder aggrieved by the decision of the Board regarding a license shall be afforded a public hearing with an opportunity to present evidence and cross-examine opposing witnesses if requested by such applicant in writing filed with the Clerk within 30 days of the decision from which relief is sought.

**SECTION 26: Limitations as to Nature of Business**

Upon and after the date of the adoption of this Ordinance, no future original alcoholic beverage license of any type shall be issued to a business or person that does not meet the standards set out in this Ordinance. It is further provided that any location heretofore licensed to operate any of the businesses described herein, wherein a different method of ascertaining minimum distances was used, or other requirements imposed, may continue to operate such business at the present location, without being deemed in violation of this Ordinance.

**SECTION 27: Retailer to Purchase from Licensed Wholesaler Only**

No retailer shall purchase for use at licensed place of business, any alcoholic beverages, malt beverages, or wine from any person, firm or corporation other than a wholesaler licensed by the State of Georgia. No wholesaler shall sell any alcoholic beverages, malt beverages or wine to anyone other than a retailer licensed under this Ordinance.

**SECTION 28: Taxation**

- a. The Town of Lyerly by this Ordinance does hereby levy an excise tax on the sale of distilled spirits by licensed wholesalers in the maximum amount allowable as provided by O.C.G.A. §3-4-80.
- b. Said tax shall be paid to the Board, by each wholesale dealer on all distilled spirits sold within the incorporated areas of the Town of Lyerly, not later than the 10<sup>th</sup> day of each month, based upon the units of distilled spirits sold during the previous calendar month by said wholesalers to licensed retailers. Every licensed wholesaler shall file a monthly report with the Board, which shall set forth the total quantity of distilled spirits sold during such month and shall have attached to it legible copies of all invoices covering said sales. Such monthly report shall be filed not later than the 15th day of the next month following the month of sale. The report shall be accompanied by a local check or cashier's check in the full amount of the tax due.
- c. Each licensee shall maintain for a period of twelve (12) months records of all deliveries made to licensee's establishment of distilled spirits by all wholesalers, which shall include copies of the wholesaler's invoice accompanying said delivery. The licensees shall make available to the Board all such records upon request of the Board.
- d. There is hereby imposed a penalty equal to ten (10%) percent of the taxes due upon each licensed wholesaler who fails to file a timely report and pay the tax due. The failure to pay the tax provided for in this section shall constitute sufficient cause for the revocation of any license issued under this Ordinance. Additionally, if said report is not filed or if said taxes and related penalties are not remitted and paid within thirty (30) days from the date that the same are due, the Board shall have the right to prohibit said wholesaler from making any deliveries of any type whatsoever within the incorporated areas of the Town of Lyerly.

**SECTION 29: Right of Audit**

The Board shall have the right to audit, and to require production of records from each wholesaler supplying retailers in the incorporated areas of the Town of Lyerly, and also from each retailer so supplied.

**SECTION 30: Sale Prohibited When Tax Not Paid**

It shall be unlawful for any person to sell at retail or otherwise within the incorporated areas of the Town of Lyerly any distilled spirits on which the tax required in this Ordinance has not been paid to the wholesaler or distributor or to the Board.

**SECTION 31: Outdoor Advertising**

No outdoor advertising with respect to the promotion of the sale of distilled spirits shall be permitted on the exterior of any wholesale or retail outlet or elsewhere in the incorporated area of the Town of Lyerly, except as may be authorized by the laws of the State of Georgia and regulations implemented by an agency having jurisdiction thereof.

**SECTION 32: Severability Should Any Portion of Ordinance Be Held Invalid**

The terms and provisions of this Ordinance are severable. Should any section, subsection, sentence, clause or phrase of this Ordinance, or the application thereof to any person or circumstances for any reason be held by a court of competent jurisdiction to be invalid or void, the validity of the remainder of this Ordinance, or the application of such provision to other persons or circumstances shall not be affected thereby to the extent that any remaining portion of the Ordinance may reasonably be given effect without the invalid or void portion.

**SECTION 33: General Provision**

The State laws and regulations relating to the sale and distribution of alcoholic beverages, malt beverages and wine and distilled spirits as revised by the State Department of Revenue together with the provisions of O.C.G.A. Title 3, including any amendments thereto, are incorporated into and made part of this Ordinance as if fully set out herein. Any violation of such law or regulations shall be grounds for suspension or revocation of any license issued under this Ordinance.

This 11th day of January, 2011.

**TOWN OF LYERLY, GEORGIA**

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By: Jessica W. Eller, Mayor

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Attest: Joy Hampton, Clerk