

**LAMAR COUNTY BOARD OF COMMISSIONERS
ORDINANCE NO. 2019- 13**

AN ORDINANCE TO AMEND CHAPTER 2-3 OF THE LAMAR COUNTY CODE OF ORDINANCES ENTITLED “ALCOHOLIC BEVERAGES”; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF
LAMAR COUNTY, GEORGIA**

SECTION 1. Code Chapter Amended. Chapter 2-3 of the Code of Ordinances of the Lamar County, Georgia, entitled “Alcoholic Beverages” is hereby amended by deleting said Chapter in its entirety and substituting in lieu thereof a new Chapter 2-3 to be entitled “Alcoholic Beverages” which shall read as follows:

**Chapter 2-3
Alcoholic Beverages**

Article I. Purpose; Definitions; Compliance

Sec. 2-3-1 Purpose

This chapter is enacted in furtherance of the police powers of the County to promote the health and general welfare of its citizens; to regulate and control the licensing and sale of alcoholic beverages; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell alcoholic beverages; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of alcoholic beverages.

Sec. 2-3-2 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions contained in O.C.G.A. §§ 3-1-2, 3-4-1, 3-5-1, 3-6-1, and 3-11-1, as amended, are hereby incorporated by reference.

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcoholic Beverages means all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Authorized catered function means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for

consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this ordinance.

Business Entity means a duly incorporated business registered to do business in the State of Georgia, or a firm, partnership, joint venture or similar entity that can document to the satisfaction of the Board of Commissioners of Lamar County its existence as a tax-paying entity for a period of at least one (1) year prior to obtaining a license.

Brewer (see manufacturer)

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form. As used in this definition, the term “eating establishment” means an establishment that derives at least 50% of its total annual gross food and beverage sales from the sale of prepared meals or food.

County means Lamar County, Georgia.

Church means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church and which is either owned or held under a lease of at least five years by or on behalf of such persons, but shall not include a residence also used for religious purposes. The term “church” shall not include the temporary housing of a religious group in an otherwise commercial center.

Distiller (see manufacturer)

Distilled Spirits means the product of the distillation of any liquid, whether rectified or diluted, whatever may be the origin thereof, and shall include synthetic ethyl alcohol, brandy, rum, whiskey, gin, cordials, or other spirituous liquors by whatever name called, to include fortified wines as defined by the Federal Alcohol Administration. At this time, the manufacture and/or sale of Distilled Spirits is prohibited in Lamar County.

Employee means any person who performs any service for a licensee at the business location of the licensee whether for compensation or otherwise when the services performed directly relate to the sale of alcoholic beverages.

Farm Winery Tasting Room shall have the same meaning as defined in O.C.G.A. § 3-6-21.1.

Governing Authority means the Board of Commissioners of Lamar County.

License means the official authorization of the governing authority to sell by package or by drink distilled spirits, wine or malt beverages.

Licensed alcoholic beverage caterer means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing

such person to sell or dispense alcoholic beverages by the drink off the licensed premises and in connection with an authorized catered function.

Licensee means any person, firm or corporation duly authorized by the governing authority to sell by package or by drink distilled spirits, wine or malt beverages.

Malt Beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six (6) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Managing Agent means an individual designated by resolution of a corporation, LLC or other business entity (other than a sole proprietorship) to apply for a license as provided herein and to manage the day to day operations of the premises.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. The term also means:

- A. In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- B. In the case of malt beverages, any brewer; and
- C. In the case of wine, any vintner.

Minor means any person under the age of twenty-one (21) years as provided by state law.

Package Store License means a license issued to a retail dealer for the sale of malt beverages and/or wine in sealed containers for consumption off the premises, generally known as the sale of malt beverages or wine “to go”. At this time, the sale of distilled spirits “to go” is prohibited in Lamar County.

Premises means the definite location, whether a room, shop or building, wherein a license has been granted to sell by package or by drink malt beverages, and/or wine.

Private Club means any nonprofit association organized under the laws of the State of Georgia which:

1. Has been in existence at least one (1) year prior to filing of its application for a license hereunder;
2. Has at least seventy-five (75) regular dues paying members;
3. Owns, hires or leases a building or space within a building for the reasonable use of its members, which building or space has suitable kitchen and dining room space and equipment, and is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
4. Has no member officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by the members of the private club

at any annual meeting or by its governing board out of the general revenue of the club.

Pouring License means a license issued by the governing authority to authorize the sale of wine or malt beverages by the drink for consumption on the premises. The sale of distilled spirits by the drink for consumption on the premises is expressly prohibited in Lamar County.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare cook and serve suitable food for its guests. A restaurant shall derive at least fifty (50) percent of its total annual gross food and beverages sales from the sale of prepared meals or food.

Retail Dealer means any person selling malt beverages and/or wine directly to the consumers. The sale of distilled spirits is expressly prohibited in Lamar County.

Specified Anatomical areas shall mean any of the following:

1. Less than completely and opaquely covered human genitals or pubic region; cleft of the buttocks, or any portion of the female breast encompassed within an area falling below the horizontal line one would have to draw to intercept a point above the top of the areola, or any portion of the areola, or any simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed; or
2. Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities shall mean and include any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts; or
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy; or
3. Masturbation, actual or simulated; or
4. The displaying of the male or female pubic hair, anus, vulva or genitals; or
5. Excretory functions as part of or in connection with any of the activities set forth in 1 through 4 above.

Wholesale Dealer means any person selling wine or malt beverages to retailers and not to consumers.

Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling 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. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition of “wine”.

Sec 2-3-3 License Required

No wine or malt beverages shall be sold in the unincorporated area of Lamar County except under a license granted by both the State of Georgia and the Board of Commissioners of Lamar County. The sale of Distilled Spirits by the drink and by package is prohibited in Lamar County at this time.

Sec 2-3-4 Compliance with Chapter

No application for a license required by this article shall be approved until all applicable provisions of this article shall have been fully and completely complied with.

Sec 2-3-5 Knowledge of Chapter

All holders of a license for the sale of wine or malt beverages shall keep a copy of this chapter on the premises and shall be familiar with the terms of this chapter and shall instruct any person working there to be familiar with the terms of this chapter. It shall be unlawful to sell wine or malt beverages without compliance with this chapter.

Sec 2-3-6 Compliance with State and Federal Laws

With the exception of the sale or manufacture of distilled spirits, all applicable provisions of O.C.G.A. Title.3, Alcoholic Beverages, are hereby adopted by reference. No licensee under this chapter shall engage in the sale of wine or malt beverages in violation of any state or federal laws. No license for the sale of wine or malt beverages shall be granted for any premises if such location is prohibited by O.C.G.A § 3-3-21, or any subsequent amendment thereof.

(Sec 2-3-7—2-3-19 reserved)

Article II. Application

Sec 2-3-20 Filing of Application

All applications for licenses for the sale or distribution of alcoholic beverages shall be filed in person by the applicant in the Administrative office of the Board of Commissioners of Lamar County and shall consist of a completed form or forms furnished for application purposes by the Board of Commissioners of Lamar County and fully in compliance with the criteria hereinafter set out. All applications shall be filed at least ten (10) days prior to the next regular meeting of the Board of Commissioners of Lamar County to be considered at that meeting. All applications shall be fully executed by the applicant. Where the applicant is not the owner of the premises, a copy of applicant’s lease with the owner must be submitted. Each question on the form(s) shall be answered accurately and under oath. The willful making of any false statement

as to a material matter on any application for a license to sell wine and malt beverages shall constitute grounds for denying such license and/or for revocation of any license issued.

(1) If the applicant is a partnership, LLC, or other business entity, other than a sole proprietorship, applicant must submit a copy of its organizational documents and all members of the business entity shall execute it and meet the requirements of an applicant under this chapter at the time application is made and at all times during which the license is in effect.

(2) If the applicant is a corporation, it must submit a copy of the articles of incorporation, certificate of incorporation, by-laws, and other organizational documents, and the president and secretary must in all respects meet the minimum requirements to qualify for the issuance of a license. In the case of business entity applicants whose primary business is the operation of an alcoholic beverage establishment, the majority stockholder must meet the requirements of an applicant under this chapter at the time application is made and at all times during which the license is in effect. Where the applicant is a business entity whose primary business is other than the operation of an alcoholic beverage establishment, a managing agent of such business entity involved or to be involved in the active management of the business to be licensed, must apply for the license and meet the requirements of an applicant under this chapter at the time application is made and at all times during which the license is in effect.

(3) Any person, firm or business entity who or which owns property leased to an applicant, which lease provides for payment based upon the level of alcoholic beverage derived income, shall be considered a co-applicant and must meet all qualifications contained herein.

Sec 2-3-21 Specification of license applied for

An applicant may apply for more than one license on the same application for the same location, nevertheless, each individual license shall be approved or denied separately by the Board of Commissioners of Lamar County.

Classification

There are 12 classifications of licenses available for the sale of wine and malt beverages:

Malt Beverage Package: permits the retail sale of closed containers of malt beverages directly to consumers

Malt Beverage Pouring: permits the retail sale of open containers of malt beverages directly to consumers

Wine Package: permits the retail sale of closed containers of wine directly to consumers

Wine Pouring: permits the retail sale of open containers of wine directly to consumers

Farm Winery: permits the manufacture and wholesale of wine up to 24,000 gallons per calendar year. To qualify for a Farm Winery at least 40% of annual production must come from agricultural produce grown in Georgia.

Farm Winery Tasting Room: permits the retail sale of wine produced by a Georgia Farm Winery for consumption on the premises and/or closed packages for consumption off the premises.

Brewpub: permits the manufacture and sale of not more than 10,000 barrels of malt beverage at a location that also holds a Malt Beverage Package and/or Malt Beverage Pouring License. This also permits the licensee to sell a maximum of 5,000 barrels per year to a licensed wholesale dealer.

Brewer: permits the manufacture and sale of not more than 3000 gallons per calendar year for consumption on the premises and/or closed container sales for consumption off premises

Special Event (non profit): permits the sale of wine and malt beverages in open containers for a limited and specific time period during an event sponsored by a certified non profit organization

Authorized Catered Function: permits the sale of wine and malt beverages in open containers for a limited and specific time period during an event by a person or entity that holds a valid alcohol permit in another location and/or jurisdiction

Wholesale dealer/distributor: Permits the sale of alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Manufacturer of Alcoholic Beverages: Permits the making, producing, or bottling of an alcoholic beverage.

The sale of distilled spirits is expressly prohibited.

The holding of one license does not entitle the holder to any other type of license, each will be individually decided upon by the Board of Commissioners of Lamar County.

~~To apply for a pouring license for Malt Beverage and/or Wine, you must also apply for a package license.~~

Restaurants with a valid pouring license are authorized to allow patrons to remove one unsealed bottle of wine per patron for consumption off premises if the patron has purchased a meal and consumed a portion of the bottle of wine with their meal on the premises. This is commonly referred to as “brown bagging” and does not require a separate license. Please refer to O.C.G.A. § 3-6-4 for all requirements.

Restaurants with a valid pouring license are authorized to allow or disallow patrons to bring their own alcoholic beverages to be consumed on the premises. This does not require a separate license. This is commonly referred to as BYOB.

Authorized Catered Functions

Any person, partnership, or corporation who holds a malt beverage and or wine package and pouring license can also make application to sell the same off the licensed premises at an authorized catered function. Fifteen (15) days’ notice must be given to the County Administrator before off premises sales are allowed. A separate permit must be issued for each event, the fee of which is decided upon by the Board of Commissioners of Lamar County and posted in the office of the County Administrator. All state location restrictions will still apply.

Special Events (non profit)

Nonprofit civic organizations may qualify for a temporary permit from the commissioner of the department of revenue to sell alcoholic beverages for the consumption on the premises for a period not to exceed three (3) days. No more than six (6) permits may be issued to a non-profit organization in any calendar year. An authorized representative of a nonprofit civic

organization may apply to the County Administrator for a letter certifying the date, time and event location as a condition for seeking a temporary permit from the commissioner of the department of revenue. The County shall not impose a fee or charge for such letter.

Sec 2-3-22 Fingerprints

Each applicant shall furnish a complete set of fingerprints to the county sheriff's office who shall search the files of the Georgia Bureau of Investigation (GBI) for a period of two (2) years (O.C.G.A. § 3-3-2) immediately preceding the date of application for any instance of criminal activity, and the fingerprints shall also be submitted to the Federal Bureau of Investigation (FBI) under rules established by the United States Department of Justice for processing and identification of records. The records from the GBI and the FBI will be forwarded by the sheriff's office to the office of the Board of Commissioners of Lamar County to become part of the application, but will be held separately in a secure location and will only be viewed and/or disseminated to those persons who have completed training as may be required by state and federal laws. Tender of an application for an alcohol license shall serve as an express authorization to the County to conduct an investigation into the background of the applicant and all others authorized in this chapter.

Sec 2-3-23 Other information needed

The applicant is also required to provide his/her name, complete address and phone number, address for the past five (5) years, employers for the past five (5) years, and a listing of any other license held in any other jurisdiction for alcoholic beverages and any revocation of such license. A detailed drawing is required of the building which will house the business, including the outside area with all businesses within three hundred (300) feet of the building identified, dining area, restrooms, kitchen and the area reserved to store any alcoholic beverages.

Sec 2-3-24 Posting of Notice

Once an application for the sale or distribution of alcoholic beverages is made, the applicant has three (3) days to post a sign at least twenty-four (24) inches by thirty-six (36) inches with letters at least four (4) inches in height on the front door of the premises proposed for the location of the business to be licensed and upon a prominent place on the lot where the business for which the license is proposed is located, to be no more than ten (10) feet from the public street on which said business faces, which sign shall state: "Application Pending for this Location for License to Sell Wine and/or Malt Beverages" whichever is applicable. This sign shall remain in place until the application is acted upon by the Board of Commissioners of Lamar County.

Sec 2-3-25 Application Fee

There shall be a non-refundable application fee attached to the application in an amount set by the Board of Commissioners of Lamar County and posted in the office of the County Administrator.

Sec 2-3-26 Application Review by the Board of Commissioners of Lamar County

Once the application is complete, the County Administrator will submit the application to the Board of Commissioners of Lamar County for approval or denial at the next regularly scheduled commissioners meeting. The applicant, or at least one general partner of the partnership, member or manager of the LLC, or officer of the corporation, or the managing agent shall be present to answer any questions that may be submitted to them by the Board of Commissioners of Lamar County. Failure to attend the meeting may be grounds for denial or delayed consideration of the application. Other grounds for denial are found in Article 3 of this ordinance. If the Board of Commissioners of Lamar County find, upon motion and majority approval, the application is in good order and granting approval of the license(s) meets the standards set under this ordinance, the Board of Commissioners of Lamar County will instruct the County Administrator to generate the license(s) so approved.

Article III. Grounds for Denial

Sec 2-3-30 Age and Residency Requirements

No license shall be granted to any person as defined herein unless such person is of legal age and is a citizen or resident legal alien of the United States of America.

Sec 2-3-31 False Statements on Application

The making of any statement on the application that is found to be false is grounds for denial of the application.

Sec 2-3-32 Character

(a) In no event shall any license be granted to any person where any of the individuals, or officers, as the case may be, have, within two years (2) immediately prior to the filing of the application, entered a plea of guilty or a plea of nolo contendere, or shall have suffered any conviction of any kind involving particularly, but not limited to, alcoholic beverages, of the state or of any locality or of the United States, if such plea or conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with local, state or federal laws.

(b) In no event will a license be granted if the applicant at any time has had a license for distilled spirits, wine and/or malt beverage revoked at any location, whether in this county or otherwise if it indicates the applicant will not maintain the operation for which he is seeking a license in conformity with local, state or federal laws.

(c) A license application may be denied to any applicant where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

(d) The Board of Commissioners of Lamar County, in their discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or proposed location of the business. If in their judgment circumstances are such that the granting of the license would not be in the best interest of the general public, such circumstance may be grounds for denying the application.

(e) The restrictions of this subsection as to stockholders shall apply only to stockholders of privately owned corporations and to stockholders of publicly owned corporations who hold in excess of fifty percent (50%) of outstanding stock.

Sec 2-3-33 Zoning Requirements

No license shall be granted to an establishment that does not meet all zoning and building regulations.

Sec 2-3-34 Payment of Taxes

No application for a license required by this chapter shall be approved unless the applicant and/or the property owner of the establishment to be licensed (if different from the applicant) thereof shall have fully paid all ad valorem taxes and occupational taxes due to Lamar County.

Sec 2-3-35 Location

No application for any license to sell wine or malt beverages shall be approved where the proposed location of the business is within 100 yards of any school building, school grounds, or college campus. However, this shall not prohibit a grocery store licensed for the retail sale of only wine and malt beverages within 100 yards of any school building, school grounds, or college campus, where so otherwise permitted. For this purpose, the term “grocery store” shall mean a retail establishment which has a total retail floor space of at least 10,000 square feet of which at least 85% is reserved for the sale of food and other nonalcoholic items, conducts all of its sales inside the building containing its retail floor space, and meets such other criteria as may be required in the Zoning Ordinance of Lamar County, Georgia. Sale of any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein is prohibited. O.C.G.A. § 3-3-21

The distance herein prescribed shall be measured in the following manner:

- From the front door of the structure from which wine and/or malt beverages is offered for sale;
- In a straight line to the nearest public sidewalk, walkway, street, road or highway;

- Along such public sidewalk, walkway, street, road or highway by the nearest route;
- To the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the appropriate state statute.

The premises cannot, at the time of application, be the subject of an ordinance violation enforcement investigation. The front entrance of the premises must be clearly visible from a public street.

Sec 2-3-36 Written statement of denial

If the application for a license is denied, the County Administrator shall issue a written statement to the applicant with ten (10) days of the decision, which statement shall set forth the reason or reasons for denial.

Sec 2-3-37 Hearing

Any person aggrieved by any act or omission of the Board of Commissioners of Lamar County with respect to its proceedings as to issuance of a license under this chapter shall have the right to move for a hearing and reconsideration of the matter. Such motion for a hearing shall be filed within ten (10) calendar days after the receipt of the notice of denial, shall be in writing, and shall outline the manner in which such protestant believes that the Board has erred. If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for a hearing except after a grant thereof by the board of good cause shown. The Board shall afford a hearing within sixty (60) calendar days after the filing of the motion, with at least ten (10) calendar days written notice having been served upon the protestant, which notice shall state the protestant has the right to appear in person at a date and time specified in said notice, and that the protestant shall be allowed to be represented by counsel, and may introduce oral and documentary evidence under oath, and may examine and cross examine witnesses.

(sec 2-3-38—2-3-39 reserved)

Article IV. License

Sec 2-3-40 License Fee

A license fee for alcoholic beverages will be established by the Board of Commissioners of Lamar County and will be posted in the office of the County Administrator.

Sec 2-3-41 Transferability

No license issued under this article shall be assignable or transferable. In the event a licensed business is moved, sold or closed or no longer directly operated by the licensee, the licensee shall immediately surrender his license to the County Administrator. All licenses shall be issued to specific persons and for a specific location. Change of business interest from one (1) party at interest named in the original application to another party at interest named in the

original application shall not be deemed a transfer of a license. In such instance, however, the licensee shall notify the County Administrator in writing of such change, and fully disclose the facts in connection therewith, within seven (7) days from the date of such change. Whenever a licensee is a business entity, other than a sole proprietorship, a new license application shall be required subsequent to any change in more than 10 percent (10%) of the ownership of the licensed business entity where a new owner joins said business entity.

Sec 2-3-42 Licenses to be Displayed

Licenses granted for the manufacturing, sale or distribution of alcoholic beverages must be displayed at all times on the premises for which the same was issued in the same location as is displayed the occupational tax certificate.

Sec 2-3-43 Term

All licenses issued under this article shall be issued on a calendar year basis and shall expire, regardless of the date of issuance, on the last day of December of each year.

Sec 2-3-44 Renewals

Applications for a renewal license shall be provided to the County by November 1 for the following year for the Board to act upon by December 31. Renewal applications will be made available in the County Administrator's Office. Re-advertising is not required, however, fingerprints must be resubmitted to the Lamar County Sheriff's Office every two (2) years. Any license not renewed by December 31st of each year will become void on January 1st and the license holder must reapply following the same procedure as a new license.

Sec 2-3-45 Failure to open or operate

All holders of licenses issued hereunder must, within six months after the issuance of such license, open for business the establishment referred to in the license. Failure to open the licensed establishment within such period shall serve as a forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.

(sec. 2-3-46 ----- 2-3-49 reserved)

Article V: Restrictions and Requirements

Sec 2-3-50 Hours of Operation

It shall be unlawful to sell or offer for sale by the package, in or upon any licensed premises, any alcoholic beverage except between the hours of 7:00 a.m. and 2:00 a.m. on Monday through Saturday, and between the hours of 12:00 p.m. through 11:30 p.m. on Sunday of each calendar week. It shall be unlawful to sell or offer for sale by the drink, in or upon any

licensed premises, any alcoholic beverage except between the hours of 7:00 a.m. and 2:00 a.m. on Monday through Saturday, and between the hours of 12:00 p.m. through 11:30 p.m. on Sunday of each calendar week. All open containers of alcoholic beverages on the premises shall be collected and either properly stored or disposed of not later than thirty minutes after the deadline to stop selling or offering for sale alcoholic beverages by the drink.

Sec 2-3-51 Sales on Election Days

The sale of wine and/or malt beverages on election days is specifically permitted. However, no licensee or any person in his employ shall sell or offer to sell any wine or malt beverages within two hundred fifty (250) feet of any polling place or the outer edge of any building within which such polling place is established on primary or election days.

Sec 2-3-52 Sale to Minors

No licensee under this chapter shall furnish or cause to be furnished or permit any person in his employ to furnish any wine and/or malt beverage to any minor. The licensee shall be held responsible for any such sale made by his employees or others in the licensed business premises. The prohibition of this section includes the sale, gift or any other furnishing of wine and/or malt beverages to minors. The holder of any license for the sale of wine and/or malt beverages by package or by the drink shall post in a conspicuous place in his place of business a notice with letters not less than four (4) inches in height which shall be clearly visible to all customers entering the establishment as follows: "Sales of any alcoholic beverages to Minors is Strictly Prohibited."

Sec 2-3-53 Furnishing to certain other persons prohibited

No licensee under this article shall sell or permit to be sold or otherwise furnish any wine and/or malt beverages to any person who is physically or mentally impaired due to the consumption of any alcoholic beverage.

Sec 2-3-54 Employment of Persons under the age of 18

It shall be unlawful for any person to allow or require a person under 18 years of age to dispense, serve, sell or take orders for wine and/or malt beverages; provided, however, that the provisions of this section shall not prohibit minors who are employed in supermarkets, convenience stores, or drugstores from selling or handling wine and/or malt beverages which are sold for consumption off the premises, so long as such minor is under the supervision of at least one (1) adult, whether such adult be the licensee or another employee.

Sec 2-3-55 Consumption on Premises

No retail dealer for the sale of wine and/or malt beverages shall allow wine or malt beverages to be consumed on its premises unless such dealer has both a package license and a pouring license.

Sec 2-3-56 Requirements regarding Premises

All businesses holding a license to sell wine and/or malt beverages must comply with the building ordinances of Lamar County, the State of Georgia and the federal government. Each building in which wine and/or malt beverages will be sold shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times. All premises for which a license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen.

Sec 2-3-57 State Law Location Restrictions

No license for the sale of wine and/or malt beverages shall be granted for any premises located at any place, even if in accordance with county zoning regulations, if the sale of alcoholic beverages at such location is prohibited by O.C.G.A. § 3-3-21, or any subsequent amendment thereof.

Sec 2-3-58 Adult Entertainment Establishments

The Board of Commissioners of Lamar County takes note of the notorious and self-evident conditions and secondary effects attendant to the commercial exploitation of human sexuality, particularly the problems of crime, blight, and deterioration which are brought about by alcohol and live nudity. It is the finding of the Board that prohibiting public nudity (either partial or total) under circumstances related to the sale and consumption of alcoholic beverages is in the best interest of the public welfare by furthering legitimate governmental interest, such as reducing criminal activity, protecting against property devaluation and deterioration, and eliminating undesirable community conditions normally associated with establishments which serve alcohol and allow and/or encourage nudity, and that such prohibition will not infringe upon the protected constitutional rights of freedom of speech. Therefore, the sale or consumption of alcoholic beverages is prohibited in Adult Entertainment establishments.

(sec 2-3-59 reserved)

Article VI: Taxes on Malt Beverages and Wine

Sec 2-3-60 Taxes on Wine

There is hereby levied an excise tax computed at the rate of \$.22/liter which shall be paid to the Board of Commissioners of Lamar County on all wine sold, displayed or stored in Lamar County and outside of the corporate limits of any municipality within Lamar County. Said tax shall be paid to the Board of Commissioners of Lamar County by the wholesale distributor on all wine sold to the licensees for the sale of wine, as follows: Each wholesale distributor selling, distributing or in any way delivering wine to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.22/liter shall be pro-rated so that each bottle or each individual sized container shall be taxed on the basis of \$.22/liter. It shall be unlawful

and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any wine on which such tax has not been paid.

Sec 2-3-61 Taxes on Malt Beverages

There is hereby levied an excise tax computed at the rate of \$.05 per twelve ounces which shall be paid to the Board of Commissioners of Lamar County on all malt beverages sold, displayed or stored in Lamar County and outside of the corporate limits of any municipality within Lamar County. Said tax shall be paid to the Board of Commissioners of Lamar County by the wholesale distributor on all malt beverages sold to the licensees for the sale of malt beverages, as follows: Each wholesale distributor selling, distributing or in any way delivering malt beverages to any such licensee shall collect the tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. The \$.05 per twelve ounces shall be pro-rated so that each bottle or each individual sized container shall be based on \$.05 per twelve ounces. It shall be unlawful and a violation of this division for any such licensee to possess, own, hold, store, display, or sell any malt beverages on which such tax has not been paid.

Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 of each container sold containing not more than 15 ½ gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons.

Sec 2-3-62 Excise tax for private clubs

An excise tax of three (3) percent is hereby imposed of private clubs pursuant to O.C.G.A. § 3-7-61.

Sec 2-3-63 Failure to make timely reports and/or false or fraudulent reports

The failure of any wholesale dealer in distilled spirits, wine and/or malt beverages to make a timely report or remittance as provided in this article shall render a wholesaler dealer liable for a penalty equal to ten (10) percent of the total amount due during the first thirty-day period following the date such report and remittance were due and further penalty of twenty-five (25) percent of the amount of such remittance for each successive thirty-day period or any portion thereof during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to fifty (50) percent of the amount of the remittance which would be required under an accurate and truthful report.

(Sec. 2-3-64 ----- 2-3-69 reserved)

Article VII. Revocation or Suspension

Sec 2-3-70 Grounds for Revocation or Suspension

The following shall be considered just cause for suspension or revocation of any license issued under this chapter:

- (1) The performance of any act prohibited by this chapter or the failure to perform any act required by this chapter, as well as the violation of any state, local or federal law, particularly, but not limited to, those involving alcoholic beverages, if such violation tends to indicate that the licensee will not maintain the operation of the business licensed in conformity with state, local or federal laws. If such act, omission or violation is done by any agent, employee, or officer of the licensee, the lack of knowledge on the part of the licensee or the lack of authorization for such act or omission or violation shall be no defense.
- (2) The conviction of, or the entry of a plea of guilty or nolo contendere to, a drug-related, alcohol, gambling, or sex-related crime, or any crime involving moral turpitude, or any violation of this Chapter.
- (3) The occurrence on three (3) or more occasions within any twelve-month period on the licensed premises of fights, disorderly conduct, drunkenness, breach of the peace and other similar conduct, whether the same be committed by the licensee or by customers or by others.
- (4) The employment or use of any person live, in any capacity, in the sale or service of alcoholic beverages or food while such person is unclothed or in such attire, costume or clothing, as to expose any portion or his or her specified anatomical areas as defined herein.
- (5) Live entertainment where any person appears unclothed or in such attire, costume or clothing as to expose any portion of his or her specified anatomical areas or where such person performs acts or specified sexual activities or acts which simulate specified sexual activity, as defined herein.
- (6) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where live patrons of the licensed establishment are encouraged or allowed to engage in any or the conduct proscribed above.

Sec 2-3-71 Suspension or Revocation of License

In the event the licensee violates any regulation or restriction as defined in this chapter or any laws of the state or has committed a crime of moral turpitude as defined by state law, then the license of the licensee shall be subject to immediate suspension pending a hearing. The Board of Commissioners of Lamar County hereby empowers the Chairman of the Board of Commissioners of Lamar County to issue orders of immediate suspension of any license issued under this chapter provided that said chairman receives clear and convincing evidence indicating either a violation of the prohibitions of this chapter or of state law relating to alcoholic beverages or any general law, the violation of which is a crime of moral turpitude as defined by state law. In such cases, the Chairman or his agent shall immediately enter upon the premises of the licensee, post a notice in a place where it can be seen by the general public and notify the

licensee or its agent on the premises that the license is suspended pending a hearing. A notice of the immediate suspension shall also be delivered to the licensee at the address given when applying for the license. The immediate suspension order and notice shall contain the following information:

- A brief description of the reason for the issuance of the order for immediate suspension of the license;
- The date, time and place of the hearing before the Board of Commissioners of Lamar County; and
- Notice to the licensee and the general public that the licensee's permission to engage in the sale of distilled spirits, wine and/or malt beverages has been suspended pending the outcome of the hearing and any continuation of the business pursuant to the suspended license is a further violation of this chapter and state law.

Within seven (7) days after the issuance of such order, unless the seventh day falls on a Sunday or a holiday, the Board of Commissioners of Lamar County shall convene for a hearing on the issue of continued suspension or permanent revocation of the license. If the seventh day falls upon a Sunday or a holiday, the time shall be extended until the next day that is neither a Sunday nor a holiday. At the hearing, the licensee shall have the right to appear in person and by attorney and both the Board of Commissioners of Lamar County and the licensee shall have the right to present evidence under oath, introduce documentary evidence, cross examine witnesses, and generally present evidence of violations of this division or the absence thereof, such hearing to be open to the public.

Sec 2-3-72 Rehearing

Any person aggrieved by any act or omission of the Board of Commissioners of Lamar County with respect to its proceedings involving revocation or suspension or forfeiture of any part of a bond under this article shall have the right to move for a rehearing. Such motion for rehearing shall be filed within five (5) calendar days after the act or omission complained of, shall be in writing, and shall outline the manner in which such protestant believes that the board has erred. If the motion relates to a matter as to which evidence has already been heard, no additional evidence or argument shall be permitted on the motion for rehearing except after a grant thereof by the Board. If the matter of which complaint is made is not the subject of a prior hearing at which the protestant was permitted to be present and heard, the Board shall afford a hearing within ten (10) calendar days after the filing of the motion, of which three (3) calendar days written notice shall be given to the protestant, at which rehearing the protestant shall be allowed to appear, be represented by counsel, introduce oral and documentary evidence and examine and cross examine witnesses.

Sec 2-3-73 Time Limitations on New Licenses

When a license issued under this chapter has been suspended or revoked under the provisions of this article, no application for a new license for the same location will be received for a period of twelve (12) months thereafter; and no application for a new license from the licensee involved shall be received for a period of twenty-four (24) months.
(sec 2-3-74 ----- 2-3-79 reserved)

SECTION 2. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 3.

A. It is hereby declared to be the intention of the Board of Commissioners that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are and were, upon their enactment, believed by the Board of Commissioners to be fully valid, enforceable and constitutional.

B. It is hereby declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other Section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Board of Commissioners that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other Section, paragraph, sentence, clause or phrase of this Ordinance.

C. In the event that any section, paragraph, sentence, clause or phrase of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Board of Commissioners that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 4. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective immediately upon its adoption by the Board of Commissioners of Lamar County, Georgia.

SO ORDAINED, this _____ day of _____, 2019.

CHARLES GLASS, Chairman

ROBERT HEINEY

BENNIE HORTON

NANCY THRASH

RYRAN TRAYLOR

ATTEST:

Carlette Davidson, County Clerk

(SEAL)

First Reading: _____

Second Reading/
Adoption: _____