

# **ORDINANCE FOR THE LICENSING OF BOTTLE CLUBS IN THE TOWN OF LINCOLNVILLE**

## **Section 1.100 License Required**

No person, firm, or corporation shall keep, maintain, operate, lease, or otherwise furnish, whether to its members and quests or the general public, any premises, building, apartment, or place for the use as a bottle club, without first having obtained a license and paying the fee therefor.

Notwithstanding any other provisions of this article, a bona fide non-profit, charitable, educational, political, civic, recreational, fraternal, patriotic, or religious organization shall not be subject to the provisions of this article.

## **Section 1.101 Licensing Authority**

Licenses shall be issued by the Municipal Officers, after notice and hearing on the licensee's application. Notices shall be given by the Municipal Officers, pursuant to the provisions of Section 1-110 of this article. The municipal officers shall grant a license when they find that the applicant is in strict compliance with the requirements of this article and any other applicable codes and ordinances of the Town of Lincolnville.

## **Section 1.103 Definitions**

Unless otherwise defined herein or in text, all words used will have their common meaning. Words and phrases having a special meaning will be defined when they first appear in the Article, except for the following definitions:

1. Bottle Club – A “bottle club” means any person operating on a regular basis a premise for social activities in which members or guests provide their own alcoholic beverages, and where no alcoholic beverages are sold on the premises. A bottle club maintains suitable quarters for the use of members on a regular basis or charges an admission fee to members or to the general public. A bottle club is not a public place, as defined in Title 17, MRSA 2003.
2. Person – “Person” shall mean any individual person, firm, corporation, association, partnership, or organization.
3. Officer - “Officer” shall mean any officer, director, stockholder, owner, manager, or person who either has a financial interest of any nature in a bottle club or directs any policy of the bottle club.

## **Section 1.104 Fees**

Fees for a license for a bottle club shall be paid annually:

Bottle Club ----- \$1,500

### **Section 1.105 Application and Information**

Every applicant for a bottle club license shall:

1. Complete and file an application on a form prescribed by the Town Administrator.
2. Deposit the prescribed license fee in advance with the Town Administrator.
3. Submit the completed application to the Town Administrator, together with attested copies of the articles of association and bylaws, if the applicant is a corporation, or articles of association and bylaws if the applicant is an association, as well as a list of all officers of the bottle club.
4. File an affidavit which will identify all officers and their places of residency at the present time and for the immediately preceding three (3) years. Submission of false information in an application for a license shall be a violation of this article and such act shall be grounds for the denial of the application.

### **Sec 1.106 Qualifications of Officers**

All officers of the bottle club shall meet the following qualifications: Never have been convicted of a class A, B, or C crime or of violating any of the gambling or prohibitive liquor laws either of the United States or of the State of Maine or any other state, within (5) five years immediately preceding the date of application. Each such officer shall file the release authorization by 16 MRSA 606(4) (Criminal History Record Information Act) with the application. Failure to provide such a release shall be ground for denial of the application.

### **Section 1.107 Description of the Premises**

Every applicant for a bottle club license shall include in the application a description of the premises for which a license is desired and shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor.

### **Section 1.108 Articles and Bylaws**

Applicants for bottle club licenses shall possess written articles of incorporation or association and bylaws. The articles or bylaws shall provide for regular election of officers or directors. Membership shall be regulated by articles or bylaws.

### **Section 1.109 Investigation of Applicant**

Upon receipt of each application for a bottle club license or notice of a change of officers.

1. Compliance with Ordinances – The Code Enforcement Officer(s) shall verify that the premises of the proposed bottle club comply with applicable ordinance of the Town of Lincolnville and the State of Maine, including but not by way of limitation, building permits, shoreline zoning ordinance, flood plane zone ordinance, plumbing code, national electrical code, and the general zoning ordinance and shall report their findings in writing to the Municipal Officers.
2. Town Administrator – The Town Administrator shall review the application and other documents and determine whether such documents indicate that the requirements of the article have been met and shall report the finding in writing to the Municipal Officers.
3. Inspection of Premises by Code Enforcement – The Code Enforcement Officer(s) shall cause inspection to be made of the proposed location of the bottle club for the purpose of determining whether the applicable ordinances relating to health and safety have been complied with. A report of his findings shall be made in writing to the Municipal Officers.

### **Section 1.110 Notice of Hearing**

After receipt of the written reports required by Section 1-109, the Town Administrator shall give notice of the public hearings on applications for bottle clubs in the form and manner and to the person herein specified. The notice shall include the time and place of such hearing, the nature of the matter to be heard, the address or location of the property involved. Where notice by mail is required, it shall be mailed at least (7) seven days in advance of the hearing date by regular United States mail.

Notices shall be given to each of the following as specified:

1. Residents – To all residents of the Town by publication in a newspaper of general circulation at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing.
2. Abutters – To the owners of all property within five hundred (500) feet of such parcel or tract by certified mail.
3. Property owners defined – For the purpose of this section, the owners of property, shall be considered to be the parties listed by the assessor's of the Town of Lincolnville as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the Municipal Officers.

### **Section 1.111 License Not To Be Transferable**

A separate license must be obtained for each branch or separate establishment of a bottle club. Each license shall authorize the operation of such an establishment only at the location described in such license and in conformity with all applicable ordinances and laws. No license shall be transferable to another person or to any other location,

except that a licensed bottle club may change its name upon approval of the Municipal Officers, if its location remains the same.

### **Section 1.112 Display of License**

Every bottle club shall display its license at all times in a conspicuous place on its premises.

### **Section 1.113 Expiration**

All licenses issued pursuant to this article shall expire one year from the date of issue.

### **Section 1.114 Proximity to Schools and Churches**

No new bottle club licenses shall be granted under this article to premises situated within three hundred (300) feet of a public or private school, church, chapel, or parish house in existence such as the time such new license is applied for, except such premises as were in use as bottle clubs on the effective date of this article. The three hundred (300) foot distance shall be measured from the main entrance of the school, school dormitory, church, chapel, or parish house by ordinary course of travel.

### **Section 1.115 Minors Not Permitted on Bottle Club Premises**

No person under the legal drinking age in the State of Maine shall be permitted in or on that part of the premises subject to the control of any bottle club where persons are permitted to drink alcoholic beverages.

### **Section 1.116 Entertainment License**

No license shall permit on his licensed premises any music, except radio or other mechanical device or any dancing or entertainment of any sort, unless the licensee have first obtained a special amusement permit, pursuant to the requirements of the Town of Lincolnville Special Amusement Permit. For the intent of the Special Amusement Permit bottle clubs shall be considered licensees.

### **Section 1.117 Hours of Operation of Bottle Clubs**

The premises used as a bottle club shall be closed and vacated by members and guests each day from 1:15 AM to 6:00 PM except January 1 and 2:00 AM on January 1. During the hours that a bottle club must remain closed, no members, guests, or other persons, other than regular employees, may be on or remain therein, and the use by anyone of the premises or facilities of the bottle club for the drinking of alcoholic beverages during such hours when a bottle club must remain closed is prohibited.

### **Section 1.118 Entrance to be Marked**

The entrance to every club shall be plainly marked **“BOTTLE CLUB” MEMBERS AND GUEST ONLY.**

### **Section 1.119 Illegal Activities**

No licensee shall knowingly permit any illegal activities to take place on the licensed premises. Such licensed premises shall be subject to inspection by State, County, or Municipal Law Enforcement Officers at any time.

### **Section 1.120 Suspension or Revocation**

A license to operate a bottle club, as provided for by this article, may be denied, suspended, or revoked by the Municipal Officers for either violation of or failure to comply with any of the provisions of the article. Determination of the severity of the violation and whether or not a denial, suspension, or revocation is warranted, shall be made by the Municipal Officers, after notice and hearing.

### **Section 1.121 Appeals**

An appeal from any final decision of the Municipal Officers shall be taken by any party to the Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure.

### **Section 1.122 Penalty**

In addition to any action which the Municipal Officers may take, violation of any provision of this article shall be a civil violation and a fine not exceeding five hundred (500) dollars may be imposed. Each day that a violation continues will be treated as a separate offense.

### **Section 1.123 Severability**

If any section, subsection, sentence, clause, or phrase of this article is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article.

**State Law Reference: 30 MRSA 1917; 2151; 28 MRSA 2, 4.**

Approved: June 10, 1985