

## **CODE AMENDMENT**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILLEN, GEORGIA, TO DELETE AND RESERVE ARTICLE VII OF CHAPTER 34; TO CREATE A NEW CHAPTER TO BE TITLED “CHAPTER 4” WHICH CHAPTER SHALL BE TITLED “ALCOHOLIC BEVERAGES;” AND FOR OTHER PURPOSES ALLOWED BY LAW.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MILLEN, GEORGIA:**

### **Section 1 Enactment and Short Title.**

**WHEREAS** current provisions related to the sale of alcoholic beverages in the City of Millen, Georgia (“the city”) are limited to the sale of malt beverages and wine and are contained in Article VII of Chapter 34 of The Code of The City of Millen, Georgia (“Code”), which chapter deals with “Taxes, Licensing and Regulation;” and,

**WHEREAS**, the voting public of the city have, by a majority of the votes cast in the 2021 City Election, approved the licensing and regulation of the package sale of distilled spirits in the city; and,

**WHEREAS**, it has been deemed prudent by the Mayor and Council of the city to incorporate the provisions related to the sale of malt beverages and wine and the package sale of distilled spirits into a new Chapter of the Code to be titled “Alcoholic Beverages” for ease of location and understanding of the provisions related to the licensing and regulation of the sale of alcoholic beverages in the city and, therefore, delete and reserve Article VII of Chapter 34:

**Now, therefore**, the Mayor and Council of the City of Millen, Georgia, hereby enact and adopt the following Amendment to the Code.

### **Section 2 Amendment to repeal Article VII of Chapter 34**

The Code is hereby amended by repealing the provisions of Article VII of Chapter 34 in its entirety, reserving the Article for future use, it being the intent of the Mayor and Council to incorporate provisions related to the licensing and regulation of the sale of malt beverages and wine in a new Chapter within the Code.

### **Section 3 Amendment to create Chapter 4 of The Code to be titled “Alcoholic Beverages**

The Code is hereby amended by creating a new Chapter to be numbered as “Chapter 4” and titled “Alcoholic Beverages,” the provisions of which shall be as follows:

“Chapter 4

**ALCOHOLIC BEVERAGES**

**Article I. In General**

**Sec. 4-1 --- 4.19 Reserved.**

**Article II. Regulation of the Licensing and Sale of Malt Beverages and Wine**

**Sec. 4-20. - Definitions.**

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

*Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals actually are served and regularly served, such space being provided, in no event less than 1,000 square feet, with adequate and sanitary kitchen and dining room equipment and capacity (adequate seating for no fewer than 50 persons) and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

(b) The definitions set forth in O.C.G.A. § 3-1-2 (Alcoholic Beverages—General Provisions—Definitions), shall be effective as definitions of the words, terms and phrases used in this article. All words, terms and phrases used herein, other than those specifically defined elsewhere in this article, shall have the respective meanings ascribed to them in O.C.G.A. § 3-1-2, and shall have the same scope and effect that the same words, terms and phrases have where used in O.C.G.A. § 3-1-2.

(Code 1992, § 7-6-1; Ord. of 12-5-1995)

**Sec. 4-21. - Sales of beer and wine generally.**

It shall be unlawful for any person to sell or distribute any alcoholic beverage within the city other than malt beverages and wine, except as provided in Article III herein. Further, the state laws and regulations relating to the sale and distribution of alcoholic beverages, malt beverages and wine as revised in this state are incorporated into and made a part of this chapter 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 chapter.

**Sec. 4-22. - License required for sale of beer and wine.**

It shall be unlawful for any person to sell or distribute any malt beverage or wine within the city without having first obtained a license from the city for that purpose. Application may be made for license:

- (1) To sell malt beverages or wine by the package; or
- (2) In connection with the operation of a restaurant, for the sale of the same for consumption on the premises.

The two licenses are separate and distinct and the acquisition of one shall not provide any benefit reserved by the city to the other.

(Code 1992, § 7-6-3; Ord. of 12-5-1995)

**Sec. 4-23. - Licensing applications, procedures and fees.**

Persons desiring a license to sell or distribute malt beverages or wine either by the package or for consumption on the premises of a restaurant shall make annual application for such license in writing on forms provided for that purpose by the city. Such application shall be signed, under oath, by the owner of the business or a principal officer of the entity operating the business if other than a natural person. The initial application shall require, minimally, the following:

- (1) The name, age and address of the applicant in the case of an individual; or, the case of corporations, clubs and the like, the names, ages and addresses of persons entitled to share in the profits, the name of the corporation, the address of the registered office, the name and address of the registered agent, the names and addresses of the officers and directors, and, if the majority interest is owned by one person, the name, address and percent of the outstanding stock in the possession of that person.
- (2) The nature and character of the business enterprise being operated by the applicant within which the license will be utilized.
- (3) The length of time the applicant has been in the business described.
- (4) The location and description of the premises or place of business in which the license will be utilized.
- (5) Identification of all other license applications for the sale of malt beverages or wine in any locale and the disposition of such application, if any.
- (6) A statement that no person is, or will be, involved in the business or its operation has been convicted of a felony or misdemeanor involving moral turpitude and is not otherwise disqualified to hold a license to sell malt beverages or wine by federal or state law.

- (7) A statement that no previous license to sell malt beverages or wine granted to the applicant or any person who is, or will be, involved in the operation of the business has been withdrawn, revoked or suspended, or, in the alternative, a complete statement of the details of such withdrawal, revocation or suspension.
- (8) Finger printing of the applicant and all such other persons as the city manager, in his or her discretion, deem appropriate upon consideration of the initial application.

Subsequent to the initial application, annual applications for renewal of the applicant's license shall confirm that the information on the initial application has not changed and is true and correct and, further, shall confirm the renewal of the applicant's Georgia license.

(Code 1992, § 7-6-4; Ord. of 12-5-1995; Ord. of 3-4-2014(2), § 3)

#### **Sec. 4-24. - Licensing standards.**

Licenses to sell malt beverages or wine within the city shall be issued annually only to those persons who, or to corporations, clubs and associations which, meet all of the following qualifications:

- (1) The individual applicant, or at least one officer or major stockholder of a corporation, club or association, must be a United States citizen.
- (2) No individual nor any officer, director or major stockholder of a corporation, club or association may have a record of conviction of a felony or misdemeanor involving moral turpitude.
- (3) No individual nor any officer, director or major stockholder of a corporation, club or association may have a history of withdrawal, revocation or suspension of a license to sell malt beverage or wine by the city, the county, the state, the United States of America, or any other state, or political subdivision thereof.
- (4) No proposed business location may include a game room.
- (5) Licenses for sales of packaged malt beverages and wine may be issued only to those businesses in which such sales shall not exceed 50 percent of the gross sales of that business and as may be otherwise specifically allowed in this Chapter. Each such business shall submit an affidavit under oath, at the end of each calendar year, attesting to the percentage of sales of malt beverages and wine as compared to the gross sales of the business, which shall be supported by appropriate business records. No business or beverage license shall be issued until this affidavit is filed with the city manager.
- (6) Licenses for sales of malt beverages and wine for consumption on the premises may be issued for use only in connection with the operation of a restaurant.
- (7) It shall be unlawful for any person to file an application for a license or permit his or her name to be used in such application, where the application contains a nominal applicant for the purpose of avoiding the provisions of this article

restricting applicants to persons of good character and without criminal records, or restricting economic interests in retail package stores, or for elusive purposes. It shall be unlawful for any person to permit his or her name to be used in an application for a license where such person will not be the *de facto* owner of the license. It shall be unlawful for any person to file an application for license containing his or her name as applicant when such person is not the *de facto* applicant. It shall be unlawful for any person to file, or permit to be filed, an application for a license wherein a sham applicant is named.

**Sec. 4-25. - Procedure for consideration of initial applications.**

- (a) The city manager shall, upon receipt of the initial application, immediately submit a complete set of the applicant's fingerprint record to the Georgia Bureau of Investigation for a search of its records for past criminal activity. Pursuant to the provisions of O.C.G.A. § 3-3-2, the GBI shall present the fingerprint records to the Federal Bureau of Investigation for a similar search of its records.
- (b) The city manager shall present all applications for licenses hereunder at the next regular meeting following submission of the application and fee and, as to initial applications, receipt of a response from the GBI and the FBI as to the search for prior criminal activity.
- (c) The mayor and council shall consider each application and grant or deny the application based upon the standards set forth herein. The decision of the mayor and council shall be in writing and, if the application is denied, shall state the reasons for the denial.
- (d) A copy of the decision shall be mailed to the applicant at the address provided on the application as soon as practicable following the decision.
- (e) Any person aggrieved by the action of the mayor and council may petition the mayor and council for a hearing on the application before the mayor and council at which time the mayor and council may receive evidence both for and against granting the application, which evidence may be by authenticated document or sworn testimony. The mayor and council shall reconsider the application upon the close of the evidence. The decision of the mayor and council shall be in writing and, if the application is denied, shall state the reasons for denial.

(Code 1992, § 7-6-6; Ord. of 12-5-1995; Ord. of 3-4-2014(2), § 4)

**Sec. 4-26. - Term of license.**

Applications for renewal of a license must be submitted by not later than February 20 of each year to be included for consideration by the mayor and council at its March meeting and avoid potential suspension of the existing license. All beer and wine

licenses shall be effective on April 1 each year and terminate on March 31 of the following year.

(Code 1992, § 7-6-7; Ord. of 12-5-1995; Ord. of 3-4-2014(2), § 5)

**Sec. 4-27. - License fees.**

- (a) *Package sales.* The annual fee for a license to sell packaged malt beverages and wine shall be in an amount as established by the mayor and city council from time to time.
- (b) *Restaurant sales.* The annual fee for a license to sell malt beverages and wine by the drink in connection with the operation of a restaurant shall be in an amount as established by the mayor and city council from time to time.
- (c) *Disposal of fees.* Fees shall be submitted with the annual application and shall be held in the city treasury until action has been taken on the application by the mayor and council. Fees shall be refunded only upon rejection of an application. Fees shall not be prorated for partial years nor refunded for any reason subsequent to approval of an application.

(Code 1992, § 7-6-8; Ord. of 12-5-1995)

**Sec. 4-28. - Transfer of license.**

A license issued under this article is a purely personal privilege, good only for the year issued unless sooner revoked, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution. A license issued under this article may not be alienable or transferable, either voluntarily or involuntarily, or subject to being encumbered or hypothecated. A license issued under this article shall cease upon the death of the licensee, in the case of an individual, or the dissolution of the licensee, in the case of a corporation, club or association; provided, however, that the properly qualified executors and administrators of the deceased, or the trustee, receiver or other court officer in the case of individuals and corporations, clubs and associations, may continue the business and exercise the privilege of the license until the expiration thereof, subject to the orders of appointing court.

(Code 1992, § 7-6-9; Ord. of 12-5-1995)

**Sec. 4-29. - Business location.**

A license issued under this article shall permit the sale of malt beverages and wine only at the premises described in the application. Such licenses shall be permitted only in Zones B-1 and B-2. A request for change of location during the year for which the license was issued must be made to the mayor and council in writing and must be approved by the mayor and council. The business premises for the sale and distribution of alcoholic beverages, malt beverages and wine shall always be open to inspection by

law enforcement officers, officers or officials authorized by the mayor and city council to conduct such inspections.

(Code 1992, § 7-6-10; Ord. of 12-5-1995)

**Sec. 4-29. - Records of applications; licenses.**

The city manager shall keep a complete and accurate record of all applications and licenses issued and shall furnish the chief of police with a copy of the same. Upon revocation or suspension of any license, the city manager shall immediately notify the chief of police in writing.

(Code 1992, § 7-6-11; Ord. of 12-5-1995)

**Sec. 4-30. - Business subject to inspection.**

Businesses operating under a license issued pursuant to this article shall always prominently display the license and shall be subject to periodic, unscheduled inspection by officers and agents of the city.

(Code 1992, § 7-6-12; Ord. of 12-5-1995)

**Sec. 4-31. - Adoption of state law by reference.**

Except as otherwise provided herein, the provisions of articles 2 and 3 of chapter 3 of title 3 of the Uniform Code of Georgia Annotated (O.C.G.A. §§ 3-3-20 et seq. and 3-3-40 et seq.) establishing prohibited acts under the Georgia Alcoholic Beverages Code are adopted by reference and made the law of the city for the purpose of regulating the sale and use of beer and wine within the corporate limits of the city. In those circumstances where a provision of this article and a federal or state law are in conflict, the provisions of this article shall apply unless preempted.

(Code 1992, § 7-6-13; Ord. of 12-5-1995)

**Sec. 4-32. - Local prohibitions.**

- (a) No licensee shall permit the sale of malt beverages or wine on any day or during any time of day when such sales are prohibited by state law. Further, package licensees shall not engage in the sale of malt beverages or wine except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. Package licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday, or between the hours of 12:30 p.m. and 11:30 p.m. on Sundays, except that where the primary business of a malt beverage package licensee or

wine package licensee is other than the sale of malt beverage or wine, such restrictive hours shall apply only with respect to the sale of malt beverages or wine.

- (b) It shall be unlawful for any person or entity having a license to do business in the city, either pursuant to an ordinance of the city or by the laws of the state or federal government, to allow the consumption of alcoholic beverage by the public on the premises of that business, except as may be permitted herein pursuant to a valid license issued as provided in this article for the sale and consumption on the premises of a restaurant.
- (c) No person knowingly and intentionally may sell, or offer to sell, any wine or malt beverages within 100 yards of any church building nor package sales of distilled spirits (the regulation of which is further defined herein) within 300 yards of any church building, which distances shall be measured by the most direct route of travel on the ground, determined in the following manner:
  - (1) From the front door of the structure from which beverage alcohol is sold or offered for sale;
  - (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;
  - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
  - (4) To the front door of the church building.

(Code 1992, § 7-6-14; Ord. of 5-2-1995; Ord. of 12-5-1995; Ord. of 1-1999; Ord. of 7-2012)

**Editor's note**— The ordinance adopted by the mayor and city council on July 2012 amended § 7-6-14(a) of the 1992 city code by authorizing the package sale of malt beverages and wine in the city on Sundays pending its approval by a majority of the voters through referendum. The referendum was approved by the voters on the November 6, 2012, election ballot.

#### **Sec. 4-33. - Suspension or revocation of license.**

- (a) Any person who has personal knowledge of a violation of any provision of this article shall make a written complaint of violation to the city, either to the city manager or a member of the city police department. Upon receipt of a complaint of violation, the chief of police shall be notified and shall cause the complaint to be investigated. If the investigation reveals probable cause that a violation has occurred, the chief of police shall immediately seize the license under which the individual suspect was operating and all sales of malt beverage and wine shall be suspended until the next regular meeting of the mayor and council and a citation shall be issued, in triplicate, charging the individual suspect with the violation. The individual shall be provided a copy of the citation.
- (b) One copy of the citation issued as provided herein shall be forwarded to the city manager who shall place the matter of suspension or revocation of the license under



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which the individual suspect was operating on the agenda for the next regular meeting of the mayor and council.

- (c) Violation of any provision of this article, or any federal or state law, or any ordinance of the county, regulating or controlling the sale or use of malt beverage or wine, shall result in suspension or revocation of a license issued pursuant to this article as follows:
  - (1) The first such violation shall result in a suspension of the license for a period of not more than six months which period shall be deemed to have begun on the day the license was seized and sales ceased.
  - (2) The second such violation within five years shall result in a suspension of the license for a period of not less than one year from the date of the decision by the mayor and council.
  - (3) The third such violation within five years shall result in revocation of the license.
- (d) Any person aggrieved by the action of the municipal court may petition the mayor and council for a hearing on the application before the mayor and council at which time the mayor and council may receive evidence both for and against granting the application, which evidence may be by authenticated document or sworn testimony. The mayor and council shall reconsider the application upon the close of the evidence. The decision of the mayor and council shall be in writing and, if the application is denied, shall state the reasons for denial.

(Code 1992, § 7-6-15; Ord. of 12-5-1995)

#### **Sec. 4-34. - Criminal penalties.**

- (a) A copy of the citation issued as provided herein above shall also be forwarded to the municipal court for disposition of charges of violation of the criminal provisions of this article.
- (b) Any person violating any provision of this article, in addition to suspension or revocation, shall be subject to criminal penalties as provided in section 1-6.

(Code 1992, § 7-6-16; Ord. of 12-5-1995)

#### **Secs. 4-35—4-49. - Reserved.**

### **Article III. Regulation and Licensing of Package Sale of Distilled Spirits**

#### **Sec. 4-50. Applicability of state law.**

The state laws and regulations relating to the sale and distribution of package sales of distilled spirits as revised in this state are incorporated into and made a part of this

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chapter 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 chapter.

**Sec. 4-51. Inspections.**

- (a) The business premises for the sale and distribution of alcoholic beverages and package sales of distilled spirits shall always be open to inspection by law enforcement officers, officers or officials authorized by the mayor and city council to conduct such inspections.
- (b) The city manager shall appoint one (1) or more persons to conduct periodic inspections of the businesses regulated by this article and to report to the city manager any violation of any laws or ordinances regulating such businesses or other regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law or city ordinance, other than infrequent minor traffic violations.

**Sec. 4-52. Authorized products for sale, consumption, etc.**

- (a) No retail dealer for the package sale of distilled spirits shall keep in stock, display, sell or offer to sell at any place of business licensed hereunder, any other product or commodity except the following:
  - (1) Wines, when properly licensed
  - (2) Malt beverages, when properly licensed
  - (3) Beverages containing no alcohol
  - (4) Tobacco products
  - (5) Ice to be sold in sealed containers only and not to be opened on the premises
  - (6) Paper, Styrofoam or plastic cups, and
  - (7) Prepackage snacks and food items.
- (b) Beverages containing no alcohol and tobacco products may be dispensed through vending machines, but no alcoholic beverages shall be dispensed through such vending machines. No alcoholic beverages may be opened or consumed in the place of business nor on the premises thereof.

**Sec. 4-53. Application.**

- (a) Application for a license shall be made on forms furnished by the city manager and all requested information thereon shall be provided to the state department of revenue to obtain a state license. All applications shall be presented in person to the city manager or his or her designee.

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- (b) Each applicant shall furnish a complete set of fingerprints which shall be forwarded to the Georgia Bureau of Investigation (GBI) for a search of the files of the state crime information center for a period of ten (10) years immediately preceding the date of such application for any instance of criminal activity. The GBI shall also submit such fingerprints to the Federal Bureau of Investigation under rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the city manager.
- (c) Each new applicant (not renewal) shall pay an investigation fee (to be set periodically by the mayor and council by resolution) at the time of filing the application for a license. In addition, an annual inspection fee of fifty dollars (\$50.00) shall be assessed on all applications to provide for the business location inspection by the City of Millen Police Department.
- (d) An application filed and submitted before containing substantially all the information required may be rejected by the mayor and council, and the applicant may not refile for a period of ninety (90) days.
- (e) It shall be unlawful for any person to file an application for a license or permit his name to be used in such application, where the application contains a nominal applicant for the purpose of avoiding the provisions of this article restricting applicants to persons of good character and without criminal records, or restricting economic interests in retail package stores, or for elusive purposes. It shall be unlawful for any person to permit his or her name to be used in an application for a license where such person will not be the *de facto* owner of the license. It shall be unlawful for any person to file an application for license containing his or her name as applicant when such person is not the *de facto* applicant. It shall be unlawful for any person to file, or permit to be filed, an application for a license wherein a sham applicant is named.
- (f) An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license applied for.
- (g) The license applicant shall make a sworn statement of the applicant's qualifications according to this article and shall place the same on file with the city manager before any license is issued.
- (h) Should the mayor and council approve the application, the city manager shall issue an annual retail license to the applicant upon the payment of the license fee, the amount of which shall be set by the Mayor and Council from time to time.
- (i) A copy of this chapter shall be given to all applicants for license upon their filing their applications with the city manager.
- (j) The city manager in making its determination on an application, shall be guided by the following factors as to whether or not to issue or deny a license under this division:

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- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominately residential, industrial or business.
  - (2) The proximity of churches, hospitals, schools, college campuses, public libraries, public parks and playgrounds, private residences and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
  - (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
  - (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
  - (5) The criminal record of the applicant and the outlet manager and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
  - (6) Any report by the chief of police, the building inspector and the fire chief.
  - (7) The information required in the application or statement and whether all requirements as to any required notice, advertisement, fire codes, building condition, zoning, parking, lighting and legal matters have been met.
  - (8) Evidence presented to the mayor and council for or against the application.
  - (9) Whether or not the granting of the application is in the interest of the city.
  - (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has been revoked for cause by the city manager or the mayor and council.
  - (11) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the city.
  - (12) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.
  - (13) Compliance with the requirements of this chapter and the provisions of The Code of The City of Millen.

**Sec. 4-54. Contact person.**

(a) All license holders under this chapter must provide an individual to be designated the "contact person" who is a Jenkins County resident for all licenses issued pursuant to this chapter as follows:

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- (1) If the license holder is a Jenkins County resident, then said license holder shall be the contact person.
  - (2) The contact person shall be the individual upon whom all notices and violations are to be provided to if not the license holder.
  - (3) If the license holder is not a Jenkins County resident, the license holder must designate one (1) employee officer, property owner or lessor of the location, or an attorney who is a Jenkins County resident as the contact person.
  - (4) If the contact person ceases to become employed at the licensed establishment, then the license holder must within three (3) business days notify the city manager for the city and a new contact person must be employed, named and appointed by the license holder within ten (10) business days from the previous contact person's termination of employment.
  - (5) A contact person is subject to all provisions of this chapter.
  - (6) The license holder must in writing designate the contact person on the forms provided by the city manager or his or her designee upon initial application, renewals and/or changes in the contact person.
  - (7) All service of notices and/or violations required by this chapter may be made to the contact person in lieu of the license holder for the purposes of this chapter. The license holder shall be responsible for any service of any notice to the contact person and for any and all actions requested.
  - (8) If at any time an establishment licensed under this chapter does not have a contact person, except as provided for in paragraph (4) herein, then said establishment cannot sell alcoholic beverages, and must immediately cease the sale of all alcoholic beverages and post a notice on the premises on all doors open to the public, until a new contact person has been designated.
  - (9) If a licensee operates an establishment without a contact person, except as provided for in paragraph (4), then said licensee is subject to the suspension and revocation of his license as provided for in this chapter for all violations of this chapter.
  - (10) All contact persons must be at least twenty-one (21) years of age.
  - (11)
    - (a) The following identification items shall be presented to the Millen Police Department prior to an application or renewal being filed for all licenses issued pursuant to this chapter:
      1. A picture identification being either a naturalization documents, valid passport, valid driver's license or valid state identification card; and
      2. Social Security number or work visa.
    - (b) The Millen Police Department shall issue a certificate of compliance that all

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information is complete prior to the city manager accepting an application for review.

- (c) If the certificate of compliance is not issued, the city manager is not authorized to accept an application.
- (d) A contact person under this division must be and continue to be a person of good moral character, a resident of the United States for a period of at least two (2) years, and must meet the following additional qualifications, which shall be required during the entire period that he/she is the designated contact person.
  - 1. The contact person shall not have been convicted, within ten (10) years of the date of his application, of a felony or any violation of the laws of this state or any other state relating to the sale of distilled spirits, alcoholic liquor, malt beverages or wine.
  - 2. The contact person shall not have had revoked, for cause, such as a violation of regulations or improper operation, within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell distilled spirits, alcoholic liquor or malt beverages. This subsection shall not apply to any licenses heretofore revoked by this city.
  - 3. The contact person shall make a sworn statement of his qualifications under paragraphs (1) and (2) and shall place it on file with the City Manager before any license is issued. Any misstatement or concealment of fact in the application shall be grounds for revocation of the license issued and shall make the contact person liable to prosecution for perjury under the laws of the state.
  - 4. The contact person must not have any past due city taxes, bills, fees, assessments or any other charges.
  - 5. A violation of any of the above qualifications and restrictions shall be grounds for suspension or revocation of the license issued.
  - 6. The contact person must be a resident of Jenkins County, Georgia.
  - 7. Each contact person's application must include three (3) letters of recommendation from residents of Jenkins County.

**Sec. 4-55. Reserved.**

**Sec. 4-56. Inspections.**

An inspection of the business premises by the Millen Police Department shall be required prior to the issuance of any alcohol license pursuant to this chapter. The chief of police or his designee will inspect said premises and prepare a report to be submitted to the city manager. After a business license has been issued by the City of Millen a licensed retail dealer shall be open to inspection at any times by law enforcement

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officers or officials authorized by the chief of police, mayor and city council to conduct such inspections. This section is applicable to all establishments issued an alcohol license by the city.

**Sec. 4-57. Limitations on issuance, term of new license.**

- (a) No more than two (2) licenses shall be issued to any single (1) applicant.
- (b) The applicant must be present at the meeting of the mayor and council at which their application is considered. The applicant shall be notified by the city manager at least two weeks prior to the date of consideration by the mayor and council. If the applicant is not present, the mayor and council cannot consider the application and may table it until the next meeting or deny it, which requires the applicant to resubmit and pay any required fees again (fees are not refunded if the application is denied).
- (c) Payment of all occupation, specific, special, or *ad valorem* taxes due the city by such person or entity being the applicant or other parties of interest in the application for any previous year is required prior to consideration of the application.
- (d) Licenses issued for the first time shall become effective on the first day of the month following approval of the application by the mayor and council and shall terminate, unless renewed as provided herein, on March 31.

**Sec. 4-58. Issuance procedures and standards generally.**

- (a) A license application may be denied to any applicant for a license 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 who would not otherwise qualify for a license for any reason whatsoever.
- (b) No license shall be granted to any person unless such person is at least twenty-one (21) years of age.
- (c) No employee or elected official of the city or county shall be eligible to receive a license. An employee or elected official of the city or county does not include individuals whose only relationship with the city or county is on an uncompensated volunteer basis or as an appointed member of any board, authority, commission or organization which is a part of or is related to the city or county.
- (d) The following standards shall be applied to all decisions as to the issuance or denial of licenses:
  - (1) The mayor and council or its staff may require all applicants to provide financial statements and other evidence of financial responsibility in conjunction with the application.

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- (2) All applicants for a license must be of good character, and all operators, managers, clerks, or other employees shall be of like character.
  - (3) No license shall be granted to an applicant who has been convicted under any federal, state, or local law for a criminal offense involving alcoholic beverages, gambling, or tax law violations or any felony involving moral turpitude if such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal or state laws or the laws of the city within the last ten (10) years.
  - (4) No license shall be granted to any applicant who is not the owner of at least fifty-one (51) percent of the retail package store for which the application for a license is being made.
  - (5) No licenses shall be issued to corporations, limited liability partnerships, and limited liability companies.
  - (6) No licenses shall be issued to partnerships, but a license may be issued to an individual partner who owns a fifty-one (51) percent interest in the retail package store for which the application is being made, if all other partners or persons owning an interest therein comply with and meet all the qualifications (other than owning fifty-one (51) percent) in this article for applicants.
  - (7) No license shall be issued to any applicant who has had any license for the sale of beer, wine, distilled spirits and/or alcoholic beverages previously issued to the applicant revoked for cause within three (3) years.
  - (8) No license shall be issued for location in any zoning district other than B-2 (Highway Commercial).
  - (9) No license shall be issued for location in any building with less than 1500 square feet of space used for retail sale, exclusive of rest rooms and office space and each location must face a federal or state highway.
  - (e) Approval of an application shall expire after ninety (90) days from the date of such approval, unless the applicant has procured, and paid the fee for the approved license. The mayor and council may extend the approval up to ninety (90) days for cause, provided the request therefor is made within the original ninety (90) days.
  - (f) No applicant may submit, and the mayor and council shall not act upon, an application which is substantially the same as an application submitted within the previous six (6) months, unless the mayor and council exercises its discretion to do so.
  - (g) The mayor and council may defer action upon any application, the subject matter of which is substantially the same as the subject matter of litigation then pending in the state or federal courts until such time as the litigation is resolved.
  - (h) Whenever the mayor and council shall deny an application for a license, the applicant shall have fifteen (15) days following notification of denial to request a hearing before the mayor and city council. The applicant shall be entitled at such



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hearing to present evidence and cross-examine opposing witnesses present at the hearing, which hearing shall be conducted as provided in this chapter.

- (i) The applicant must be present at the meeting of the mayor and council at which their application is considered. If the applicant is not present the mayor and council cannot consider the application and may table it until the next meeting or deny it, which requires the applicant to resubmit and pay any required fees again (fees are not refunded if the application is denied).
- (j) The mayor and council in making its determination on an application shall be guided by the following factors as to whether to issue or deny a license under this division:
  - (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominately residential, industrial or business.
  - (2) The proximity of churches, hospitals, schools, college campuses, public libraries, public parks and playgrounds, private residences and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
  - (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
  - (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
  - (5) The criminal record of the applicant and the outlet manager and general good character and reputation and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
  - (6) A report of the chief of police, the building inspector and the fire chief.
  - (7) The information required in the application or statement and whether all requirements of any required notice, advertisement, fire codes, building, zoning, parking, lighting and legal matters have been met.
  - (8) Evidence presented to the commission for or against the application.
  - (9) Whether or not the granting of the application is in the interest of the city.
  - (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has been revoked for cause by the mayor and council.
  - (11) Whether the applicant holds or possesses any other license for the sale of alcohol issued by the city.
  - (12) The history or reputation of the building or establishment (proposed for outlet) for prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.

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- (13) Compliance with the requirements of this chapter and the provisions of the City of Millen Code of Ordinances.
  - (14) If a licensee has failed to satisfy the criteria for obtaining a license to sell.
  - (15) If a licensee, or such licensee's employee or agent, has violated any federal, state, or local laws of ordinances relating to the use and sale of drugs and alcoholic beverages, and/or violent crimes.
  - (16) When the continued operation of the licensed business is determined to be detrimental to the health safety, or welfare of the public.
  - (17) The failure of the licensee or his employees to report immediately to the police department a known violation of law or municipal ordinances, breach of peace, disturbance or altercation occurring in or in the immediate proximity to the licensee's premises.
  - (18) Failure by the licensee to adequately supervise and monitor the conduct of the employees, patrons and others on the licensed premises, including but not limited to adjacent parking lots or areas which may be lawfully used by patrons of the licensed establishment, in order to protect the safety and well-being of the general public and of those utilizing the premises.
  - (19) Breach of the peace, disorderly conduct or altercations and in incidents involving breach of peace, disorderly conduct, or altercations, the following additional factors shall be considered:
    - (i) The facts and circumstances of the incident.
    - (ii) The parties involved.
    - (iii) The criminal history of the parties, if any.
    - (iv) Damage to persons and property.
    - (v) Intoxication levels of individuals involved.
    - (vi) Conduct of employees and licensee in regard to said incident and involvement.
    - (vii) Mitigating circumstances.

#### **Sec. 4-59. Qualifications.**

A licensee under this division must be and continue to be a person of good moral character, a resident of the United States for a period of at least two (2) years, and must meet the following additional qualifications, which shall be required during the entire period that the licensee shall hold the license.

- (1) The applicant shall not have had revoked, for cause, such as a violation of regulations or improper operation, within three (3) years next preceding his application, any license issued to him by any state, county, or municipality to sell distilled spirits, alcoholic liquor or malt beverages. This subsection shall not apply to any licenses heretofore revoked by this city.
- (2) The applicant shall make a sworn statement of his qualifications and shall place it on file with the city manager before any license is issued. If the

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application covers a partnership, each member of the partnership must be qualified under paragraphs (1) and (2) to obtain a license and must make a sworn statement of those qualifications. Any misstatement or concealment of fact in the application shall be grounds for revocation of the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state.

- (3) The applicant may not employ any person who has been convicted of a felony within the past five (5) years or who has been convicted or has a case pending for a crime involving the possession or sale of distilled spirits, malt beverages or intoxicating wines or liquors.
- (4) The applicant must not have any past due city taxes, bills, fees, assessments or any other charges.
- (5) A violation of any of the above qualifications and restrictions shall be grounds for suspension or revocation of the license issued.

**Secs. 4-60—4-74. - Reserved.**

#### **Article IV. Licenses and Excise Taxes Applicable to All Alcoholic Beverage Sales**

**Sec. 4-75. Display.**

Licenses issued under this chapter shall be displayed prominently at all times on the premises for which same was issued.

**Sec. 4-76. Licensees to keep copy of chapter on-premises; employees to be familiar with terms; responsibility of licensee for violations.**

Each licensee hereunder shall keep a copy of this chapter in the licensed premises and shall instruct any person working there with respect to the terms hereof and each licensee, the licensee's agents and employees selling distilled spirits, malt beverage and wine shall at all times be familiar with the terms hereof. The licensee shall be responsible for any acts of agents or employees which are in violation of this article or of the laws of the state or the rules and regulations of the state revenue commissioner.

**Sec. 4-77. Terms and conditions; duties of holders.**

- (a) A license issued under this chapter shall be subject to all terms and conditions imposed by this chapter or any future ordinance. License holders shall be responsible for compliance with such terms and conditions by all their employees and those working under their supervision and control. It shall also be the duty of the license holder and those under his supervision and control to report to the

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police department any violation of this chapter occurring on the premises of the license holder.

- (b) All licenses shall have printed on the front the following language: "**This license is granted by the City of Millen and accepted by licensee subject to all the terms and conditions of the ordinances governing the issuance and retention of the same.**"

**Sec. 4-78. No refund upon revocation.**

In case of revocation, the licensee shall not be entitled to a refund of any license fee.

**Sec. 4-79. Reinstatement of suspended licenses.**

- (a) Licenses suspended for a definite period shall be automatically reinstated without further hearing.
- (b) Licenses suspended pending compliance with designated conditions to be corrected shall be automatically reinstated upon compliance, without further hearing.

**Sec. 4-80. Surrender upon sale or closing of outlet.**

Immediately upon the sale or closing of an outlet licensed under this chapter, the licensee shall surrender the license to the city manager.

**Sec. 4-81. Licensee to report and obtain approval for changes in information provided.**

Licensee shall make immediate report to, and receive approval by, the mayor and council of any change in the interests in or ownership of the licensed establishment, realty or lease and any change in the information as stated in the original application for license.

**Sec. 4-82. Loss of qualifications.**

In the event of death or termination or resignation of any employee or other person holding a license, there shall be a thirty-day grace period for the owner of the business engaging in the package sale of distilled spirits or malt beverages and wine to obtain a new license and/or approval of a transfer from the mayor and council.

**Sec. 4-83. Reserved.**

**Sec. 4-84. Limitations on transfer.**

- (a) No license shall be transferable or assignable to any other person, except as stated in this article. If a licensed business is sold or closed, the licensee shall

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immediately surrender the license to the city manager. Any transfer of the license to different premises requires the prior written approval of the mayor and council.

- (b) Licenses issued pursuant to the provisions of this chapter shall not be transferable except as provided in this article.
- (c) In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the governing authority and subject to the terms of this article, be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such heirs meet all of the other qualifications contained herein. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and dispose of the license or his interest therein, but in no event to exceed six (6) months.
- (d) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership, when the partner owning a majority interest holds a license, to withdraw from the partnership and to assign his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this article are fully complied with, and then only upon the approval of the mayor and council.
- (e) Should a transfer of the location be approved, there shall be no pro rata return of any license fee and the new location shall meet all requirements of a new license to be issued, except payment of license fee and investigation fee.
- (f) Licenses may be transferable upon approval of the transferee in accordance with this division as if the applicant was a new applicant, including the proposed transferee complying therewith, and the payment of ten (10) percent of amount of the license fee.

#### **Sec. 4-85. Expiration and renewal.**

- (a) All licenses shall be issued on a calendar year basis and shall be renewable as a matter of course upon payment of the appropriate fee, on or before February 20 of each year, except as provided in subsection (d).
- (b) The license fee shall be paid in full. A penalty of ten (10) percent of the amount of the annual license fee shall be assessed on any application for renewal filed after February 20.
- (c) The city manager shall provide the chief of police with a list of current license holders prior to the annual renewal date. The chief of police shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.
- (d) If the chief reports any activity which constitutes probable cause for not renewing a license, the renewal shall not be made, and the matter shall be referred to the mayor and council for its consideration.

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- (e) The mayor and council shall consider applications for renewal at its March meeting and afford the licensee a public hearing, if requested, and may grant, deny for cause, or grant with conditions, the renewal of any license. Approved applications shall become effective as of April 1 and shall terminate, unless again renewed, on March 31.
- (f) On an application for renewal, the mayor and council shall be guided by the same criticism and qualifications as for the issuance of the initial license.

**Sec. 4-86. Excise taxes.**

(a) There is imposed by the city an excise tax on the first sale or use of malt beverages in the city, as follows:

(1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of six-dollars (\$6.00) on each container containing not more than (15<sup>1</sup>/<sub>2</sub>) gallons and a proportionate tax at the same rate on all fractional parts of (15<sup>1</sup>/<sub>2</sub>) gallons.

(2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents (\$0.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

(b) There is imposed by the city an excise tax on the first sale or use of wine in the city at a rate of twenty-two cents (\$0.22) per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(c) There is imposed by the city an excise tax on the first sale or use of distilled spirits in the city at the rate of twenty-two cents (\$0.22) per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(d) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer. Such taxes shall be paid on or before the 20th day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the city.

**Secs. 4-87—4-99. Reserved.”**

**Section 4 Repealer.** All ordinances or parts of ordinances in conflict with the amended ordinance are hereby repealed to the extent of such conflict.

**Section 5 Effective Date.** This Amendment shall be effective upon its adoption by the Mayor and Council.

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ADOPTED AT A REGULAR MEETING OF THE MAYOR AND COUNCIL ON DECEMBER 7,  
2021.