

ORDINANCE NO. 22/ _____

AN ORDINANCE BY THE CITY OF TRENTON, GEORGIA, TO AMEND CHAPTER 6 OF THE TRENTON CITY CODE, ISSUANCE OF LICENSES FOR THE PACKAGE SALE OF DISTILLED SPIRITS AS AUTHORIZED BY THE QUALIFIED VOTERS OF THE CITY; TO PROVIDE FOR SEVERABILITY; TO REPEAL ANY AND ALL CONFLICTING ORDINANCES AND PARTS OF ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, upon passage of a referendum election regarding the following matters and certification to the Secretary of State for the State of Georgia, the Commission, as the governing authority of the City of Trenton, Georgia, (“the City”) are vested with the authority by the General Assembly of the State of Georgia and are authorized, after approval of an amendment to the Trenton City Code provisions regulating alcoholic beverage sales within the City, to permit and regulate the:

Issuance of licenses for the package sale of distilled spirits under O.C.G.A. § 3-4-40 *et seq.*;

WHEREAS, on November 2, 2021, the majority of the qualified voters of the City voted in favor of authorizing the governing authority of the City to exercise its authority to permit and regulate the sale of alcoholic beverages pertaining to each of these matters; and

WHEREAS, the City seeks to amend Chapter 6, as contained within the Trenton City Code, in accordance with the authorization vested in its governing authority by the General Assembly of the State of Georgia as approved by the qualified voters of the City.

BE IT ORDAINED, and **IT IS ORDAINED** as follows:

1.

Chapter 6, Article IV of the Trenton City Code is hereby amended by adding a new Division 2, entitled “Sales of Distilled Spirits by the Package” to read as follows:

Article IV. - Distilled Spirits.

Division 2. – Sales of Distilled Spirits by the Package.

Sec. 6-150. – Definitions.

Unless the context clearly indicates a different meaning, the following words, terms, and phrases, when used in this Division, shall have the following meanings:

- (a) *Date of notice* means the date when a person is personally served with a written document or three days after the date of the deposit in the United States Mail when the document is served by certified mail; or the date of confirmation of delivery of the written document from an overnight delivery service.
- (b) *Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume.
- (c) *Identification* means any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.
- (d) *Licensee* means the person to whom a license for the sale or distribution of distilled spirits by the package is issued under this Division. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensees. A license issued under this Division permits the licensee to sell distilled spirits by the package for consumption off the premises only.
- (e) *Person* means any individual, firm, partnership, 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.
- (f) *Retail package dealer* means any person who sells distilled spirits for consumption off the premises, at retail, only to consumers in unbroken packages.
- (g) *Wholesaler* means any person who sells distilled spirits to other wholesale dealers or to a retail package dealer.

Sec. 6-151. – License is a privilege.

- (a) Distilled spirits may be sold by the package within the City for the limited purposes described in this Division under a license granted by the City upon the terms and conditions provided in this Division.
- (b) The sale of distilled spirits by the package within the City without first obtaining the licensure required by this Division is prohibited.

- (c) Licenses issued under this Division constitute a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Division and state law.
- (d) Any holder of a license issued in accordance with this Division is required to apply for and obtain any and all necessary alcoholic beverage licenses from the State of Georgia before any sales commence. Additionally, any holder of a license issued in accordance with this Division is required to abide by all applicable state regulations and laws.
- (e) All licenses issued under this Division must have printed on the face the following words: THIS LICENSE IS A PRIVILEGE THAT IS CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN CITY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER OF THE LICENSE TO HAVE THE LICENSE REVOKED FOLLOWING NOTICE AND HEARING.

Sec. 6-152. – Licenses, generally.

- (a) All licenses issued under this Division shall:
 - (1) Permit the licensee to sell distilled spirits by the package within the City under the terms of this Division and consistent with the laws of the State of Georgia and the United States;
 - (2) Expire on December 31st of each year and an application for renewal must be made and filed annually on or before the 31st day of October of each year. Any licensee must annually meet the requirements set forth by the City in order to obtain a renewal of any license. Any licensee making proper application with supporting documents for a license to operate during the following calendar year, and having filed such application before October 31st, shall be permitted to continue to operate pending final approval of the licensee's application for the following year if final approval is not granted before January 1st; and
 - (3) Not be transferred from one person to another or from one location to another and any change in ownership of any licensed entity other

than a publicly traded corporation shall necessitate a new application and payment of the entirety of the license fee and administrative fee.

- (b) Separate applications must be made for each location and separate licenses must be issued for each location where distilled spirits are to be sold by the package.
- (c) The City license issued under this Division must, at all times, be kept plainly exposed to view to the public at the place of business of the licensee where distilled spirits are sold by the package.

Sec. 6-153. – Application and License Fees.

- (a) Each application for a license under this Division must be accompanied by a certified check for the full amount of the appropriate license fee, together with a separate check or cash in the amount of \$150.00 for an application fee to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws its application prior to the license being issued, the license fee shall be refunded, but the \$150.00 application fee shall be retained by the City. However, any person applying for more than one license at the same time shall pay only one application fee to defray investigative and administrative expenses. Any applicant for a license under this Division who has in existence at the time of making the new application an existing license under this Division is not required to pay the application fee.
- (b) The fee for a license issued under this Division is \$5,000.00 per calendar year which will not be prorated based upon the day of the year that the license is issued.
- (c) Once a license has been issued, however, no portion of the license fee will be refunded if the license is revoked, suspended, or surrendered.

Sec. 6-154. – Application process.

- (a) Applications for the sale of distilled spirits by the package license must be made in writing to the City Clerk or a designee for the privilege of engaging in the sale of distilled spirits by the package using forms approved and furnished by the City Clerk.
- (b) The application must be filed with the City Clerk along with the applicable application fee.

(c) The application must state:

- (1) As to the applicant: Full name, age, home address, business address, telephone number, place of permanent residence, date of establishment of permanent residence at said location, address of last place of residence, name of spouse and all minor children, complete record of all convictions, guilty pleas and pleas of *nolo contendere* for violation of all laws, City, State and Federal, of applicant and of applicant's spouse. If the applicant is a partnership said information shall be furnished as to each partner. If the applicant is a corporation said information must be furnished as to each director, each officer, and each stockholder who owns or controls ten percent or more of the issued and outstanding stock of said corporation.
- (2) As to applicant's proposed establishment manager or managers (if not same as applicant): Full name, age, home address, business address, telephone number, place of permanent residence, date of establishment of permanent residence at said location, address of last place of residence, name of spouse and all minor children, complete record of all convictions, guilty pleas and pleas of *nolo contendere* for violation of all laws, City, State and Federal, of outlet manager's spouse.
- (3) Exact location (street address) of proposed business establishment where distilled spirits are proposed to be sold by the package.
- (4) Name and address of the owner or landlord and resident manager, if any, of the property proposed for the location and whether there is a building proposed to be used already erected thereon.
- (5) Name or trade name under which the proposed business shall be operated.
- (6) Name and address of all persons having any financial interest in the business by way of ownership of building or stock, receipt of income from business or otherwise.
- (7) If the applicant is a corporation, the address of the principal place of business, the registered office, and the name of the registered agent or agents of the corporation.

- (8) Such other information as may be required from time to time by the City through interrogatories or otherwise.
- (d) The application must be sworn to by all applicants.
- (e) A copy of applicant's license, application for license, or proposed application for a license from the State of Georgia, if one is required, must be attached to the application.

Sec. 6-155. – Requirements for license; limitations.

- (a) In addition to evaluating the criteria required to be included with an application under Section 6-154 of this Division in reaching its final determination as to whether to grant an initial license application, the City will also be guided by the following factors:
 - (1) The proximity of other establishments licensed under this Division.
 - (2) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial, or business.
 - (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons in accordance with the City's zoning ordinance.
- (b) The following limitations apply to licensure under this Division:
 - (1) Prohibited persons. It shall be unlawful to grant a license for the sale of distilled spirits by the package to:
 - (A) A person who is not a citizen of the United States for a period of twelve months next preceding the date of filing of the application, and if the applicant is a partnership these requirements apply to all partners in said business, whether a general partner or a limited partner; however, the provisions of this Subsection shall not apply to a corporation.
 - (B) A person who owns any interest in more than one business licensed under this Division.
 - (C) A corporation which is not duly qualified to do business in the State of Georgia and which is not in good standing with all of the

rules and regulations of the Georgia Corporation Code and the Secretary of State of Georgia, and which does not have a registered agent for service of process within Dade County, Georgia; however, the provisions of this Subsection shall not apply to an individual or a partnership which has no corporate partners.

- (D) A person who has been convicted or who has entered a plea of guilty or *nolo contendere* of a felony, or any crime of moral turpitude, within ten years immediately prior to the filing of said application.
- (E) A person who has been convicted or who has entered a plea of guilty or *nolo contendere* for any felony or any misdemeanor involving the illegal possession, transportation or sale of any alcoholic beverages, or taxability thereof within ten years immediately prior to the filing of said application.
- (F) A person who has been convicted or who has entered a plea of guilty or *nolo contendere* for any felony or any misdemeanor involving the illegal possession, transportation or sale of any drug, narcotic or controlled substance within ten years immediately prior to the filing of said application.
- (G) A person whose license under this Division has been revoked for cause or who has had a license of any type under this Chapter revoked for cause within five years immediately prior to the filing of the application.
- (H) A person who is under the age of twenty-one years.
- (I) A person who has been declared incompetent by a court of competent jurisdiction.
- (J) An elected official, police officer, or other law enforcement officer of the City.
- (K) If the applicant is a corporation, Subsections (C) through (I), above, do not apply.
- (L) Any partnership or corporation where any person has an interest, either as owner, partner, stockholder, shareholder, director, or officer, or his or her spouse, has, within ten years

immediately prior to submission of an application, been convicted or has entered a plea of guilty or *nolo contendere* for any:

- (i) felony;
- (ii) crime of moral turpitude;
- (iii) misdemeanor involving the manufacturing, possession, transportation or sale of distilled spirits or the taxability thereof,
- (iv) misdemeanor involving the illegal possession, transportation, or sale of any drug, narcotic, or controlled substance; or
- (v) violation of this Division.

Sec. 6-156. – Renewals of licenses; denial of renewal.

- (a) All licenses are issued for a period of one year, the same to be a calendar year, running from January 1 through December 31, and shall be renewable as a matter of course upon payment of the appropriate fee, except as is hereinafter set out in Subsection (d) of this Section and as otherwise provided in this Division.
- (b) Each licensee must make written application for renewal on or before October 1 of each year on forms approved by the City Clerk.
- (c) The renewal application will be referred to the Chief of Police or a designee, who will 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 of Police or designee reports any activity which constitutes probable cause for not renewing a license, the renewal will not be made, and the matter will be referred to the City for its consideration. A public hearing on the denial of a non-renewal will be held no later than December 31.
- (e) The City will afford the licensee a public hearing after which the City may grant or deny for cause the renewal of any license issued under this Division.

(f) In passing upon the application for renewal, the City will consider all evidence presented at the public hearing and will be guided by the following factors:

- (1) all matters contained in Sections 6-154 and 6-155 of this Division;
and
- (2) such evidence as is obtained and presented to the City as the result of the investigation provided for in Subsection (c) of this Section.

Sec. 6-157. – Suspension and revocation of licenses.

(a) License suspensions initiated by the Chief of Police, Code Enforcement Officer, or a designee.

(1) The Chief of Police, Code Enforcement Officer, or a designee may suspend and seize any retail license to sell distilled spirits by the package if, at any time during the holding of a license granted under this Division, it should appear that the licensee has:

- (i) violated the provisions of this Division;
- (ii) violated any laws of the State of Georgia or any Federal laws involving possession, transportation or sale of any alcohol, alcoholic spirits, prohibited liquors, alcoholic beverages or taxability thereof or involving illegal possession, transportation or sale of any drug, narcotic or controlled substance;
- (iii) become a person, firm or corporation prohibited by this Division from having a license granted to him, her, or it;
- (iv) submitted an application containing known false information; or
- (v) engaged in conduct detriment to the health, safety, or welfare of the public.

(2) If the licensee is dissatisfied with such suspension, the licensee may appeal to the City Commission by filing a written request with the City Clerk stating the grounds and reasons. Such appeal must be submitted within 30 days of notice to the licensee of the suspension.

- (3) The City Commission will hold a hearing on the suspension within ten days of the filing of the appeal, after which the City Commission has the full authority and power to reinstate, revoke, refuse to renew, further suspend, or place on probation any license which has been suspended as provided by this Subsection.
 - (4) The City Commission must make its final determination within ten business days of the completion of the appeal hearing.
- (b) Adverse licensure actions initiated by the City Commission.
- (1) In addition to the procedures provided in Subsection (a) of this Section, the City Commission may, of its own volition, suspend, revoke, or not renew a license issued under this Division following a hearing.
 - (2) A notice explaining the proposed adverse action, i.e. suspension, revocation, or non-renewal, and the date, time, and place designated for the hearing must be issued to the licensee in writing.
 - (3) The written notice must set forth, in reasonable detail, the ground or grounds for the proposed adverse action and the factual basis supporting the ground or grounds; and advise the licensee of the right to present evidence, witnesses, and arguments and to be represented by counsel at the hearing.
 - (4) The hearing will not be held prior to the passage of ten days following the date of notice of the proposed adverse action to the licensee.
 - (5) The City Commission must make its final determination within ten business days of the completion of the hearing.
 - (6) The City Commission's decision must be personally served, mailed by certified mail, return receipt requested, or by overnight delivery to the licensee and the licensee's attorney, if any, with a copy to the City Attorney, within ten business days of the close of the hearing.
 - (7) The decision of the City Commission constitutes final action by the City, subject to review upon petition for *certiorari* to the Superior Court of Dade County, Georgia.
- (c) Upon receipt of notice of adverse action against the licensee under this Section, the licensee may waive its right to a hearing and stipulate to a

sanction, as recommended by the City Clerk in consultation with the Chief of Police. Any stipulation entered under this Subsection shall be in writing, signed by the licensee, and is not appealable.

- (d) Except as provided in Subsection (a) of this Section, no license will be suspended, revoked, or non-renewed without the opportunity for a hearing as provided in this Section.

Sec. 6-158. – Establishment requirements; locations of sales.

(a) Requirements for Structures:

- (1) All establishments licensed under this Division shall operate in a structure having at least 3,500 square feet with 80% of floor space for retail sales of package products.
 - (2) No establishment licensed under this Division shall operate within a structure having a drive-through facility allowing products to be provided to the operators or passengers of motor vehicles.
 - (3) All structures housing an establishment licensed under this Division shall have an alarm and security system that provides notification of a security breach to law enforcement either directly or through a service provider.
 - (4) All structures housing an establishment licensed under this Division must have front windows which are free and clear of all obstructions such that the interior of the building is clearly visible from any outside window. Signs and other coverings which obscure the visibility of the interior of the structure are prohibited.
- (b) An establishment licensed under this Division shall be so lighted that the interior of the store or premises is visible day or night and all parking areas adjacent to or used in connection with such establishment shall be fully lighted and unobstructed.
 - (c) An establishment licensed under this Division shall not operate the business in connection with any other mercantile establishment within the same building, provided, however, that this shall not prohibit a licensee from operating in the same building complex with other businesses. No licensee shall sell, offer for sale, display or keep in stock at its place of business where packaged distilled spirits are

offered for sale any other commodity except the following, all of which may be sold by the licensee at its option:

- (1) Beverages containing no alcohol and commonly used to dilute distilled spirits;
 - (2) Malt beverages and wines when properly licensed;
 - (3) Glasses, stirring sticks, and similar paraphernalia commonly used in the consumption of alcoholic beverages; and
 - (4) Packaged ice.
- (d) An establishment licensed under this Division must, at all times, maintain a minimum inventory of distilled spirits valued at no less than \$250,000.00.
- (e) ~~The sale of distilled spirits by the package is a conditional use and~~ Distilled spirits may be sold by the package only in the following zoning districts:
- (1) B-3 Business-General District as a permitted use; and
 - (2) B-R Business Residential District as a conditional use.
- (f) No license will be issued for the retail sale of distilled spirits by the package within:
- (1) 100 yards of any church building;
 - (2) 200 yards of any school building, educational building, school grounds, or college campus. housing authority property;
 - (3) 100 yards of any alcohol treatment center park-recreational area operated by the State of Georgia, the City, or Dade County, Georgia;
 - (4) 100 yards of any public park or recreational area operated by the State of Georgia, the City, or Dade County, Georgia; or
 - (5) 500 yards of any other establishment licensed under this Division.

Sec. 6-159. – Hours and days of sale.

- (a) Distilled spirits must not be sold or distributed by the package except Monday through Saturday between the hours of 10:00 a.m. through 12:00 midnight.
- (b) The sale or distribution of distilled spirits by the package is not permitted on:
 - (1) Sundays;
 - (2) Election days within the City during the hours the polls are open; and
 - (3) Christmas Day.

Any day or portion of any day on which such sales are prohibited under state law.

Sec. 160. – Prohibited activities; penalties.

- (a) It is unlawful for any person to sell or possess for the purpose of sale by the package any distilled spirits if the person does not have a license granted by the City to sell or possess for sale distilled spirits by the package or to make deliveries beyond the boundaries of the premises covered by the license.
- (b) It is a violation of this Division not to require and properly check identification for persons purchasing distilled spirits by the package as reasonably necessary to ensure that an underage person is not sold distilled spirits by the package. But nothing in this Section requires mandatory checking of the identification of every customer.
- (c) No licensee shall keep any distilled spirits at any place except the licensed place of business.
- (d) No licensee shall buy, arrange to buy, or in any way affect the transfer of any distilled spirits except from a licensed wholesaler.
- (e) Any violation of the provisions of this Division may, upon determination of violation, result in suspension or revocation of a license issued under this Division; or the Commission may in lieu of suspension or revocation thereof impose a civil penalty of not less than \$500.00 nor more than \$1,000.00.

Sec. 4-161. – Regulations as to employees.

- (a) No person shall be employed to sell distilled spirits by the package by an establishment holding a license under this Division until such person has been fingerprinted and cleared by the Chief of Police for the City or his designee or City Code Enforcement Officer indicating that the person is eligible for such employment as per the minimum requirements for an applicant under this Division.

- (b) No person may be employed by or contract to perform duties in an establishment licensed under this Division if he or she has ever had a felony conviction involving the possession, sale, manufacture or use of alcoholic beverages or has a conviction involving a misdemeanor of the same offenses specified above within the past ten years, next preceding the date of application. For the purposes of this article, a plea of nolo contendere shall be considered a conviction.

Sec. 4-162. – Enforcement of Division.

The Chief of Police, Code Enforcement Officer, or their designees have the authority to enforce this Division and to inspect establishments under this Division. These inspections are to be made for the purpose of verifying compliance with the requirements of this Division and state law. This Section is not intended to limit the authority of any other officer to enforce this Division or conduct inspections authorized by other provisions of this Division or state law.

Sec. 4-163. – Establishment can be closed in cases of emergency.

The Chief of Police or a designee may immediately close an establishment licensed under this Division in case of emergency for the safety of the public, as determined in his or her sole discretion or to investigate a crime for a period of time not to exceed 24 hours.

Sec. 4-164. – Excise tax.

- (a) In addition to the license fees required in this Division and in addition to the excise taxes levied by the state, there is hereby imposed an excise tax on the sale of distilled spirits by the package.

(b) Excise taxes on the wholesale of distilled spirits by the package. There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter which shall be paid to the City on all distilled spirits sold at wholesale for sale by the package in the City. Such tax shall be paid to the City by the wholesaler on all distilled spirits sold to retail dealers in the City as follows:

- (1) Each wholesaler selling, shipping, or in any way delivering distilled spirits to any retail package dealer shall collect the excise tax at the time of delivery to each retail dealer.
- (2) The twenty-two cents (\$0.22) per liter rate shall be prorated so that all containers of distilled spirits shall be taxed on the basis of twenty-two cents (\$0.22) per liter.
- (3) It shall be unlawful for any wholesaler to sell, ship or deliver in any manner any distilled spirits to a retail dealer without collecting the tax. It shall be unlawful for any retail package dealer to possess, own, hold, store, display, or sell any distilled spirits on which such tax has not been paid.
- (4) The wholesale dealer shall remit all taxes collected for the preceding month on or before the tenth day of the following month along with a report documenting the exact quantities of distilled spirits, by size and type of container, and the amount of excise tax collected.
- (5) The wholesale dealer shall keep true and correct records of all sales and shipments of distilled spirits to licensees under this division and shall render a sworn statement of the truth and accuracy of the report accompanying the monthly report to the City.
- (6) The City shall have the right to audit and to require production of records from each wholesaler supplying licensees hereunder within the City and also from each licensee hereunder so supplied with distilled spirits by each wholesaler.
- (7) Failure to make a timely report and remittance of the above taxes renders a wholesale dealer liable for a penalty equal to ten per cent of the total amount due, in addition to the amount of tax due. Further, if a report is not filed or if taxes are not remitted and paid within thirty days from the date either is due, the City has the right to suspend or revoke any wholesale license and to prohibit the wholesaler from

making any deliveries of any type whatsoever within the corporate limits of the City.

4.

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way effect the validity of the remaining portions of this ordinance.

5.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

6.

This ordinance is effective immediately upon its adoption by the City Commission.

SO ORDAINED, this _____ day of April, 2022.

CITY OF TRENTON, GEORGIA

Joseph A. Case
MAYOR OF THE CITY OF TRENTON, GEORGIA

ATTEST:

April D. Keith
CLERK OF THE CITY OF TRENTON, GEORGIA