

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF THOMASTON, GEORGIA, TO AMEND PORTIONS OF CHAPTER 6 - ALCOHOLIC BEVERAGES OF THE CODE OF ORDINANCES OF THE CITY OF THOMASTON TO AUTHORIZE THE ISSUANCE OF LICENSE FOR RETAIL PACKAGE SALE OF DISTILLED SPIRITS, TO SET FORTH SPECIFIC CRITERIA AND PROVISIONS FOR APPLYING FOR SAID LICENSE, AND OTHERWISE PROVIDE FOR THE GOVERNANCE OF SAID LICENSE; TO AMEND OTHER PORTIONS OF THE ALCOHOL ORIDNANCE; TO REPEAL CONFLICTING ORDINANCES, AND FOR LIKE PURPOSES.

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WHEREAS, the electors of the City of Thomaston, through referendum, having authorized the City of Thomaston to license for retail package sale of distilled spirits, and it being necessary for the City to establish the criteria that must be met in order to obtain a license for retail package sale of distilled spirits and to adopt provisions relative to the operation of said establishments selling distilled spirits in unbroken packages, and to make other and further revisions of said chapter which authorizes and governs alcohol licenses and licensees;

BE IT HEREBY ORDAINED by the City Council of the City of Thomaston, Georgia, and it is hereby ordained by virtue of the authority thereof that the current Chapter 6-Alcoholic Beverages is hereby amended as follows; to-wit:

SECTION ONE

Section 6.1. - Definitions set forth in ARTICLE I. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended to read as follows:

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

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

*Alcoholic beverage* means all alcohol, distilled spirits, beer, malt beverages, wine and fortified wine as defined in this section.

*Alcoholic beverage caterer* means any retail dealer licensed to sell alcohol and who provides alcohol at special events or special events facilities.

*Approved container* means a tamper evident container that does not contain openings or straw holes, is sealed in a manner that is visibly apparent if the container has been subsequently opened or tampered with; and has an affixed label or marking that identifies the licensee that prepared and sold the mixed drink.

*Art gallery* means a retail establishment primarily engaged in, and which derives at least seventy (70) percent of its total annual gross sales from, the sale or display of art books, paintings, sculptures, or other works of art; but specifically excluding libraries, book stores, theaters, and establishments where the display of works of art is incidental to its primary use.

*Art studio* means a retail establishment primarily engaged in providing instruction in painting, sculpture, drawing, photography, craft work, fiber art, or other visual or graphic art techniques, and which derives at least seventy (70) percent of its total annual gross sales from the sale of such services and art products related to such services; but specifically excluding body art studios and tattoo parlors.

*Bar* a retail establishment that serves alcoholic beverages.

*Barrel* means fifty-three (53) gallons. *Bed and breakfast* means a small lodging establishment that offers overnight accommodation and breakfast. Bed and breakfasts are often private family homes and typically have between four and eleven rooms, with six being the average.

*Beer and malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than nine (9) percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term "malt beverage" does not include sake, also known as Japanese rice wine.

*Bottlehouse* means an establishment that, as allowed by this Code, may permit the transport and consumption of alcoholic beverages on the premises.

*Boutique hotel* is a hotel that is an independent hotel and not part of a chain. It is a small hotel that offers a personal, unique and customized experience for its guests.

*Brewery* means an industrial use for the manufacture of malt beverages, including ales, beer, meads and similar beverages, on site. Breweries are classified as a use that annually manufactures more than 10,000 barrels of all beverages combined.

*Brewpub* means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in section 6-49(b). In calculating the total annual gross food and beverage sales for any such establishment for the purpose of determining whether the establishment constitutes an eating establishment as defined herein, barrels of malt beverages sold to licensed wholesale dealers or to the public for consumption off the premises shall not be used.

*Brown bagging* means the bringing of alcoholic beverages into business establishments holding a license for or eligible to hold a license for the retail sale and consumption of beer and wine or distilled spirits by the drink for the purpose of drinking such alcoholic beverages at such establishments.

*Commissioner* means the Commissioner of the Georgia Department of Revenue.

*Curbside pick-up* means when a licensee furnishes purchased goods to a customer's vehicle within a clearly designated pick-up area located within a paved parking area adjacent to the licensed premises.

*Distilled spirits* mean any alcoholic beverage obtained by distillation or containing more than twenty-four (24) percent alcohol by volume, including, but not limited to, all fortified wine.

*Distillery* means an establishment where alcoholic beverages are produced by the distillation.

*Farm winery* means a winery which makes at least fifty (50) percent of its annual production from agricultural produce grown in the state and:

- (1) Is located on premise, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries or fruit to be utilized in the manufacture or production of wine by the winery; or
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.

*Fixed salary* means the amount of compensation paid to any member, officer, agent or employee of a bona fide private club as may be fixed for such person by its members at a prior annual meeting or by the governing body of the club out of the general revenue of the club, and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

*Food caterer* means any person who prepares food for consumption off the premises.

*Food service establishment* means any establishment holding a valid food service permit from its respective county health department, that offers food that is prepared, served and consumed on the premises, and may also be licensed to sell distilled spirits, malt beverages or wines by the drink which derives a minimum of fifty percent (50%) of

its total food and beverage sales from the sale of meals or food prepared on site. Also known as a “sit down” restaurant.

*Fortified wine* means any alcoholic beverage containing more than twenty-four (24) percent alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "fortified wine" includes, but is not limited to, brandy.

*Gallon or wine gallon* means a United States gallon of liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or the nearest equivalent metric measurement.

*Growler* means a bottle capable of being sealed with a tamper-proof cap, top or other seal for the purpose of complying with open container laws, and further provided that the container may hold less than twelve (12) ounces but not to exceed sixty-eight (68) ounces, and is filled with malt beverage drawn from a barrel, cask, tank, or keg by a licensee, or an employee of a licensee, holding a package malt beverage license issued by the City of Thomaston.

*Home-brew beverage* means any malt beverage produced pursuant to O.C.G.A. §3-5-4.

*Licensed alcoholic beverage caterer* means any retail dealer who has been licensed pursuant to this chapter and who otherwise complies with all requirements for an alcoholic beverage caterer contained in this chapter.

*Licensee* means the individual to whom a license is issued.

*Mixed drink* (sold for off-premises consumption as is allowed Class C1-Retail liquor by the drink) means a beverage prepared by combining distilled spirits with nonalcoholic liquid or liquids and that is prepared on the day of sale by an employee of the licensee, contains no more than three (3) ounces of distilled spirits, and is sealed in an approved container.

*Package* means a bottle, can, keg, barrel or other original consumer container.

*Person* means an individual. For sole proprietorship, the sole proprietor. For general partnership, limited partnership, limited liability partnership or limited liability limited partnership, a general partner. For limited liability company, a managing member or member with twenty-five percent (25%) or greater ownership interest or one member from among those members with the greatest ownership interest, if no individual member holds a twenty-five percent (25%) or greater ownership. For a privately-held corporation, any corporate officer or shareholder holding twenty-five percent (25%) or greater ownership interest. For publicly-traded company, an agent.

*Premises* means the definite closed or partitioned-in locality, whether a room, shop, building, restaurant or club, wherein activities permitted by this chapter are conducted,

together with any portion of the establishment on which food is served and which is contiguous to the structure, such as a patio, deck or other exterior extension.

*Private club* means any nonprofit association organized under the laws of this state which:

- (1) Has been in existence at least one (1) year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (2) Has at least seventy-five (75) regular dues-paying members; and
- (3) Owns, hires or leases a building space within a building for the reasonable use of its members with:
  - a. A suitable kitchen and dining room space and equipment;
  - b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and
  - c. No member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

*Registered agent* means any person who is authorized by the licensee and agrees to accept service or process and legal notices on behalf of the licensee.

*Retail consumption dealer* means any person who sells distilled spirits for consumption on the premises at retail only to consumers and not for resale.

*Retailer or retail dealer* means, except as to distilled spirits, any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. ~~With respect to distilled spirits, retail sales of unbroken packages or distribution are not permitted.~~ With respect to distilled spirits, the term shall have the same meaning as the term "retail package liquor store."

*Retail package liquor store* means a retail business establishment owned by an individual, partnership, corporation, association, or other business entity which is primarily engaged in the retail sale of distilled spirits, malt beverages, and wine in unbroken packages, not for consumption on the premises, except as authorized by state law, and which derives from such retail sale of alcoholic beverages in unbroken packages at least seventy-five percent (75%) of its total annual gross sales from the sale of a combination of distilled spirits, malt beverages, and wine.

*Special event* means any organized activity, whether for profit or not, having as its purpose entertainment, recreation, and/or education which takes place on public property OR takes place on private property but requires special public services/resources, such as parks, public streets, rights-of-ways, or sidewalks as well as events that take place in local business establishments that are outside of the "normal" course of business. Special events may include, but are not limited to, activities such as

run/walk events, cycling events, street festivals, parades, grand openings, sales promotional events, concerts, assemblies, block parties and certain outdoor promotional events.

*Wholesaler or wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers or to retail consumption dealers. Wholesale sale of distilled spirits is prohibited.

*Wine* means any alcoholic beverage containing not more than twenty-four (24) percent alcohol by volume made from fruits, berries or grapes, either by fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of the term "wine" contained in this section.

*Wholesaler or wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers or to retail consumption dealers.

## SECTION TWO

Paragraph (b) of Section 6-4 - Types of licenses and applicable annual licensing fees of Article I. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended to remove Class C – Brown bagging, add Class O – Retail distilled spirits by the package, and make further changes as set forth below and it shall read as follows:

(b) *Classes.* The licenses shall be divided into the following classes:

(1) Class A1 and A2 – Retail beer and wine;

*Class A1 – beer only*

*Class A2 – wine only*

(2) Class B1, B2, and B3 – Retail beer and wine by the drink

*Class B1 – General - beer only*

*Class B2 – General - wine only*

*Class B3 – Bars - Available beginning 02/01/2022*

- (3) Class B – Brown bagging
- (4) Class C1 and C2 – Retail **distilled spirits** by the drink (**includes mixed drinks**)

*Class C1- General*

*Class C2 – Bars - Available beginning 02/01/2022*

- (5) Class D – Wholesale beer and wine;
- (6) Class E – Alcoholic beverage caterer;
- (7) Class F – Brewery;
- (8) Class G – Brewpub;
- (9) Class H – Hotel;
- (10) Class I – Distillery;
- (11) Class J – Bottlehouse;
- (12) Class K – Specialty gift shop;
- (13) Class L – Ancillary winetasting;
- (14) Class M – Farm winery;
- (15) Class N – Boutique hotels;
- (16) **Class O – Retail distilled spirits - original package (license also authorizes the retail sale of beer & wine)**

The annual license fee, as well as any application fee, for each class shall be determined by the mayor and council by resolution, and a list of said fees shall be kept in the office of the City Clerk and available upon request.

**SECTION THREE**

Paragraphs (d) *Transfer of license to another location or another person*, ( e) *Interests of public employees*, (h) *failure to open*, (q)(4) *Security cameras required for certain establishment*

*selling alcoholic beverages, and ( r) Sale of alcoholic beverages for off premises consumption near churches or places of worship, schools and alcoholic treatment centers prohibited of Section*

6-26. – General regulations to alcohol licenses of Article II. of the Code of Ordinance of the City of Thomaston, Georgia, are hereby amended to read as follows:

(d) *Transfer of license to another location or another person.* Any licensee who desires to transfer an establishment with a Class O License to another location within the city shall provide the city with prior notice of the intent to transfer locations. Said notice shall provide the city with sufficient information to allow the mayor and council, or their designee, to determine if such transfer of location is in compliance with all the provisions of this chapter which are applicable to Class O licenses and state law. A change in location of an establishment with a Class O license is prohibited unless the new location complies with all provisions for said class. The mayor and council shall have the authority to approve or deny the transfer of location. The licensee shall pay an investigative fee, at such time as an application for the transfer is made, in an amount to be established by the city and amendable by resolution. Should the transfer of location be approved, with no change in ownership of the business, the license fee paid for the initial location shall be applied to the new location. Except for the provisions set forth above which are applicable to Class O licenses, no license shall be transferable or assignable to any person or other location; and if a licensed business is sold or closed, it shall be the duty of the licensee to immediately surrender the license to the governing authority. Under no circumstances will the license fee be refunded to the holder.

(e) *Interests of public employees*

(1) No member of the city council holding or having a beneficial interest in any alcohol license issued by the city shall vote or participate in the consideration of any action affecting such alcohol license issued by the city. For purposes of this section, a member shall be deemed to have or hold a beneficial interest if the license is issued in the name of the person's spouse, child, parent or sibling, or in a partnership or corporation in which such person owns more than ten percent controlling interest.

(2) No officer or employee of the city, whose official duties involve issuance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws, shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the city or in any establishment licensed by the city

to engage in the sale or distribution of alcoholic beverages. **In addition to the other application regulations, any alcohol license application received from any staff or elected official must be presented to Mayor, City Council and City Manager for transparency.** The City Manager, upon advice and consent of the city council, may exempt officers and employees of the city from the provisions of this section, upon written finding that such officer or employee's involvement, direct or beneficial, in any business licensed by the city to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the city.

(3) No officer or employee of the city shall be permitted to engage in employment with any person, firm or corporation licensed by the city to sell or distribute alcoholic beverages. The city manager may, in writing, exempt those officers or employees from the prohibition of this section, upon finding that such employment would pose no conflict of interest or interference with the performance by the officer or employee of his/her official duties for the city; provided, however, no certified police officer shall be permitted employment by any establishment that deals in alcoholic beverages without first obtaining the written consent of the Chief of Police.

(h) *Failure to open.* All holders of licenses issued hereunder, **with the except of class O,** must, within forty-five (45) days after the issuance of such license, open for business the establishment referred to in the license. Failure to open the licensed establishment as referred to within such period shall serve as an automatic forfeiture and cancellation of the unused license and no refund of the license fee shall be made to the license holder.

(q)(4) It shall be the responsibility of the licensee or licensee's representative to adequately and properly train any and all employees to ~~operate the camera system so that each employee can and does ensure to determine if~~ the system **appears to be working** correctly each day at the beginning and end of their shift, and said employees shall be given instructions as to what steps are to be taken if the system is not working correctly, to specifically including without limitation, the identity of and contact information for the person to whom an any operational issues are to be reported. **If there is an alleged felony committed on the premises that involves the owner, an employee or customer, a person who can operate the camera system must be available within thirty (30) minutes of law enforcement's arrival on the scene following the alleged crime so that camera footage can be shown and/or provided to law enforcement.**

( r) *Sale of alcoholic beverages for off premises consumption near churches or places of worship, schools and alcoholic treatment centers prohibited.* No person may knowingly and intentionally sell or offer to sell:

(1) Any wine or malt beverages for off premises consumption within one hundred (100) yards of any school building, school grounds or college campus. This subsection shall not apply to any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the twelve (12) months immediately preceding such application.

(2) Any distilled spirits for off premises consumption within one hundred (100) yards of any church building or place of worship or within two hundred (200) yards of any school building, educational building, school grounds or college campus.

(3) Any distilled spirits, wine, or malt beverages within one hundred (100) yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein. ~~This paragraph shall not apply to any business having a license in effect on July 1, 1981.~~

(4) As used in this section, the term “school building” or “educational building” shall apply only to state, county, city, or school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public or private schools.

(5) For purposes of this subsection, the measurement in determining the distance shall be made from the nearest two (2) points traveling the public right of way (to mean City sidewalks and crosswalks where applicable) from front door to front door between the buildings in question.

#### **SECTION FOUR**

Paragraphs (b), (d), and ( e) of Section 6-27. – Hours of operation of Article II. of the Code of Ordinance of the City of Thomaston, Georgia, are hereby amended to specifically include the hours of operation for Class B1, B2, B3, C1 and C2 and shall read as follows:

- (b) Class B1, B2, C1, E, G, H, J, L, M N and any sale of alcoholic beverages for on premises consumption by class F, I, and K licensees shall be permitted to sell such beverages between the hours of 8:00 a.m. and 2:00 a.m. on Monday through Saturday. For such classes, the sale of alcoholic beverages for consumption on the premises shall be permitted on Sunday between the hours of 12:01 a.m. and 2:00 a.m. and between the hours of 11:00 a.m. and 12:00 a.m. midnight provided that at least fifty (50) percent of the total annual gross sales of the licensed establishment is derived from the sale of prepared meals or food in all the combined retail outlets of the individual establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging.
- (d) Any sale of alcoholic beverages for offsite consumption by class O licensees shall be permitted from 8:30 a.m. until 11:45 p.m., Monday through Saturday.
- (e) Class B3 and C2 shall be permitted to sell such beverages between the hours of 8:00 a.m. and 2:00 a.m. on Monday through Saturday. For such classes, the sale of alcoholic beverages for consumption on the premises shall be permitted on Sunday between the hours of 12:01 a.m. and 2:00 a.m.

#### SECTION FIVE

Section 6-29. – Payment of taxes and fees of Article II. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended to require city staff to verify that applicant owes no fees to the city and that the occupational taxes of the applicable are paid and shall read as follows:

Prior to issuance of any license pursuant to this chapter, an applicant must be in compliance with all applicable requirements under federal, state, and/or city ordinances. Compliance with state statutes and city ordinances shall specifically include the requirement that the applicant or business of the applicant is not delinquent in the payment of any tax or fee owed the city, including, but not limited to, personal or real property taxes, any occupational taxes, sales and use taxes, or payment for any required permit necessary for operation of applicant's business. For purposes of this section, any tax that has been paid, formally appealed to the proper authorities, or is being paid pursuant to a plan authorized and approved by the appropriate tax or revenue commissioner shall not be deemed delinquent. Additionally, the applicant shall be in compliance with all other city ordinances, specifically including without limitation, all ordinances that relate to the maintenance of the physical location for which the license is sought. Upon receipt of an alcohol license application and prior to issuing an alcohol

license, staff are required to verify that the applicant owes no fees to the city and that the occupational taxes of the applicant are paid and current.

### SECTION SIX

Paragraph (g) of Section 6-41. - Class A1 and A2 – Retail beer and wine of Article III. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended so as to make it applicable to renewals and shall read as follows:

- (g) **For all renewals**, the licensees must derive fifty percent (50%) of his/her gross revenue from either food, gas or means other than alcohol sales and lottery related items; rental income shall not be included in the calculation of said percentage of gross revenue. The licensee shall cooperate and be responsible for substantiating and verifying their compliance with this provision upon request by the City.

### SECTION SEVEN

Paragraphs (a) and (b) of Section 6-43. - Class B brown bagging of Article III. of the Code of Ordinance of the City of Thomaston, Georgia, are hereby amended to read as follows:

- (a) Any establishment holding a class **B1 or B2** license may purchase a daily or an annual permit so as to permit brown bagging on such licensed premises. The establishment location must be zoned to allow the sale and/or consumption of alcoholic beverages on site and the applicant must follow the standard application process as required for any alcoholic beverage license request. The fee for a daily permit or an annual permit shall be in an amount to be determined from time to time by city council and listed in the schedule of fees and charges maintained by the City Clerk. Brown bagging shall be unlawful at all business establishments that do not obtain a brown bagging permit as provided for in this section.
- (b) Every class **B1 and B2** licensee obtaining a brown bagging permit and allowing brown bagging at such establishments shall be subject to the additional rules and regulations:

(1) No bottle or other container of beer or wine shall be in the possession or under the control of any owners, licensee, employee or agent of the establishment at any time except for the purpose of re-corking and/or placing the opened container in a clear sealed bag in preparation of the patron removing the opened container from the premises.

(2) Establishments holding brown bagging permits shall not deny or restrict the privilege of brown bagging by patrons or impose any admission charge, cover charge or minimum charge on brown bagging patrons that is not also imposed upon all other patrons during the legal hours of sale and consumption of alcoholic beverages.

### SECTION EIGHT

Section 6-45. - Class C brown bagging of Article III. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby repealed in its entirety.

### SECTION NINE

Section 6-57. of Article III. of the Code of Ordinance of the City of Thomaston, Georgia, shall be designated as Class O - license to provide for the criteria and provisions for applying for retail license to sell distilled spirits by the package and otherwise provide for the governance of said license, and it shall read as follows:

In addition to the regulations previously provided in Article II of this Chapter 6, Class O licensees shall comply with the following regulations:

(a) *Number of Licenses Permitted:*

The City of Thomaston shall issue a maximum of two (2) licenses for the sale of distilled spirits by the package. No additional licenses shall be authorized or issued unless and until the population within the corporate limits of the city increases to 15,000, and at that time one (1) additional license may be permitted. Thereafter, as the population within the corporate limits of the city increases in increments of 5,000, an additional license for the sale of distilled spirits by the package may be permitted. Said determination shall be within the discretion of the mayor and council

based upon the population figures published either by the Three Rivers Regional Commission or the most recent U.S. Census.

- (b) *License:*  
A retail distilled spirits license shall entitle the licensee to sell distilled spirits, wine and beer.
  
- (c) *Limitation of License:*  
No person or members of their immediate family, shall be issued, or have a beneficial interest in, more than one (1) retail liquor licenses. "Person", as used in the preceding sentence, shall include all members of a retail dealer licensee's family; and the term "family" shall include any person related to the holder of the license within the first degree of consanguinity and affinity as computed according to the canon law. These provisions shall not prohibit the reissuance of a valid retail distilled spirits license if the license was held prior to the creation of the above relationships by marriage. Additionally, no person shall have an ownership interest in two (2) entities that hold a Class O license.
  
- (d) *Applications for first licenses after initial enactment; selection process:*
  - (1) Upon enactment of this ordinance, the City Clerk shall post, within 25 days, a notice that applications will be accepted. Said notice shall state the place at which an application can be obtained, the earliest date on which applications will be accepted, and the date and time by which applications must be received.
  
  - (2) Applications, together with the required information and documentation, shall be accepted no earlier than 35 days from the date notice is published, and the period of acceptance of applications shall close fourteen days thereafter, at 4:00 p.m. It shall be the responsibility of the applicant to ensure that all information and documentation is submitted.
  
  - (3) All applications submitted will be examined by the City Manager, or his designee, and applications with any deficiency shall be returned to the applicant within ten (10) days.
  
  - (4) All required investigations by city staff shall be completed no later than 30 days after the close of the application period described in

(d)(2).

- (5) The City Manager, or his designee shall collect all applications meeting the criteria for issuance of licenses and draw from those collected two (2) applications for each available license.
- (6) The time for the drawing and selection, as set forth herein, shall be established by the City Manager, or his designee, posted at city hall, and each applicant shall be notified not less than five (5) days in advance. Applicants and the public may be present and observe the drawing process.
- (7) The City Manager, or his designee, shall ensure that the drawing is completely random, with the method of drawing being determined by City Manager, or his designee. Each application, as it is drawn, shall be numbered by the City Manager, or his designee, consecutively, lowest number to highest.
- (8) The first license available shall be offered to the applicant with the lowest number and the second to the second lowest number.
- (9) In the event two (2) or more applicants for licenses under this section are both located less than the minimum distance required by state law from each other, that fact shall not disqualify either from the random drawing described hereinabove; however, if both are selected, only the earliest drawn shall be eligible for issuance of a license under this section. If the applicant that is eligible for issuance of a license does not meet all the requirements and a license is not or cannot be issued, then the applicant that did not meet the minimum distance requirement from the applicant that a license is not or could not be issued, shall be offered a license. (For example, Applicant A and Applicant B are drawn, but they are located less than the minimum distances required by state law from each other. Applicant A will be offered a license. If Applicant A does not meet the requirements for issuance of a license, a license shall be offered to Applicant B.)
- (10) The applicants with the lowest and second lowest number shall pay the license fee to the City on or by 3:00 p.m. on the seventh day following the lottery drawing. Should either applicant with the two lowest numbers fail to pay the license by 3:00 p.m. on the seventh day, the license shall be deemed forfeited and offered to the applicant with the next lowest number. That applicant shall

pay the license fee to the City on or by 3:00 p.m. on the seventh day after a license is offered, and failure to do so shall result in forfeit thereof. This process shall continue until two (2) license fees are received by the City. The license fee shall be non-refundable.

(11) Upon payment of the license fee, a license which permits the sale of distilled spirits by the package will be issued conditioned upon the licensee obtaining a certificate of occupancy for the location at which the business will be operated. No sales shall be allowed in any building or establishment that is incomplete in accordance with the plans submitted and approved by the city or which has not been inspected by city staff to ensure compliance with city codes. If on December 31, 2022, no certificate of occupancy has been obtained, the license may be renewed for one (1) additional year, and if the license is not renewed on or by December 31, 2022, it shall be deemed forfeited, thereby creating a vacancy as set forth (i) of this section. If the license is renewed and the licensee fails to obtain a certificate of occupancy by December 31, 2023, the license shall be deemed forfeited, thereby creating a vacancy as set forth in (f) of this section.

(12) For purposes of the application and selection process contained in this section, if a date specified for action by the city or the applicant falls on a weekend, holiday or other day that city hall is closed, the date due for such action shall extend to the next regular business day.

(e) *Application and selection for licenses after issuance of initial licenses.* In the event that less than the maximum number of licenses permitted under this section have been issued, and there is a vacancy, the following procedure shall be utilized for the application and selection process.

(1) Within 25 days of a vacancy occurring, or the adoption of an ordinance increasing the number of licenses permitted, the clerk shall post in the legal organ a notice of said vacancy and the time applications will be accepted.

(2) Applications, together with the required information and documentation, shall be accepted no earlier than 35 days from the date notice is published or such other period that council determines, and the period of acceptance of applications shall close fourteen days thereafter, at 4:00 p.m. It shall be the

responsibility of the applicant to ensure that all information and documentation is submitted.

- (3) All applications submitted will be examined by the City Manager, or his designee, and applications with any deficiency shall be returned to the applicant within ten (10) days. Any application submitted for a proposed location that would violate the minimum distance required by state law from an existing establishment selling retail distilled spirits by the package, will be returned.
- (4) All required investigations by city staff shall be completed no later than 30 days after the close of the application period described in (e)(2).
- (5) The City Manager, or his designee shall collect all applications meeting the criteria for issuance of a license and draw from those collected for each available license.
- (6) The time for the drawing and selection, as set forth herein, shall be established by the City Manager, or his designee, posted at city hall, and each applicant shall be notified not less than five (5) days in advance. Applicants and the public may be present and observe the drawing process.
- (7) The City Manager, or his designee, shall ensure that the drawing is completely random, with the method of drawing being determined by City Manager, or his designee. Each application, as it is drawn, shall be numbered by the City Manager, or his designee, consecutively, lowest number to highest.
- (8) The first license available shall be offered to the applicant with the lowest number, and if there is more than one (1) license available, then the second to the second lowest number.
- (9) The applicant with the lowest number shall pay the license fee to the City on or by 3:00 p.m. on the seventh day following the lottery drawing. Should said applicant fail to pay the license by 3:00 p.m. on the seventh day, the license shall be deemed forfeited and offered to the applicant with the next lowest number. That applicant shall pay the license fee to the City on or by 3:00 p.m. on the seventh day after a license is offered, and failure to do so shall result in forfeit thereof. This process shall continue until two (2)

license fees are received by the City. The license fee shall be non-refundable.

(10) Upon payment of the license fee, a license which permits the sale of distilled spirits by the package will be issued conditioned upon the licensee obtaining a certificate of occupancy for the location at which the business will be operated. No sales shall be allowed in any building or establishment that is incomplete in accordance with the plans submitted and approved by the city or which has not been inspected by city staff to ensure compliance with city codes. The license will expire on December 31<sup>st</sup> of the year that it is issued.

(11) For purposes of the application and selection process contained in this section, if a date specified for action by the city or the applicant falls on a weekend, holiday or other day that city hall is closed, the date due for such action shall extend to the next regular business day.

(f) *Premises generally:*

(1) The premises at which distilled spirits are sold by the package must be within C-2 General Commercial District or DT Downtown District and must not be less than 5,000 square feet of combined showroom and storage space.

(2) The front entrance of the premises at which distilled spirits are sold by the package must be clearly visible from the public street.

(3) The premises must be kept in a safe and sanitary condition in compliance with other ordinances of the City and the laws of the State of Georgia.

(4) Other products that may be sold on the premises, tobacco products and products generally associated with, mixed with or used in connection with the consumption of distilled spirits.

(5) The following are strictly prohibited on the premises:

a. Sell or offer for sale of lottery tickets for Georgia Lottery;

b. Gambling and betting, including slot machines, electronic machines, or any other game or machine of chance; and

c. Opening or consuming any alcoholic beverage.

- (6) The licensee's place of business may have unilluminated signs, using letters not larger than eight inches in height, flat against the outside of the building, below the roof line, bearing the words "liquor," "beer," "wine," "champagne," or any combination thereof, and "package store" or "liquor store," together with the trade name of the retail dealer. In addition to such signs flat against the outside of the building, the retail dealer may display at a location on the tract of property upon which the business is located, but not affixed to the building, one unilluminated sign using letters not larger than eight inches in height bearing the words "package store" or "liquor store" and the trade name of the retail dealer. All signs shall be in compliance with any and all applicable sections of the sign ordinance.
- (7) No form of advertising shall be permitted on the exterior of any licensed premises which provide or suggest the brand or price of any alcoholic beverages for sale. Any advertising of brand or pricing within the interior of the structure shall not be visible from the exterior of the structure.

(g) *Inventory:*

Retail distilled spirits licensees shall maintain a minimum of at least \$500,000.00 inventory of distilled spirits, and \$25,000 inventory of beer and wine.

(h) *Vacancy:*

For the purposes of this subsection, a vacancy shall not be considered to exist until one of the following have occurred:

- a. A license has been surrendered;
- b. A license has expired without renewal;
- c. A license has been revoked pursuant to section 6-113 or any other lawful authority. Such vacancy shall not have occurred until the review of said revocation is complete.

## SECTION TEN

Paragraphs (c) and (h) of Section 6-106. – General license eligibility requirements of Article VI. of the Code of Ordinance of the City of Thomaston, Georgia, are hereby amended to read as follows:

- (c) No retail license required by this division shall be granted to any person if such person retains for the operation of the licensed establishment an employee who has been convicted of a felony within fifteen (15) years of assuming the position to operate said establishment.
- (h) (6) For class B3, C2 and O, blueprint and scale drawing of the business facilities;
- (7) For class B3, C2 and O, survey showing the location of the business and the distance to the nearest school, church or place of worship and alcoholic treatment center.

#### SECTION ELEVEN

Paragraph *Consent statement* set forth in Section 6-108. – Application for new license of Article VI. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended to reflect that it is paragraph (e) instead of (c) as follows:

Sec. 6-108. – Application for new license.

- (e) *Consent statement.* A consent statement by the applicant that all necessary investigation reports on the applicant and any employees in the applicant's establishment including, but not limited to, credit reports and reports from law enforcement agencies, may be obtained by the city. Any information in such reports may be furnished to the licensor, and the applicant will be responsible for the cost thereof. If so requested, applicants shall also obtain such consent forms from each employee who will be employed in applicant's establishment. **The licensee and his/her agent shall consent to city obtaining a criminal history report at upon request by city.** The applicant shall furnish the city a complete set of fingerprints. Such sets shall be forwarded to the state bureau of investigation. The city may require photographs of the applicant and/or fingerprinting and/or photographs of the applicant's employees for the purpose of conducting its investigation.

SECTION TWELVE

Paragraphs (a) of Section 6-109. – Agent of Article VI. of the Code of Ordinance of the City of Thomaston, Georgia, is hereby amended to read as follows:

- (a) All applicants for licenses under this Chapter shall name one person as the agent of the licensee, including the name, telephone number, address and electronic mail address thereof, who shall be responsible for any matter relating to such license. The application shall give the mailing address of the agent, and said agent shall reside within a thirty (30) mile radius of the city limits of the City of Thomaston. The licensee and agent shall sign a written consent of such agency with the City Manager or his/her designee, in such form as he or she may prescribe. **Any agent named shall consent to a criminal background check.** Further, such written consent shall confirm that licensee stipulates that any mailing to such agent at the address provided of any notice required to be given under this Chapter or any other law shall be sufficient notice to licensee.

Any and all portions of any section of the Alcohol Ordinance not specifically amended herein above shall remain unchanged and in full force and effect. All ordinances or parts thereof in conflict with the terms and provisions set forth in this ordinance be, and the same hereby are, repealed.

\* \* \* \* \*

The foregoing ordinance was adopted by the City Council of the City of Thomaston, Georgia, and transmitted by me to the Mayor, this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
OASIS NICHOLS

DEPUTY CITY CLERK

Approved by me and returned to said City Clerk as "Approved", this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022.

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J. D. STALLINGS  
MAYOR