



TOWN OF BETWEEN, GEORGIA

ORDINANCE PROVIDING FOR THE LICENSURE AND SALE OF MALT
BEVERAGES AND WINE WITHIN THE JURISDICTION OF THE TOWN OF
BETWEEN GEORGIA

ORDINANCE NO. _____

AN ORDINANCE REPEALING THE MARCH 13, 2001 ADOPTED ORDINANCE FOR THE SALE OF MALT BEVERAGES AND WINE AND ENACTING A NEW ORDINANCE PROVIDING FOR THE REGISTRATION AND LICENSURE OF BUSINESSES SELLING MALT BEVERAGES AND WINE WITHIN THE JURISDICTION OF THE TOWN OF BETWEEN GEORGIA

It is hereby ordained by the governing authority of the Town of Between, Georgia that each entity or person engaged in any type business selling malt beverages or wine within the jurisdiction of the Town of Between, Georgia shall register such and pay a fee for a malt beverage and/or wine license. (State Law Reference: O.C.G.A. Title 13)

SECTION 1: That Chapter , Section , of the Code of Ordinances of the Town of Between, Georgia is to read as follows:

1. Businesses conducting the sale of malt beverages and/or wine within the jurisdiction of the Town of Between shall register and obtain a malt beverage and/or wine license for said business with the town prior to commencing operation. Multiple locations shall require a separate license for each location.
2. Establishments conducting business within the jurisdiction of the Town of Between shall renew said malt beverage and/or wine license on or prior to the date established by the town annually.
3. Definitions – Unless the context otherwise requires, the following terms as used in this ordinance shall be construed according to the following definitions:
 - a. Retail grocery/convenience store business – A person, firm, partnership, or corporation engaged in the business of selling food at retail for consumption not on the premises where sold.
 - b. Retail sale – The sale for use or consumption and not for resale.
 - c. Alcoholic beverage in this ordinance means and includes all beer, malt beverage, wine or fortified wine as defined in this Section.
 - d. Beer and malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or combination of such products in water containing not more than fourteen percent (14%) alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also are included are beverages known as non-alcoholic beer which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products and containing less than three (3%) , but

more than 0.1 percent alcohol by volume. The term malt beverage does not include sake, known as Japanese rice wine.

- e. Town means the Town of Between.
 - f. Town Council or Mayor means the Mayor and Town Council of the Town of Between.
 - g. Governing authority means the Mayor and Town Council of the Town of Between.
 - h. License means the formal approval granted or issued by the Town of Between to a licensee for the package sale of malt beverages and/or wine within the Town of Between.
 - i. Licensee means the individual to whom a license for the sale or distribution of malt beverages or wine under this ordinance. In the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation are licensee.
 - j. Liter means metric measurement currently used by the United States.
 - k. Package means a bottle, can, keg, barrel, or other original consumer container.
 - l. Package sales means the sale in packages or containers of malt beverages or vinous beverages for consumption only off premises.
 - m. Retailer or Retail Dealer means any person who sells malt beverages and/or wine in unbroken packages at retail only to consumers and not for resale.
 - n. Wine means any alcoholic beverage containing not more than 21% alcohol made from fruits, berries, or grapes either by natural fermentation. Wine includes, but not limited to, all sparkling wines, champagnes, combination of such beverages, vermouths, special natural wines, rectified wines and like products.
4. Retail License
- a. Retail licenses shall only be issued to retail grocery/convenience store businesses as defined herein, which meet the requirements hereinafter set out.
5. Wholesale License
- a. Wholesale license shall be issued only to those applicants who are licensed by the State of Georgia to sell and distribute wine and/or malt beverages at wholesale.

SECTION 2: LICENSES, GENERALLY

All licenses issued under this ordinance shall:

- a. Permit the licensee to sell or distribute the beverage or beverages for which the license is issued inside the Town of Between, Georgia pursuant to the terms of the ordinance and consistent with the laws of the State of Georgia and the United States.
- b. Expire on December 31 of each year and an application for renewal shall be made annually by the 30th of November and shall be received by the second Wednesday of December of the expiring year

- c. Not to be transferred from one person to another or from one location to another without prior approval from the Mayor and Town Council upon written application from the licensee.
- d. Not permit the licensee to sell open containers and shall be for “off” premises” consumption only.
- e. Not permit the licensee to display or sell wine or malt beverages from an ice tub.
- f. Not permit the licensee to sell wine or malt beverages from a drive-in window.

SECTION 3: LICENSE RESTRICTIONS

When contrary to the public interest or welfare, no such license shall be issued to:

- a. A person who has been convicted under any federal, state, or local law of a misdemeanor, particularly, but not limited to those involving alcohol, gambling, or tax law violations, if such conviction tends to indicate the applicant will not maintain operation for which he is seeking the license in conformity with federal, state, or local laws.
- b. A person who is under the age of 21.
- c. A person who is not a citizen of the United States or a legally documented immigrant.
- d. A person whose license under this chapter has been revoked for cause.
- e. A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon first application.
- f. A co-partnership, unless all of the members of such a co-partnership shall be qualified to obtain a license.
- g. A person whose place of business is conducted by a manager or agent unless said manager or agent possesses the same qualifications required of the licensee.
- h. A person who does not own the premises for which a license is sought, or does not have a lease for the full period for which the license is issued.
- i. No law enforcement or town official shall have any secret, silent or undisclosed financial interest, either directly or indirectly, in the manufacture, sale or distribution of wine or beer. Such interest, if any, must be disclosed in the application and be made a matter of public record.

SECTION 4: TRANSFER OF LICENSE

A license shall be a purely personal privilege, good for not to exceed one (1) year after issuance unless sooner revoked as in this chapter provided, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall cease upon the death of the licensee and shall not descend by the laws of testate or intestate devolution, provided that executors or administrators of the estate of any deceased licensee, and

the trustee of any insolvent or bankrupt licensee, when such estate consists in part of beer and wine may continue the business of the sale of beer or wine under the order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but no longer than six (6) months after the death, bankruptcy or insolvency of such licensee. A refund shall be made of that portion of the license fee(s) paid for any period in which the licensee shall be prevented from operating under the license in accordance with the provisions of this section.

SECTION 5: APPLICATION

Every person/establishment required to procure a license under the provisions of this ordinance shall submit an application for such license to the Town of Between.

As a prerequisite to issuance of a license, each applicant shall furnish a complete set of fingerprints to be forwarded to the Georgia Bureau of Investigations for search of files for a period of the past two (2) years from the date of application.

Applicants should contact the Walton County Sheriff's Office or any local police department to obtain the fingerprint card required. There may be a charge for this service.

Form of Application. Each application shall be a written statement upon forms provided by the Town of Between.

1. **Contents of Application.** Each section of the application shall be completed. Incomplete applications will not be processed and will be returned to the applicant.
2. **Affidavit Verifying Residency Status of an Applicant.** This form is required by the Georgia Security and Immigration Compliance Act. This form is required to be completed and notarized in order to receive a business/occupational license.
3. **Private Employer Affidavit Pursuant to O.C.G.A. 36-60-6(d).** This form is required to be completed and notarized.
4. **Verification.** Each applicant shall be sworn to by the applicant if an individual, or by a partner if a partnership, or by an officer if a corporation.
5. **Payment of Fees.** Fees shall be included with the application forms. Checks shall be made out to: **Town of Between.**
6. **Processing of Applications.** Completed applications, accompanying documentation and fees shall be returned to: **Town of Between, 1926 New Hope Church Road, P.O. Box 46, Monroe, Georgia 30655.** Completed application packages not received by the due date as established by the Town of Between shall be subject to a late fee of 10% of the total fee.
7. **Application/Fee Due Date.** *All new or renewal license applications and fees are due to the Town of Between no later than the second Wednesday of December of each calendar year.* Applications received after this date are considered late and are subject to the 10% penalty as stated in #8 above.

8. **Effective Dates.** Malt beverage and/or wine licenses are effective beginning on January 1st and expiring on December 31st of each calendar year.

SECTION 6: MISCELLANEOUS

1. License fees
 - a. Each applicant shall pay an annual fee of \$150.00 per license for malt beverages and a fee of \$150.00 per license for wine or \$300.00 for a combination license for malt beverages and wine.
2. Hours of Operation
 - a. The hours of sale for retail distributors of wine and beer shall be from 7 a.m. until 11:30 p.m. each week day. Malt beverages and wine may be sold within the Town on Sundays and Holidays from 12:00 p.m. until 11:30 p.m. The sale of malt beverages and wine on Election Day shall be from 7 a.m. until 11:30 p.m.
3. Location of Licensed Operation: Distance Requirements
 - a. No person may sell or offer to sell any Malt beverages or wine within 100 yards of any school building, educational building, school grounds, college campus, church building or an alcoholic treatment facility.
 - b. For the purpose of this Section, distance shall be measured by the most direct route of travel by vehicle on the ground and shall be measured in the following manner:
 1. From the main entrance of the main structure of a church building, school or alcohol treatment facility.
 2. In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route.
 3. Along such public sidewalk, walkway, street, road or highway by the nearest route in direction allowed for vehicle traffic.
 4. To the main entrance of the establishment from which alcoholic beverages are sold or offered for sale.
 5. State Law Reference: Distance requirements from schools, churches, O.C.G.A., Sec. 3-3-21.
 6. Wine or beer shall not be received at or delivered to the premises of the retail licensee by any means other than by a conveyance owned, operated and properly marked by a wholesale dealer with a wholesale license issued by the Town.
4. Retail licensees shall store all wine and/or malt beverages in their possession on the premises for which the license was issued, and at no other place or places except upon written permission from the Town Council.
5. No licensees shall sell any malt beverages and/or wine to any minor or to any person in an intoxicated condition.
6. The licensee shall display the license(s) issued by the Town prominently at all times on the premises for which the license is issued.

7. Licensees shall not post more than one authorized sign at their place of business and shall not display outside signs or signs in their windows of any type which advertise either brand, product or price relating to malt beverages or wine.
8. No licensees shall permit the consumption of any malt beverage or wine on the premises of the licensee.
9. The sale of malt beverage or wine will not constitute a majority of total sales on an annual basis.

SECTION 7: OFFENSES

- a. It shall be unlawful to manufacture, distribute, sell or possess for the purpose of commercial distribution or sale, any malt beverage or wine within the Town jurisdiction without a license issued by the Town.
- b. It shall be unlawful to manufacture, distribute, sell or possess for the purpose of commercial distribution or sale any alcoholic beverage of any kind with the exception of malt beverages and wine.
- c. It shall be unlawful to post any advertising matter concerning alcoholic beverages of any kind on billboards, buildings, trees, posts or in any manner, within the jurisdictional limits of the Town.
- d. It shall be unlawful to knowingly let, rent, keep or maintain any room, house, building or other place within the Town where alcoholic beverages are possessed or sold in violation of paragraphs (a) or (b) above.
- e. All alcoholic beverages owned or possessed contrary to the provisions of this ordinance are hereby declared contraband.
- f. It shall be unlawful for any minor to purchase any wine, malt beverage or alcoholic beverage within the Town, and it shall be unlawful for any parent or other person to purchase any Malt beverage, wine or alcoholic beverage within the Town and furnish it to a minor for consumption.
- g. It shall be unlawful for a minor to attempt to purchase any malt beverage or wine within this Town, and it shall be unlawful for a minor to exhibit faked, forged, stolen or borrowed credentials in an effort to purchase malt beverages or wine in the Town.
- h. It shall be unlawful for a minor to have any malt beverages, wine or other alcoholic beverages in his or her possession, or to be found in an intoxicated condition on any property generally open to the public within the Town limits.
- i. For the purpose of this section, "minor" shall mean any person under the age at which alcoholic beverages may be legally purchased in this state.

SECTION 8: PENALTY OF ORDINANCE VIOLATION

1. Each license shall be for the calendar year in which the license was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon any business

which fails to apply for and obtain an appropriate malt beverage and/or wine license and pay the fee(s) as provided herein on or before January 31st of each calendar year. Each business is required to obtain the appropriate malt beverage and/or wine license prior to conducting any business in the Town of Between. Any person transacting or offering to transact business in the Town of Between without the proper license is subject to penalties as stated in #2 of this section.

2. The Town Council on the first offense may suspend the license(s) for not more than 30 days; on the second offense, the Town Council may suspend the license(s) for not more than six (6) months and direct that the inventory be removed from the premises; and on the third offense, the Town Council may suspend the license for not more than two (2) years and direct the inventory be removed from the premises, or revoke for cause an malt beverage and/or wine license for any violation of any provisions of this ordinance or for any violation of ant state law pertaining to the sale of alcoholic liquor, beer or wine as provided by law.
 - a. State Law Reference: Due process requirements for suspension, revocation of licenses, O.C.G.A., Sec. 3-3-2.
3. Any person violating any provisions of this ordinance shall, upon conviction before the Walton County Magistrate Court Judge, shall be fined in an amount not to exceed One Hundred Dollars (\$100.00) at his/her discretion.
4. The Walton County Sheriff and his duly designated officers and inspectors or their successors shall be classified as Deputy Marshal-Business Inspector with full subpoena and arrest powers in conjunction with any violation pertaining to this ordinance until such time as this ordinance is amended or repealed.
5. Upon the failure of any business to pay said malt beverage and/or wine license fee before it becomes delinquent, any license issued by the Town of Between under this ordinance permitting the owner of said business to sell malt beverage and /or wine for the current year shall be, ipso facto, revoked.

SECTION 9: AMENDMENTS, REPEAL AND ENFORCEMENT PROVISIONS

1. This ordinance shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be construed to deny the right of the Town Council to access and collect any fees or other charges prescribed. Said amendment may increase or lower the amount of any malt beverage and/or wine license fees and may change the classification thereof. The payment of any malt beverage and/or wine license fee(s) shall not be construed as prohibiting the levy or collection by the Town of Between of additional fees upon the same person, property, or business.
2. It is the duty of the Town Council to see that the provisions of this ordinance relating to malt beverage and/or wine license(s) and fees are observed; and to summon all violators of the same to appear before the appropriate court. It is hereby made the further duty of the Town Council, to inspect all licenses issued by the Town of Between as often as in

their judgement it may seem necessary to determine whether the license held is the proper one for the sale of malt beverages and/or wine sought to be transacted thereunder.

3. The ordinance shall remain in full force and effect as of the adopted date indicated at the end of this document.
4. The Council shall conduct at least one public hearing before adoption of any ordinance or resolution which will increase the malt beverage and/or wine license fee as set forth in this ordinance.

SECTION 10: If any provision, section, subsection, clause, or phrase of this ordinance, or application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance or the application to such other persons or set of circumstances shall not be affected thereby, it being the intent of the Town Council of the Town of Between, Georgia, in adopting this ordinance, that no portion or provision therefore or provision contained herein shall become inoperative or fail by any reason of unconstitutionality or invalidity of any portion or provision.

SECTION 11: This ordinance shall be published and become effective in accordance with the Town of Between Charter.

NOW THEREFORE, the Mayor and Town Council of the Town of Between, Georgia hereby ordain that the March 13, 2001 Ordinance for the regulation of and sale of malt beverages and wine is hereby repealed in its entirety and in lieu thereof, a new Ordinance, Providing for the Regulation and Sale of Malt Beverages and Wine Within the Jurisdiction of the Town of Between, Georgia is enacted.

PASSED AND APPROVED on the First Reading on the _____ day of _____, 20__.

PASSED, APPROVED, AND ADOPTED on the Second Reading on the _____ day of _____, 20__.

Town Clerk

Mayor

APPENDIX A

MALT BEVERAGE AND WINE EXCISE TAXES

1. RATE OF LEVY

- a. There is set and levied on the sale of malt beverages within the Town of Between an excise tax in the sum of five (5) cents per twelve (12) ounces and in proportion for containers of various sizes.
- b. There is set and levied on the sale of wine within the Town of Between and excise tax in the sum of twenty-two (22) cents per liter and in proportion for containers of various sizes.

2. AGAINST WHOM LEVIED

- a. Each licensed wholesale distributor in malt beverages and/or wine in the Town of Between shall pay the appropriate excise tax.

3. DUE DATE AND REQUIRED REPORT

- a. Each wholesale distributor who has sold malt beverages and/or wine within the Town of Between shall file a report by the 10th day of each month itemizing for the preceding month the exact quantities of malt beverage and/or wine, by size and container sold within the Town. Each wholesale distributor shall remit to the Town on the 10th day of the month next succeeding the month in which such sales were made, the amount of excise tax due in accordance with this ordinance.

4. ENFORCEMENT

- a. The failure to make a timely report and remittance or filing false or fraudulent reports shall render a wholesale distributor liable for a penalty equal to 10% of the amount due during the first 30 day period following the date such report and remittance were due and a further penalty of 10% of the amount of such remittance for each successive 30 day period or any portion thereof, during which such report and remittance are not filed. This shall also constitute grounds for revocation of any business license by the Town to the wholesale distributor.

5. STATE LAW REFERENCE

- a. Excise tax on malt beverages, O.C.G.A. Sec. 3-5-80 et seq; excise tax on wine, O.C.G.A. Sec 3-6-60.