ORDINANCE NO. 2021O-06
(Package Sale of Distilled Spirits, November 2021 Election – LMW)

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF ROCKMART REVISING THE ALCOHOL CODE CONCERNING DISTILLED SPIRITS, REGULATIONS CONCERNING PACKAGE SALE AND FOR RELATED PURPOSES

WHEREAS, under revisions to Georgia law, the governing authority of municipalities was authorized to conduct a ballot question vote as to whether distilled spirits by the package would be sold within the corporate limits of a municipality; and

WHEREAS, Rockmart by resolution called for this referendum question to be placed on the ballot on November 2, 2021; and

WHEREAS, a majority of the voting resident electors of the City of Rockmart voted in favor of allowing the package sale of distilled spirits in Rockmart; and the City Council adopted a resolution confirming this action in preparation for an ordinance governing the granting of licenses for the package sale of distilled spirits in Rockmart; and

WHEREAS, after significant study, review of similar ordinances and regulations in other cities, and numerous conferences concerning the issue surrounding the issuance of these licenses, the City Council is now prepared to adopt an ordinance regulating package sales of distilled spirits in the City;

NOW THEREFORE, be it ordained and established by the City Council of the City of Rockmart as follows:

Section 1:

The Code of the City of Rockmart shall stand amended as to Article IV of Chapter 3 entitled "Distilled Spirits" in the following particulars:

(1) Section 3-204 of the Code entitled **"Classifications of licenses; compliance"** shall stand amended by striking said Section in its entirety, and inserting in lieu thereof, the following new Section 3-204 which shall read as follows:

"Sec. 3-204. Classifications of licenses; compliance.

The following classifications of licenses shall be issued pursuant to this article:

a. Distilled spirits – package sales;
b. Distilled spirits – by the drink for consumption on the premises.

No person shall engage in either the package sales, or sales for consumption by the drink, within the City without first complying with all of the applicable provisions of this Chapter, state law and regulations.

(2) Section 3-207 of the Code entitled **"Applications; contents and terms; license fees"** shall stand amended by adding a new subparagraph, which shall be subparagraph (10) of Section (a) which shall hereafter read as follows:

"Sec. 3-207. Applications; contents and terms; license fees.

(10) A notarized statement, with background financial documents, from an accountant, financial advisor, bank or similar entity, that the applicant has the sufficient financial ability to purchase and maintain, as required by this ordinance for distilled spirits package sales, a minimum average retail inventory of not less than $200,000.

All background financial date furnished by the applicant shall remain legally privileged and confidential. After proper City review, if the applicant is not chosen for a license, all financial data shall be returned. For any approved license holder, the data shall remain sealed and locked like other confidential records of the City.

NOTE: Present subparagraph (10) shall become subparagraph (11).

(3) Section 3-209 entitled **"Qualifications; restrictions"** shall be amended by striking the preamble and insert in lieu thereof the following:

"Sec. 3-209. Qualifications; restrictions.

(a) In addition to the qualifications set forth in any portion of the alcohol and beverage codes, and specifically Section 3-66, 3-67, 3-68, 3-78 and all applicable state law provisions and regulations; applicants for a distilled spirits license under the Article shall meet the following qualifications:

(4) Section 3-209 shall stand further amended by striking subparagraph (5) of that Section in its entirety and inserting in lieu thereof a new subparagraph (5) of Section 3-209:

"(5) Licenses granted under this Section shall only be issued for locations in zoning districts where either the package sale of distilled spirits or the sale of distilled spirits for consumption on the premises is allowed.

(5) A new Section of the City Code to be codified as Section 3-209.1 shall be added to the Code and shall be entitled **"Additional regulations for package sales of distilled spirits"**. The Section shall hereafter read as follows:

"Sec. 3-209.1. Additional regulations for package sales of distilled spirits.

The following regulations and/or requirements shall apply to any license holder for the package sale of distilled spirits in the City:

(a) Based upon the population of Rockmart, and the need to generally limit and control the number of licenses within the City, there will be no more than two (2) initial licenses granted within the City. If the population of Rockmart reaches 10,000 inhabitants, then one (1) additional license will be granted. Further, for every 5,000 person increase in population over 10,000, one (1) additional license will be granted. It is the intention of this section to grant one (1) additional license as the population increases within the City by 5,000 inhabitants. In determining population, the City shall utilize the most recent population figures published by the Atlanta Regional Commission; or by the last United States Census.

(b) In the event more than two (2) qualified applicants apply for a package license under this Article, then the City shall conduct a blind draw, public lottery among these applicants to randomly choose the two (2) applicants who shall receive a license.

(c) If at any time and for any reason, the number of active licenses for the retail sale of distilled spirits by the package falls below the number then permitted, the City shall accept applications and issue such additional licenses for the retail sale of distilled spirits by the package, in order to increase the number of licenses to the maximum number then permitted by this Ordinance. In the event, after public notice and advertisement, there are more than one (1) applicant for this additional license, the

same neutral lottery system by blind draw shall be used to determine the applicant who shall receive a license.

(d) All retail package outlet stores shall be a minimum of 3,000 square feet and a maximum of 10,000 square feet.

(e) Upon opening, and during all business operations, the store shall maintain a minimum retail average inventory of $200,000.

(f) All deliveries to any building shall be accomplished in the rear of it, unless the building configuration prohibits delivery to the rear. All dumpsters, recycling bins, compactors, or other storage facilities shall be screened from ground view. No empty boxes, waste materials, or similar discarded packaging shall be placed outside of the location, if within view of the store entrance.

(g) The primary access of ingress and egress shall not be within 150 feet of a zoned residential district.

(h) Package stores shall be closed on Christmas Day and such other times as are required by law.

(i) No electronic or non-electronic gaming machines, punch cards, or other gaming devises shall be placed on, or operated to any degree, upon the premises.

(j) The licensed premises shall not sell groceries, hardware, household items, or general non-alcoholic merchandize within the premises; with the exception of items associated with the sale of distilled spirits by the package such as mixers, cups, cordials, or related items. Any such associated items that may be sole, pursuant to state regulations, shall never exceed 25% in value of the total inventory of any licensed retail package outlet.

(k) Ice shall be sold only in sealed containers or bags and may not be opened in the premises or in the parking lot area. Likewise, cups shall not be opened and shall remain sealed in these locations. The sale, or complimentary furnishing, of individual cups for purposes of samples; partial consumption, or any other use within the premises or parking area is strictly prohibited. This prohibition shall not apply to any promotional or souvenir type cup that is purchased with a distilled spirit in an unopened package.

(l) There shall be no sales of any "drug paraphernalia" or any "drug related object" as defined by O.C.G.A. § 16-13-32(a)(1) or further defined as including, but not limited to objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana or a controlled substance into the human body.

(m) Advertising of prices outside a retail package store, including signs on the retail package store or store window, shall not be permitted in any manner whatsoever. Further, both exterior and interior signage shall comply with all state laws and regulations.

Section 2:

The Code of the City of Rockmart as contained in Chapter 3, Article I, shall stand amended by striking current Section 3-13 of the Code and inserting a new Section 3-13 which shall read as follows:

Any outlet for the retail sale of alcoholic beverages under this Chapter shall install and maintain security cameras in the outlet of a type and number approved by the chief of police. Cameras shall be placed, at a minimum, in the following manner:

(a)

(1) On the premises to record activities in the check out or cash register area(s), to include both customer and employee.
(2) On the premises to record all entrance and exit doors.
(3) All cameras shall be capable of producing a retrievable color image on digital film or tape that can be made a permanent record and clearly enlarged through projection or other means.
(4) Such cameras shall be maintained in proper working order at all times and shall be subject to periodic inspection by the chief of police or his designee. If a sale of alcohol to a minor, robbery, misdemeanor, or other felony occurs in such outlet, the film or tape recording such event shall immediately be made available to the chief of police or his designee. All films, tapes or images required by this Code section shall be retained by the outlet, in its original, viewable format, for a period of no less than thirty (30) days after recording.
(5) All cameras must be in working order and checked by the licensee on a weekly basis. A log of said checks and repairs, if any, are to be kept and provided to the Rockmart Police Department on a quarterly basis. Additionally, said logs may be kept internally by the security camera, and if so, shall be made available for review by the Rockmart Police Department on a quarterly basis.

(b) Failure to comply with the provisions of this section shall subject the violator to suspension or revocation of their relevant license or licenses pursuant to the authority granted under this chapter. Additionally, violations of this section shall subject the violator to general penalties as set forth in Section 1-7 of this Code.

Section 3:

The Code of the City of Rockmart as contained in Article IV entitled "Distilled Spirits" shall stand further amended as to Section 3-207, subparagraph (10)(e) by striking that Section in its entirety and inserting in lieu thereof the following:

"Sec. 3-207(10)(e). If the application is for a distilled spirits retain license for consumption on the premises by the drink, then the application shall be accompanied by a current certificate from a registered surveyor containing the information set forth hereinafter. If an applicant for a license to sell distilled spirits by the package is chosen and meets all of the qualifications for a license, **then the applicant shall also accompany the final license application requirements with the information set forth hereinafter. This information shall be accompanied by a registered surveyor and shall include:**

(1) A scale drawing of the building or proposed building as situated on the proposed lot;
(2) Proposed off-street parking facilities available to the building;

(3) Both the straight line distance and measured distance in linear feet from areas listed as "prohibited locations" in this chapter or state law, and, in the case of package sales, any other business or location with a package license within 500 yards of the proposed licensed premises;

(4) The requirement of showing these distances shall not exist where the proposed location is more than 650 yards from the "prohibited locations" listed in subparagraph (3); or, in the case of package sales, more than 2,000 feet from another location with a package license. The surveyor's plat or certificate shall indicate that there are no "prohibited locations" and that the distance is more than 2,000 feet from another package sale location; and

(5) The current zoning classification for the proposed location."

Section 4:

The Code of the City of Rockmart as contained in Article IV entitled "Considerations and guidelines for granting or denying a license" shall stand further amended as to Section 3-210, by striking that Section in its entirety and inserting in lieu thereof the following:

"Sec. 3-210. Considerations and guidelines for granting or denying a license

(a) The consideration and guidelines for granting or denying a license pursuant to this Article shall include the general considerations for the granting of a malt beverage license; together with all requirements and review standards concerning distilled spirits as contained in this Article IV.

(b) The City shall also consider the zoning classification for the proposed location, and areas adjacent to that location, as it relates to package sales due to it being a conditional use within certain zoning classifications of the City.

Section 5:

The Code of the City of Rockmart shall stand further amended as to Section 3-211 by striking subsection (d) in its entirety and inserting in lieu thereof a new a new subsection (d) as follows:

"Sec. 3-211. Investigations and processing of applications.

(c) If the Mayor and Council determine that an applicant for a distilled spirit sale by the drink meets the standards and guidelines for that type license under this Chapter, and all fees have been paid for the issuance of a license, the Mayor and Council shall issue the license for the sale by the drink for consumption on the premises license. As previously set forth in this ordinance, if there are only two applicants for a license for package sales of distilled spirits, and all requirements are met, then the respective licenses shall be issued. However, if there are more than two applicants for the initial licenses, then a blind draw lottery system to choose the applicants shall be conducted by the City after appropriate notice to all applicants. The lottery drawing shall be conducted in public as a part of a special or regular meeting of the City Council." The timing, method, and all other particulars concerning the lottery drawing shall be accomplished by the manager, or the manager's designee; provided that the review of all applicants has been completed both by the City and all initial state reviews. The lottery shall be conducted by a neutral, unaffiliated third person, firm, or corporation. **Section 6:**

The Code of the City of Rockmart as contained in Section 3-212 shall stand amended by Striking subsection (d) in its entirety of that section, and inserting in lieu thereof a new subsection (d) which shall read as follows:

"Sec. 3-212. Terms of license; renewal.

(c) In considering an application for renewal of either a package sales license; or a sale for consumption by the premises license under this Article IV, all guidelines contained in this Chapter and all state laws and regulations shall be reviewed in determining if the license shall be renewed. The Mayor and Council may take such action regarding renewal applications as it was empowered to take with regard to the initial application for such license.

Section 7:

The Code of the City of Rockmart shall stand further amended, for clarification purposes, regarding the initial fees for an application for a retail package sale license within the City. Those fees, established pursuant to Section 3-213 are as follows:

"Sec. 3-213. Fees.

(1) A non-refundable investigative fee of $750.00;
(2) Cash or certified funds for the license, if granted in the amount of $5,000.00; The initial background investigation application shall not require the payment of the $5,000.00 fee. When an applicant is chosen, then prior to the granting of the license, all additional requirements of this ordinance and state law shall be accomplished, which includes the payment of the $5,000.00 fee.

Section 8:

The Code of the City of Rockmart as contained in Section 3-11 of Article I of Chapter 3 of the Code entitled "In General" shall stand amended by adding a new subsection (c) which shall reas as follows:

"(c) All licenses granted under any part of this Article shall, unless otherwise noted herein, include the requirement that the maximum amount authorized by state law which can be charged for a license, a tax, or other related fees by a municipal government shall apply to the granting of any license under this Chapter 3.

Adopted and approved by the Mayor and Council of the City of Rockmart at a meeting duly called and held on this the 14th day of December, 2021. Council Members All voting "Aye" and None voting "No."

BY: _____

SHERMAN ROSS, MAYOR

ATTEST: _____

JADA EDWARDS, CITY CLERK

(Seal)