

FIRST READING 11/15/2021
SECOND READING 12/13/2021

ORDINANCE #2021-1192

AN ORDINANCE TO AMEND ORDINANCE NO. 0029-228 OF THE CODE OF ORDINANCES OF THE CITY OF BALDWIN, GEORGIA BY ADDING PROVISIONS PROVIDING FOR THE PACKAGE SALE OF DISTILLED SPIRITS; AND FOR OTHER PURPOSES;

WHEREAS, the Mayor and City Council on June 28th, 2021 adopted a Resolution calling for a special election referendum for consideration by the City's electors authorizing the City of Baldwin, Georgia to issue licenses for the package sale of distilled spirits within the City limits; and

WHEREAS, pursuant to the vote of the electors of the City authorizing the sale of distilled spirits by the package and in accordance with a plan designed for the purposes, among others, of promoting the health, safety and general welfare of the citizens of the City, the Mayor and City Council have considered an ordinance which is intended:

To establish reasonable standards for the regulation and control of the licensing and sale of distilled spirits by the package; and

To protect and preserve schools, churches, and similar places of public assembly; and

To preserve residential areas regarding, among other things, the character of the areas, their particular suitability for particular uses and the congestion in the surrounding roads and streets, with a general view of promoting desirable living conditions, and sustaining the stability of neighborhood and property values.

NOW, THEREFORE, BE IT ORDAINED AND IT IS HEREBY ORDAINED BY THE AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BALDWIN AS FOLLOWS:

Section 1: Ordinance No. 0029-228 of the City's Code of Ordinances is hereby amended by deleting and reserving Section 13(g).

Section 2: Articles I and II of Ordinance No. 0029-228 of the City's Code of Ordinances are hereby amended to provide for consistency with the foregoing provisions of this amendment as follows:

The definition of "Distilled spirits" contained in Section 1 of the Ordinance is hereby amended by deleting only the final sentence of the definition as follows: "Distilled spirits cannot be sold by the package within the City."

The definition of "Package dealer" contained in Section 1 of the Ordinance is hereby amended by deleting the reference to "wine or malt beverages," and replacing it with "Alcoholic beverages."

The definition of "Package dealer" contained in Section 1 of the Ordinance is hereby further amended by deleting final sentence of the definition as follows: "Distilled spirits cannot be sold by the package within the City."

Section 7 of the Ordinance is hereby amended by adding a new Section 7(a)(11) to read as follows: "(11) Distilled spirits by the package as set forth in Section 32 below."

Section 10 of the Ordinance is hereby amended by adding a new Section 10(a)(4) to read as follows: "(4) Distance prohibitions for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 17 of the Ordinance is hereby amended by adding a new Section 17(a)(5) to read as follows: "(5) Location restrictions for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 23 of the Ordinance is hereby amended by adding a new Section 23(d) to read as follows: "(d) License fees for the sale of Distilled spirits by the package shall be as set forth in Section 32 below."

Section 3: Article II, Licenses, of Ordinance No. 0029-228 of the City's Code of Ordinances is hereby further amended by adding a new Sec. 32 Package Sales of Distilled Spirits, a new Sec. 32(a) License issuance for distilled spirits package sales-Retail dealer building and inventory requirements, a new Sec. 32(b) Maximum number of distilled spirits retail licenses permitted, and a new Sec. 32(c) Time for sales distilled spirits package sales to read as follows:

Sec. 32(a). License issuance for distilled spirits package sales - Retail dealer building and inventory requirements

General regulatory and licensing procedures of distilled spirits package sales shall conform to all provisions set forth in Ordinance No. 0029-228 of the City's Code of Ordinances.

No retail dealer license for the sale of distilled spirits shall be issued to any applicant whose building where the business will be conducted does not include a showroom with a minimum of 1,500 square feet.

No retail license for the sale of distilled spirits by the package shall be granted under this chapter unless the premises to be licensed are, at the time the application is approved by the city council, located under the planning and zoning ordinance of the city in a Highway Business (HB) zoning district subject to the specific limitations of the respective districts.

No premises shall be licensed for the sale of distilled spirits by the package without complying with the distance requirements as set forth below:

which is located within 1,500 feet of any other business licensed to sell distilled spirits by the package;

which is located within 300 feet of any church building, alcoholic treatment center as defined by OCGA 3-3-21(a)(1)(c), or a housing authority property as defined in OCGA 3-3-2(e)(1) and (2);

which is located within 600 feet of any school building, educational building, school grounds, or college campus;

which is located within 300 feet of a detached single family dwelling unit located within one of the City's residential zoning districts.

All measurements shall be measured by the most direct route of travel on the ground, from front door to front door.

No person, group, or entity with similar members, including family members, shall have an interest in more than one license for the package sale of distilled spirits issued by the city.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of distilled spirits by the package.

Each application for a package distilled spirits license shall be accompanied by a non-refundable application fee in the amount of \$500.00.

The license fee for a retail sales of distilled spirits package license shall be \$4,000.00 annually. To add a retail sales of package malt beverage license the fee shall be an additional \$500.00 annually; and to add a retail sales of package wine license the fee shall be an additional \$500.00 annually.

There is imposed by the city an excise tax on the first sale or use of distilled

spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

Sec. 32(b) Maximum number of distilled spirits retail licenses permitted.

Subject to subsection (2)-(5) below, the city will not accept any applications for the retail sale of distilled spirits by the package, and no licenses for the retail sale of distilled spirits by the package shall be issued over the number of three (3).

If at any time and for whatever reason, the number of active licenses for the retail sale of distilled spirits by the package falls below three, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to three.

The provisions of subsection (2) notwithstanding, one (1) additional license may be issued once the population of the city exceeds 5000. In this regard, additional licenses may be issued in the future for each 5000 - person increase in population over 5000. In determining population, the city shall utilize the U.S. Census of 2020 or any future decennial census.

If the total number of permitted licenses has increased pursuant to subsection (3) above, and if at any time and for whatever reason thereafter, the number of active licenses for the retail sale of distilled spirits by the package falls below the number then permitted, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to the total number then permitted.

If the city receives more applications than allotted licenses to be issued under this section which applications comply with the standards for the issuance of licenses for the sale of package distilled spirits set forth in this Chapter, the selection of the successful application(s) shall be conducted by a lottery system overseen by an independent third party firm. The applications drawn from the lottery system shall then be presented to the city council for action on the approval of the initial licenses to be issued under this Chapter.

Applications for the initial issuance of licensees will not be accepted

until the effective date of this ordinance. Acceptance of applications for the initial licenses or any future allocation of licenses will remain open for a period of sixty (60) days before review and consideration of such applications in accordance with subsection (5) above.

Sec. 32(c) Time for sales distilled spirits package sales.

It shall be unlawful for any distilled spirits package dealer in the city to sell distilled spirits except between the hours of 8:00 a.m. and 11:45 p.m. Monday morning through Saturday night. And 12:30 p.m. to 11:45 p.m. on Sunday.

Section 4. Repealer. All ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Constitutionality. Should any phrase, clause, sentence of this Ordinance be deemed unconstitutional by a Court of competent jurisdiction, such determination shall not affect the remaining provisions of this Ordinance which provisions shall remain in full force and effect.

Section 6. Adoption of this Ordinance does not create any additional right or benefit, substantive or procedural, enforceable in law or in equity by any party against the City of Baldwin, its departments, agencies, officials, employees, agents or other person or entity.


Section 7. Effective Date. This Ordinance shall be effective, Midnight January 1, 2022.

BALDWIN CITY COUNCIL


By:  _____
Mayor Joe Elam

Council Member Maarten Venter

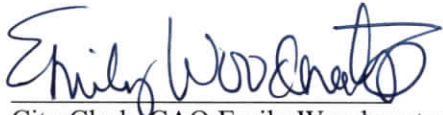
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Council Member Theron Ayers

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Council Member Larry Lewallen

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Council Member Alice Venter

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Council Member Stephanie Almagno

Attest:

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City Clerk, CAO Emily Woodmaster

