

**ORDINANCE NO. 2023 - 30**

**TO AMEND THE CITY OF CULLMAN ALCOHOL ORDINANCE**

**SECTION I. PURPOSE.** The purpose of this Ordinance is to modify, amend, or delete portions of the current Alcohol Ordinance.

**SECTION II.** The following definitions are hereby added or amended to Chapter 4, "Alcohol," Section 33, "Definitions," of the *Code of Ordinances City of Cullman, Alabama*, as follows:

The definition Manufacturer, in Chapter 4, "Alcohol," Section 33, "Definitions," of the *Code of Ordinances City of Cullman, Alabama*, is hereby deleted in its entirety and replaced with the following:

*Manufacturer:* Any person, association or corporation engaged in the producing, bottling, manufacturing, distilling, rectifying, or compounding of alcoholic beverages, liquor, beer, or wine in this state for the sale or distribution in this state or other states according to its laws and regulations, to the ABC board or a licensee of the ABC board.

1. Upon applicant's compliance with the provisions of the Alabama State Code and the regulations of the state beverage control board, the city shall issue to applicant a manufacturer license which shall authorize the licensee to manufacture or otherwise distill, produce, ferment, brew, bottle, rectify, or compound alcoholic beverages within this state or for sale or distribution within this state. No person shall manufacture, distill, produce, ferment, brew, bottle, rectify or compound alcoholic beverages within this city for sale or distribution within this state or other states unless such person or the authorized representative of the person shall be granted a manufacturer license issued by the city.
2. No manufacturer licensee shall sell any alcoholic beverages direct to any retailer or for consumption on the premises where sold except as specified under subsection (7)(a)-(c), nor sell or deliver any such alcoholic beverages other than original containers approved as to the capacity of by the board and in accordance with standards of fill prescribed by the U.S. Treasury Department, nor maintain or operate within the state any place or places, other than the place or places covered by the manufacturer license, where alcoholic beverages are sold or where orders are taken.
3. Each manufacturer licensee shall be required to file with the board, prior to making any sales in Alabama a list of its labels to be sold in Alabama and shall file with the board its federal certificate of label approvals or its certificates of exemption as required by the U.S. Treasury Department. All liquors and wines whose labels have not been registered as herein provided for shall be considered contraband and may be seized by the board or its agents, or any peace officer of the state without a warrant and the goods shall be delivered to the board and disposed of as provided by law.
4. All such manufacturer licensees shall be required to mail or hand deliver to the board or designated representative of the board prior to the renewal of their city alcohol license an annual report which includes but is not limited to the annual gross receipts from retail sales, the annual gross receipts from manufacturing, the total gallons sold during the calendar year, the total number of barrels produced during the calendar year, the total square footage of the facility, the total square footage of the tap room, and the number of days in production during the calendar year. Such a report shall be in such form and containing such information as the board may prescribe.
5. Every manufacturer shall keep at its principal place of business within the state, daily permanent records which shall show the quantities of raw materials received and used in the manufacture of alcoholic beverages, and the quantities of alcoholic beverages manufactured and stored, the sale of alcoholic beverages, the quantities of alcoholic beverages stored for hire or transported for hire by or for the licensee and the names and addresses of the purchasers or other recipients thereof.
6. Every place licensed as a manufacturer shall be subject to inspection by members of the board or by persons duly authorized and designated by the board at any and all times of the day or night as they may deem necessary for the detection of violations of this chapter, or any law, or of the rules and regulations of the board, or for the purpose of ascertaining the correctness of the records required to be kept by the licensees. The books and records of such licensees shall, at all times, be open to inspection by members of the board, or by persons duly authorized and designated by the board. Members of the board and its duly authorized agents shall have the right, without hindrance, to enter any place which is subject to inspection hereunder, or any place where such records are kept for the purpose of making such inspections and making transcripts thereof.
7. Licenses issued under this section shall, unless revoked in the manner provided in this article, be valid for the license year commencing January 1 of each year.
  - a. A manufacturer licensee actively and continuously engaged in the manufacture of alcoholic beverages on the manufacturer's licensed premises in the state may conduct tastings or samplings on the licensed premises, as regulated by the ABC board except as to quantity and hours of

- operation, or as otherwise provided by statute, and for that purpose give away or sell alcoholic beverages manufactured there for consumption on only one premises where manufactured.
- b. All alcoholic beverages manufactured and retained on the manufacturer's licensed premises for tasting or sampling shall remain on the premises and be dispensed from a barrel or keg or other original containers.
  - c. Beer may be transferred directly between qualifying manufacturers of the same ownership in accordance with all applicable state and federal laws, rules, and regulations. A licensed manufacturer shall have no more than one affiliate, ancillary and subsidiary manufacturing location under the same ownership located within the Central Business District ("CBD"). Where a licensed manufacturer has no more than one qualifying manufacturing place of business located within the CBD, the combined total amount of beverage produced on all the premises of qualifying manufacturers of the same ownership shall not exceed 10,000 barrels per year. All beer sold, served and consumed on-premises must be brewed by the qualifying manufacturer at one of its licensed facilities.
8. In addition to the licenses provided for by the state and/or municipal license, there is levied on the manufacturer of the alcoholic beverages dispensed on the premises the privilege or excise tax imposed on beer by *Code of Ala.* 1975, §§ 28-3-184 and 28-3-190; and imposed on table wine by *Code of Ala.* 1975, § 28-7-18 and imposed on liquor by *Code of Ala.* 1975, §§ 28-3-200 to 28-3-205, inclusive. Every manufacturer licensee shall file the tax returns, pay the taxes, and perform all obligations imposed on wholesalers at the times and places set forth herein. It shall be unlawful for any manufacturer licensee who is required to pay the taxes so imposed in the first instance to fail or refuse to add to the sale price and collect from the purchaser the required amount of tax, it being the intent and purpose of this provision that each of the taxes levied is in fact a tax on the consumer, with the manufacturer licensee who pays the tax in the first instance acting merely as an agent of the state for the collection and payment of the tax levied by *Code of Ala.* 1975, § 28-3-184; as an agent for the county or municipality for the collection and payment of the tax levied by *Code of Ala.* 1975, § 28-3-190; as an agent for the county or municipality for collection and payment of the tax levied by *Code of Ala.* 1975, § 28-7-18; and as an agent for the state for collection and payment of the tax levied by *Code of Ala.* 1975, §§ 28-3-200 to 28-3-205, inclusive.
  9. The combined total amount of beverage produced on the premises of qualifying manufacturers of the same ownership cannot be less than 240 barrels per year and each facility must operate a minimum of 220 days per calendar year except the year manufacturer commences operation. In no case shall the minimum amount of beverage produced on any ancillary and subsidiary premises be less than thirty-six (36) barrels per year.
  10. The establishment may operate a tap room (tasting room) in conforming with state law, however, the tap room shall not exceed an occupant load of 300 persons as determined by the Building and Fire Codes. Tap room shall operate in accordance with Sec. 4-55. – "Authorized hours," of this Chapter.
  11. Retail sales through the tap room shall not exceed fifty (50%) percent of the total gross revenues or total gallons sold by the business during any calendar year.
  12. A loading and unloading area on site must be provided for.
  13. No manufacturer shall provide for the public any type of recreational facilities, including but not limited to darts, billiards, pool, shuffleboard, or any other type [of] recreation[al] activity, except in a designated recreation area approved by the police chief or other designated City of Cullman representative.
  14. Failure to comply with this article or state law shall be grounds for the city to refuse to renew the license for subsequent years.

**SECTION III.** Table 4-34: "Zoning," the "Zone" column of "CBD (Central Business District)" of the *Code of Ordinances City of Cullman, Alabama*, is hereby amended to add the following within the business column for licensing purposes; subject to all City of Cullman Zoning Ordinance requirements:

1. Manufacturer.
2. Retail liquor sales for off-premises consumption

**SECTION IV.** Section 4-6, "Prohibited Use of drive-through or walk-up window for the purchase of beer and wine," is hereby added to read as follows: "*No retailer licensed to sell beer, wine or any alcoholic beverages for off-premises consumption by the Alcoholic Beverage Control Board shall contain facilities for the sale of beer or table wine, or both any alcoholic beverages, by means of a "drive-up," "walk-up," or "drive-thru" window or other type of exterior access.*"

**SECTION V. SEVERABILITY CLAUSE.** Each and every provision of this Ordinance is hereby declared to be an independent provision and that holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof and

it is hereby declared that the other provisions of this Ordinance would have been enacted regardless of any provision which might have been held invalid. This Ordinance repeals any prior Ordinance in conflict therewith.

**SECTION VII. EFFECTIVE DATE.** This ordinance shall be effective following its passage, approval and publication as required by law.

ADOPTED BY THE CITY COUNCIL this the 14th day of August, 2023.

ATTEST:

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President of the City Council

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City Clerk

APPROVED BY THE MAYOR this the 14th day of August, 2023.

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Mayor