

ORDINANCE NO. 2023-02

AN ORDINANCE SETTING FORTH CERTAIN REGULATIONS FOR THE SALE OF ALCOHOL, BEER, AND WINE FOR ON-PREMISES CONSUMPTION IN THE CITY LIMITS OF MALVERN, ARKANSAS; DECLARING AN EMERGENCY

WHEREAS, in 2017, Ark. Code Ann. § 3-9-203(d)(l) was amended to provide as follows: "A ... city ... may authorize by ordinance the sale of alcoholic beverages for on-premises consumption under [state law] if the ... city is located in ... a county that authorized the manufacture and sale of intoxicating liquor"; and

WHEREAS, an ordinance providing for the sale of alcoholic beverages for on-premises consumption will provide the establishments within the city the opportunity to acquire a mixed drink permit instead of a private club permit, which will authorize the establishments to purchase products on the wholesale level; and

WHEREAS, in order to comply with applicable state laws and to promote the competitiveness and orderly operation of businesses which will sell spirits, beer, and wine on-premises in Malvern, the City Council adopts the following regulations;

NOW, THEREFORE, BEIT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MALVERN, ARKANSAS:

SECTION 1. The City of Malvern, Arkansas, hereby recognizes that the sale of spirits, beer, and wine by the drink is thoroughly- regulated by the State of Arkansas, and nothing in this Ordinance shall contradict the laws of the State of Arkansas.

SECTION 2. The City of Malvern hereby authorizes, by this Ordinance, the sale of alcoholic spirits, beer, and wine by the-drink for on-premises consumption in licensed businesses.

SECTION 3. The definitions, terms, and provisions of Ark. Code Ann. §§ 3-1-101. et seq., as amended from time to time, and all regulations promulgated thereunder relating to liquor, beer, and wine are hereby adopted and made a part of this Ordinance. Applicants for and holders of permits and other persons shall conform to the provisions set forth in statutes and regulations promulgated thereunder and to the provisions of this Ordinance. Violations of the state statutes and regulations, which are adopted and incorporated by reference into this Ordinance, shall subject the offender, upon conviction, to the penalties-prescribed by state law.

SECTION 4. Any person convicted of violating this Ordinance shall be punished up to the maximum provided in Ark. Code Ann. § 3-9-204, if applicable; otherwise, as provided in this section for each violation. In addition to any penalties imposed by the State for a permit violation, any person, firm, or corporation licensed by the State of Arkansas to sell alcoholic beverages and any employee thereof violating the provisions of this Ordinance shall, upon conviction, for a first offense be fined not more than \$100.00; for a second offense, be fined not more than \$500.00; and each subsequent offense thereafter be fined not more than \$1,000.00 for each such separate offense. For purposes of this section, it is considered a separate violation

for 1 each person served or permitted to consume alcoholic beverages contrary to the provisions of this Ordinance.

SECTION 5. Provisions of this Ordinance are hereby declared to be severable; and if any section, phrase, or provision shall be declared or held invalid each invalidity shall not affect the remainder of the sections, phrases, or provisions.

SECTION 6. Emergency Clause. That the City Council of the City of Malvern, Arkansas, further determines that it is necessary to enact this Ordinance without delay to allow establishments to sell alcoholic beverages by the drink as provided by Ark. Code Ann. § 3-9-203(d)(l) and apply for a permit that will make them more competitive with businesses in adjoining cities; therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law.

PASSED this _9th of _day of January_, 2023.

Approved:



Brenda J. Weldon, Mayor

ATTEST:



Kim Taber, City Clerk/Treasurer

