

FILED

ORDINANCE NO. 2023-11

AUG 10 2023

MILLER COUNTY CLERK  
D.C.

AN ORDINANCE ESTABLISHING ALCOHOLIC BEVERAGE PERMIT FEES, TAXES AND PROCEDURES, AND FOR OTHER PURPOSES.

*WHEREAS*, Miller County, Arkansas, desires to establish permit fees, taxes and procedures for alcohol vendors located within the County, but outside the limits of an incorporated city; and that

*WHEREAS*, Alcohol beverage permits issued by Miller County must be as authorized by the State of Arkansas and in concert with permits issued by the State and pursuant to these procedures;

**NOW, THEREFORE, BE IT ORDAINED** by the Quorum Court of Miller County, Arkansas, as follows:

**SECTION I. HOTEL AND RESTAURANT ALOCHOLIC BEVERAGE PERMIT (ONPREMISES CONSUMPTION-MIXED DRINK).**

*(a) Permit Application and Fee.* While A.C.A. § 3-9-214 permits the County to assess additional fees or supplemental taxes in addition to the permit fee levied by the State of Arkansas, Miller County has chosen not to levy or assess any additional fee or supplemental tax in addition to the permit fee levied by the State of Arkansas.

*(b) Annual Permit.* An annual renewal fee in the amount provided in Section I (a) shall be paid to the Director of the Alcoholic Beverage Control Division on or before June 30 of each calendar year for the fiscal year beginning July 1. The fee for a permit issued between January 1 and July 1 shall be one-half (1/2) of the applicable amount specified in subsection (a) of A.C.A. § 3-9-212.

*(c) Beer and Wine Permit.* Any permit issued pursuant to this Section shall include authority to sell beer and native and imported wine as authorized by A.C.A. 3-9-211.

*(d) Supplemental Tax.* A.C.A. § 3-9-213 states that the sale of alcoholic beverages shall be subject to the Arkansas Gross Receipts Act of 1941, found at A.C.A. § 26-52-101 et seq. Permit holders must comply with those State laws regarding supplemental taxes prescribed in the afore-mentioned statutes. Additionally to the taxes noted herein, and the permit fees in Section I (a) hereof: Miller County hereby levies a supplemental tax of ten percent (10%) upon the gross proceeds or gross revenues from all sales of alcoholic beverages made pursuant to the terms of A.C.A. 3-9-214. There is an a supplemental tax levied in the amount of 4% on the gross proceeds or gross receipts from the sale of alcoholic beverages, but said additional 4% shall not apply to gross proceeds or gross receipts from the sale of beer or wine. Said supplemental tax shall be reported and paid to Miller County and paid in the same manner at the same time as the gross receipts tax under the Gross Receipts Tax Act of 1941, as amended.

**SECTION II. PRIVATE CLUB ALCOHOLIC BEVERAGE PERMIT (ON-PREMISES CONSUMPTION MIXED DRINK).**

(a) Annual Permit. Miller County hereby levies an annual permit fee on all fraternal, social or otherwise private clubs as defined in A.C.A. 3-9-202(14) and as licensed by the Alcoholic Beverage Control Division to dispense alcoholic beverages for on-premises consumption ("Private Club Alcoholic Beverage Permit") pursuant to the terms of A.C.A. 3-9-222—223 as prescribed within those statutes. Said permit shall be renewed with Miller County on or before December 31 of each year, provided that any new permit issued before January 1 shall be pro-rated. Those with private club permits must familiarize themselves with State laws found in Chapter 9, Subchapter 2, regarding Alcoholic Beverages Generally and comply with all such requirements.

(b) Supplemental Tax. In addition to the permit fee as set forth in Section II (a) hereof, a supplemental tax of five percent (5%) is hereby imposed on the gross proceeds or gross receipts derived by such private clubs by charges to members for the preparation and serving of such alcoholic beverage, or for the cooling and serving of such beer and wine, drawn from the private stocks of such members for consumption on premises where served. Said supplemental tax shall be reported and paid to Miller County and paid in the same manner and at the same time as the gross receipts tax under the Gross Receipts Tax Act of 1941, A.C.A. 26-52-101 et seq., as amended.

### **SECTION III. RETAIL LIQUOR ALCOHOLIC BEVERAGE PERMIT (OFF-PREMISES CONSUMPTION).**

In addition to the permit fee levied by the State of Arkansas, for the privilege of operating a dispensary from which vinous, spirituous, and malt liquors, except wine, are to be sold and dispensed at retail and/or wholesale for consumption off premises ("Retail Liquor Alcoholic Beverage Permit"), an additional permit fee of \$400 is assessed per annum payable on or before June 30 of each calendar year for the fiscal year beginning July 1, payable to Miller County. (A.C.A. 3-4-202, 3-4-604)

### **SECTION IV. RETAIL BEER ALCOHOLIC BEVERAGE PERMIT (OFF-PREMISES ON-PREMISES CONSUMPTION).**

(a) Permit Required. Before any person shall be authorized to offer for sale at retail the liquors as defined in A.C.A. Title 3 of the Arkansas Code (beer and light wine), he or she shall apply to and secure from the County Clerk a "Retail Beer Alcoholic Beverage Permit." A permit shall not be granted or issued until the retailer exhibits a state permit granted or issued to him by the State ABC. The state permit shall be prima facie evidence of the retailer's right to apply for and purchase a county permit. All applicants must familiarize themselves with Title 3 of the Arkansas Code for obtaining a permit from the State of Arkansas, and exhibit said permit to the County Clerk, before a permit for "Retail Beer Alcoholic Beverage Permit" shall be issued by the Miller County Clerk.

(b) Permit Fee. For Purposes of this section, County Clerk shall charge the following permit fee:

(1) A sum not in excess of fifteen dollars (\$15.00) for a retailer whose total gross annual sales shall not exceed one thousand dollars (\$1,000.00);

- (2) A sum not in excess of twenty dollars (\$20.00) for retailers whose gross annual sales shall not be in excess of two thousand dollars (\$2,000.00); or
- (3) A sum of twenty dollars (\$20.00) plus an additional five dollars (\$5.00) for each one thousand dollars (\$1,000.00) gross annual business in excess of two thousand dollars (\$2,000.00) for retailers whose total gross annual sales exceed two thousand dollars (\$2,000.00).
- (4) A new applicant shall pay a fee of forty dollars (\$40.00) for the initial permit to expire December 31 of the year issued.
- (5) The permit holder shall provide evidence to the County Clerk to demonstrate his sales for the prior year each time he renews his application for a permit under this Section.
- (6) Permit fees shall be due and payable for each business location where the business of a retail dealer. Permit fees shall become due and payable on or before December 31.
- (c) Proper Fee Required. Whenever it shall appear to the County Clerk that a retail dealer has secured a permit for fifteen dollars (\$15.00) when a larger amount should have been paid therefore, the County Clerk shall require the payment of the difference or cancel the permit.
- (d) Violation Notification. The County Clerk or her designee charged with the duty of collecting the license fees shall notify the director of the ABC of the identity of retailers failing to comply with the provisions of this section. The director shall then notify wholesale dealers to discontinue sales to delinquent retailers. When the license fee is paid, the County Clerk shall notify the director of the ABC that the retailer has paid the fee. Any wholesaler who continues to sell to a retailer after notification from the director to discontinue sales shall be subject, upon conviction, in the Miller County District Court, or any other court of competent jurisdiction, to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or any other fine or penalty as may hereafter be enacted by the Miller County Quorum Court.

#### **SECTION V. MICROBREWERY-RESTAURANTS ALCOHOLIC BEVERAGE PERMIT (ON-PREMISES CONSUMPTION BEER).**

While A.C.A. § 3-9-1205 permits the County to assess additional fees or supplemental taxes in addition to the permit fee levied by the State of Arkansas, Miller County has chosen not to levy or assess any additional fee or supplemental tax in addition to the permit fee levied by the State of Arkansas for a "Microbrewery-Restaurants Alcoholic Beverage Permit." (A.C.A. 3-5-1205).

#### **SECTION VI. PERMIT ISSUANCE AND FORM.**

Upon payment of the required permit fee(s) the County Clerk, if any as established herein, or her designee shall issue an alcoholic beverage permit of the type(s) required herein in a form to be prescribed by the County Clerk. Alcoholic beverage permits shall be effective for a calendar year and must be renewed annually before December 31 for the next year. Alcoholic beverage permit(s) shall be publicly displayed at the location where the alcohol is sold. Alcoholic beverage permits

are not transferable. Every permit holder shall comply with all applicable laws and regulations of the State of Arkansas, the ABC and Miller County. Alcoholic beverage permits may be revoked or suspended as authorized by law.

**SECTION VII. COLLECTION.**

The County Clerk shall develop a procedure for the reporting and collection of the supplemental taxes, only to the extent they are provided for and authorized by this Ordinance.

**SECTION VIII. REPEALER.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed. Specifically, Ordinance No. \_\_\_\_\_ is repealed.

**SECTION IX. EFFECTIVE DATE.**

This ordinance shall be effective from and after passage and publication.

**SECTION X. SEVERABILITY.**

If any section of this ordinance shall be declared unconstitutional or unlawful, only that section of the ordinance shall be affected and all other provisions of the ordinance shall remain in full force and effect.

PASSED this 19<sup>th</sup> day of July, 2023.

APPROVED: Catny Hardin Harrison  
County Judge

ATTEST: Stephanie Harve  
County Clerk

FILED

JUL 20 2023

MILLER COUNTY CLERK  
SHT D.C.