

**CITY OF MOLENA**

(9) 1/6

**ORDINANCE NO. 9**

TO REGULATE THE ISSUANCE OF RETAIL LICENSES FOR THE SALE OF MALT BEVERAGES AND WINE WITHIN THE INCORPORATED AREAS OF SAID CITY AND WHOLESALE LICENSES FOR THE DISTRIBUTION OF MALT BEVERAGES AND WINE WITHIN THE INCORPORATED AREAS OF SAID CITY.

SECTION 1: DEFINITIONS: Certain terms and words are hereby defined and shall be interpreted, as used herein, as follows:

(a) The term "retail beer dealer" shall mean and include every person, firm, corporation or association who engages in selling or handling malt beverages of any kind or character at retail within the incorporated area of Molena, Georgia.

(b) The term "wholesale beer dealer" shall mean and include every person, firm, corporation or association who sells and/or deals in malt beverages of any kind or character to a retail beer dealer, as defined above, to or within the incorporated areas of Molena, Georgia.

(c) The term "beer" shall mean and include any fermented beverages made in whole or in part from malt and any and all similar fermented beverages.

(d) The term "retail wine dealer" shall mean and include every person, firm, corporation or association who engages in selling or handling wines, as hereinafter defined as retail within the incorporated areas of Molena, Georgia.

(e) The term "wholesale wine dealer" shall mean and include every person, firm, corporation or association who sells and/or deals in wines, as hereinafter described, to a retail wine dealer, as defined above, to or within the incorporated area of Molena, Georgia.

(f) The term "wine" shall mean and include any fermented beverages made in whole or in part from the juice of the grape or any fruit and all similarly fermented beverages.

SECTION 2: TYPE OF SALE. Malt beverages and wines, foreign and domestic, sold by retail beer dealers and retail wine dealers, respectively, in the incorporated area of Molena, Georgia, shall be sold only in a retail package store operated under a license issued hereunder and shall be sold only in sealed containers and shall not be opened for consumption or for any other purpose on the premises where sold. Such retail package store for the sale of either malt beverages or wines, or both, shall be located in a building of the conventional type and construction, customarily used for the retail sale of groceries and related merchandise or for the servicing of motor vehicles, and the minimum ground floor area of any such building so used for the sale of malt beverages or wine, or both, shall not be less than 500 square feet, and all such sales shall be made only on the ground floor of the building so used. The retail sales of groceries and related merchandise or the servicing of motor vehicles and the retail sale of gasoline and oil and related merchandise may be made or done by a retail beer dealer or a retail wine dealer in the same building used as a package store for the sale of malt beverages or wine, or both.

**SECTION 3: RETAIL DEALER QUALIFICATIONS.** The retail beer dealer and the retail wine dealer must be of good moral character, a citizen of the United States. All such licenses to retail beer dealers and retail wine dealers shall be subject to the following:

(a) No license shall be granted to any applicant who shall have been convicted of a felony or of a crime involving moral turpitude or of a violation of any State or Federal law with reference to intoxicating liquors, wines or malt beverages, nor shall any such dealer have an agent or employee, selling, handling or dealing in malt beverages or wine, as licensed hereunder, who shall have been convicted of a felony or of any crime involving moral turpitude or of a violation of any State or Federal law with reference to intoxicating liquors, wines or malt beverages.

(b) Upon making application for such license as a retail beer dealer or as a retail wine dealer, the applicant shall be required to divulge the names of any and all persons who have or will have any interest, monetary or otherwise, in the business to be operated under such license and said applicant shall set forth the proposed location for any such business operation.

(c) The applicant for any such license shall be the owner or the lessee of the building and premises on which he shall operate a business as a retail beer dealer or a retail wine dealer.

(d) Any retail beer dealer or any retail wine dealer, so licensed hereunder, shall actively participate in the management, conduct and operation of such licensed business and shall be solely responsible for the management and operation of the business for which such license is granted.

(e) Each applicant for a license hereunder as a retail beer dealer or a retail wine dealer shall be verified by the sworn statement of the individual applicant and all such application shall be filed with the Clerk of the City of Molena, Georgia, before any license is issued hereunder. Any misrepresentation or concealment of fact in any such application shall constitute grounds for the revocation of such license.

(f) The discretionary authority and power as to the granting, refusing or revoking of any such license or permit is conferred by law upon the governing authority of Molena and, accordingly, it shall be within the sole discretion of the Mayor and Council of Molena, Georgia, to issue, or to refuse to issue, a license upon any such application and likewise it shall be within the sole discretion of said Mayor and Council to revoke any such license which has been issued hereunder.



SECTION 4: WHOLESALE DEALER QUALIFICATIONS: The wholesale beer dealer and the wholesale wine dealer shall likewise be required to obtain a license or permit hereunder before selling or distributing any malt beverages or wine in the incorporated areas of Molena, Georgia. Such licenses shall be issued only to those parties who are licensed by the State of Georgia to sell and distribute malt beverages or wine, or both, as a wholesale dealer of such products. Any such dealer, before obtaining a license or permit hereunder, shall first make verified application under oath to the Mayor and Council of Molena, Georgia, for the issuance of same on such forms as from time to time be prescribed by said Mayor and Council and the applicant shall present evidence to said Mayor and Council showing that he has knowledge of the pertinent laws of the State of Georgia and regulations of this Mayor and Council pertaining to the sale or distribution, as a wholesale dealer, of malt beverages and wine in the incorporated areas of Molena, Georgia, and that he will comply with all such laws and regulations.

SECTION 5: REGULATIONS OF RETAIL DEALERS: No retail beer dealer and no retail wine dealer, holding a license or permit hereunder, nor any agent or employee of any such dealer, shall do any of the following acts or permit same to be done upon the licensed premises:

- (a) Sell or deliver malt beverages or wine to a minor.
- (b) Sell or deliver malt beverages or wine to any person while such person is in an intoxicated condition.
- (c) Sell or deliver malt beverages or wine upon the licensed premises at any time except between the hours of 6 o'clock A.M. until midnight, Mondays through Saturdays, of each week. Sell or deliver malt beverages or wine on a Sunday, or on Christmas Day.
- (d) Permit on the licensed premises any disorderly conduct, breach of the peace, or any lewd, immoral or improper entertainment conduct or practices.
- (e) Install any sign or advertisement of the character or nature of the business being operated on the exterior of the building in which said business is operated, or in any window or door, or at any place outside such building, whether on the same premises or not, with the exception of one sign no larger than 2 feet by 3 feet bearing no more than the trade-name of the business and the further designation of either "Beer Package Store", or "Wine Package Store", or "Beer and Wine Package Store" as the case may be.
- (f) To employ any person under the age of 18 years of age to sell beer or wine under the privilege of the license.
- (g) To maintain any type of amusement or music machine on the licensed premises except a radio or a television set, or both.

(h) To allow any purchase of malt beverage or wine made on the licensed premises to be taken therefrom until put in a bag or otherwise securely wrapped in paper by the proprietor or clerk operating such licensed business.

(i) To receive malt beverages or wine delivered to the licensed of any retail beer dealer or retail wine dealer by any means other than a vehicle or conveyance owned or operated by a wholesale beer dealer or a wholesale wine dealer licensed hereunder as such wholesale dealer.

**SECTION 6: REGULATIONS OF WHOLESALE DEALERS:** The wholesale beer dealer and the wholesale wine dealer, as may be licensed hereunder, shall comply with all Federal and State laws governing the distribution or sale of intoxicating liquors, malt beverages or wines and with all pertinent ordinances and regulations as may from time to time be adopted or promulgated by the governing authority of Molena, Georgia, pertaining to the distribution or sale of same.

**SECTION 7: ENFORCEMENT:**

(a) The violation of any provision of the within ordinance shall be grounds for immediate revocation of any license or permit issued hereunder.

(b) Any license issued hereunder shall be a mere grant of the privilege to carry on such licensed business during the term of such license or permit, subject to all the terms and conditions imposed by this ordinance, or any further ordinance or resolution of this body pertaining thereto, and any such license shall be subject to revocation at any time by the Mayor and Council of Molena, Georgia, or its duly authorized official, agent or employee. In case of such revocation, the licensee shall not be entitled to a refund of any license fee paid hereunder.

Any such license issued hereunder shall contain the following: "This license is a mere privilege subject to be revoked or annulled by the Mayor and Council of Molena, Georgia." Notice of the revocation of any such license by said Mayor and Council shall be given immediately to the licensee personally or by attaching such notice to the front door or front exterior wall of the licensed premises. Upon the delivery of any such notice either personally or by affixing same to the licensed premises, as aforesaid, such revocation shall become effective and shall continue in effect for the remainder of the calendar year or until such time as such revocation may be terminated, annulled or rescinded by the Mayor and Council of Molena, Georgia. The licensee, upon any such revocation, shall have the right to appeal such revocation within ten days after notice thereof has been given, as aforesaid, by filing with the Clerk of the City of Molena an appeal in substantially the following form: "I appeal the decision of the Mayor and Council of Molena, Georgia, in revoking my permit or license on the \_\_\_\_\_ day of \_\_\_\_\_, 19.." inserting the date of such revocation in the appropriate blank spaces, and thereupon such appeal shall be heard within 20 days after its filing by said Mayor and Council or any three persons designated by said Mayor and Council for such purpose and a decision on such appeal shall be rendered within 10 days after such hearing, completed either upholding such revocation or terminating, annulling or rescinding same. The licensee shall not operate any business, licensed or permitted hereunder, during any such period of revocation.



SECTION 8: LICENSE FEES: The annual license fees for permits or licenses issued hereunder shall be as follows:

<u>Business or Dealer</u>	<u>License Fee</u>
(a) Retail Beer Dealer	\$250.00
(b) Wholesale Beer Dealer	\$ 25.00
(c) Retail Wine Dealer	\$250.00
(d) Wholesale Wine Dealer	\$ 25.00
(e) Retail Beer & Wine Dealer	\$350.00

No license shall be issued for more than one calendar year and all such licenses shall terminate on the last day of the calendar year for which same were issued.

In addition to the above retail license fees, there is hereby assessed a pro-rated license fee, based on sales, in the following amounts:

Malt beverages: Five (5¢) cents on each container with 12 ounces or less; seven (7¢) cents for each container over 12 ounces to 20 ounces, nine (9¢) cents for each container over 20 ounces to 28 ounces, ten (10¢) cents for each container over 28 ounces.

Wine: Ten (10¢) cents on each container ½ pint, fifteen (15¢) cents for each pint; twenty-five (25¢) cents for each 1/5 gallon or quart; fifty (50¢) cents for each ½ gallon, one (\$1) dollar for each gallon.

The foregoing assessment shall be paid and collected in the following manner:

The license fee hereinbefore imposed shall be paid by the wholesale dealers to the Clerk of City of Molena by the 10<sup>th</sup> of each month, based upon the units of beer and wine sold during the previous month. Interest shall accrue on late payments at the rate of nine (9) percent per annum.

The wholesale dealers shall keep true and correct records of all sales and shipments, and shall render a sworn statement of the same accompanying the monthly report to the Clerk of the City of Molena.

Each retail licensee shall retain in his place of business the invoice of each purchase of malt beverages or wine for at least six (6) months. All records as well as the premises of the licenses shall be subject to inspection by a duly authorized agent or representative of Molena at any time.

All retail dealers, licensed hereunder, shall store all malt beverages and wine in their possession on the premises for which the license is issued, and at no other place or places except upon written permission from the issuing authority upon written application therefore.

SECTION 9: AUTHORITY TO ISSUE LICENSES: Licenses shall be issued hereunder only upon the approval of the Mayor and Council of Molena and all applications for same shall be presented to that body, and all fees provided for shall be paid to the Clerk of said body in the amounts and at the times hereinbefore specified.

SECTION 10: REGULATIONS, FUTURE RESOLUTIONS, AND REVOCATION OF LICENSES: All the provisions of this ordinance are and shall be subject to the regulations hereinafter prescribed by this body, as the same may be from time to time amended, setting further the rules, terms, and conditions upon which such licenses may be issued; the annual license fees; the pro-rated license fees, based on sales; the qualifications of licensees, the proscriptions on advertising and restriction on the business locations of licensees and buildings in which said businesses are operated; the control of customers doing business with licensees; and any and all other matters which this body may deem advisable to set forth for the proper control and regulations of the sale and consumption of malt beverages and wine in Molena; and all such licenses as may be hereafter issued shall be expressly subject to the provisions of such rules or regulations as may be then or thereafter in force; and all such licenses shall be non-transferable, and shall convey to the licensee no property right, but only a privilege which may be revoked by this body.

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The foregoing ordinance was introduced by Councilman Charles Oglesby and read at meetings on September 7, 1993, and October 5, 1993, and this day adopted by the City Council of the City of Molena, Georgia, and transmitted by me to the Mayor for his approval this 5<sup>th</sup> day of October, 1993.

/s/ \_\_\_\_\_  
City Clerk, City of Molena, Georgia

Approved by me and returned as "Approved" to said City Council, in open meeting, this 5<sup>th</sup> day of October, 1993,

/s/ \_\_\_\_\_  
Mayor, City of Molena, Georgia