CITY OF MULBERRY, ARKANSAS
ORDINANCE NO. 2026-04

AN ORDINANCE ESTABLISHING A PERMITTING PROCESS AND PRIVILEGE PERMIT FOR SELLING OR DISPENSING ANY CONTROLLED BEVERAGE WITHIN THE CITY OF MULBERRY BY BUSINESSES LICENSED BY THE STATE TO SELL ALCOHOLIC BEVERAGES; LEVYING PERMIT FEES AND A CITY SUPPLEMENTAL TAX OF FOUR PERCENT (4%) UPON THE ANNUAL GROSS RECEIPTS WHICH ARE DERIVED THEREFROM; REPEALING ANY ORDINANCES IN CONFLICT; ESTABLISHING PENALTIES FOR THE VIOLATION OF THESE PROVISIONS; AND FOR OTHER PURPOSES.

WHEREAS, Title 3 of the Arkansas Code relating to Alcoholic Beverages recognizes the power of local governmental bodies to regulate the operation of establishments under that Title as may be necessary for the protection of public health, welfare, safety, and morals; and

WHEREAS, Arkansas Code Annotated § 3-9-214 authorizes a supplemental tax or fee on sales upon any Permittee under that subchapter by a City or incorporated town in which the licensed premises are located; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MULBERRY, ARKANSAS:

Section 1: Applicability.

It is hereby declared that the business of distributing, selling, serving, or dispensing, any controlled beverage within the City of Mulberry, is a privilege, and for the exercise of such privilege there are hereby imposed the regulations, requirements, restrictions, fees, and taxes as set forth in this ordinance.

These general provisions shall apply to all Permittees in addition to any specific provisions under individual headings for each type of Permit.

Section 2: Definitions. For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases not specifically defined in this chapter shall have the meanings assigned

by Title Three of the Arkansas Code Annotated and/or the Arkansas Alcoholic Beverage Control Division Regulations.

Alcoholic Beverages - means all intoxicating liquors of any sort, including beer and wine.

City - means the City of Mulberry, Arkansas.

Controlled Beverages - means all beverages of any kind subject to regulation under any alcoholic beverage control law of the State of Arkansas and this ordinance.

On-premises consumption means the sale or dispensing of alcoholic beverages by the drink or in broken or unsealed containers for consumption on the premises where sold or dispensed.

Permit means any authorization issued by the Alcoholic Beverage Control Division of the State of Arkansas and/or by the City pursuant to any Arkansas Alcoholic Beverage Control Division regulation and/or this Ordinance whether described as a Permit, license or otherwise.

Permittee means the person to whom a Permit or license to sell, dispense, or distribute alcohol has been granted.

Person means any natural person, partnership, association, corporation, syndicate, or company.

Police Chief means the Chief of Police of the Mulberry Police Department or his/her designee.

Private Club - means a nonprofit corporation organized and existing under the laws of this state authorized to serve alcohol by the State of Arkansas and the Alcoholic Beverage Control Division.

State - means the State of Arkansas.

Supplemental Privilege Permit - A Permit issued by the City of Mulberry for the privilege of operating a private club within the City, a Supplemental Privilege Permit is required which shall be in addition to any regular business privilege license.

Supplemental Privilege Permit fee – There shall be no fee established by the City of Mulberry for the privilege of operating a private club within the City, and there shall not be levied an annual Supplemental Privilege Permit fee.

Section 3: Permits Required.

It shall be unlawful for any person to engage in the business of distributing, selling, or dispensing within any Private Club, any controlled beverage, within the City without a Permit issued by the City, or with an expired Permit.

The provisions of this section shall not apply to the manufacture, sale, and distribution of wines or vinous liquors manufactured, sold, and distributed by residents of Arkansas.

Section 4: Application for Permits.

A. An application for a private club Permit required by this section shall be in writing on a form prescribed by the City and shall be accompanied by the required fee and a copy of the applicant's state private club Permit application. A copy of the private club Permit application will be available in the City Complex and on the City's website.
B. Only one location per application.
C. The application shall be submitted to the City of Mulberry with a one time, non-refundable application fee in the amount of $250.00. This fee is completely separate from any licensing fees which may later be due to the City of Mulberry to operate a business in the City of Mulberry.
D. No City Permit will be issued until approved by the City Council.
E. It shall be unlawful for any person to make any false statement or representation in any application required by this section or to give any false answer to any question contained therein.
F. It shall be unlawful to operate a private club and/or sell alcoholic beverages in Mulberry before being Permitted by the appropriate State agency.
G. The City will not issue or renew any Permits pursuant to this section until all outstanding advertising and promotion taxes and/or supplemental beverage taxes, if applicable, are paid.
H. All Permits issued by the City pursuant to this section shall be prominently displayed on the Permitted premises by the Permittee in the same manner as required by the state for state Permits.
I. When any state Permit is revoked by the state or required to be returned to the state for any reason, the City Permit shall be returned to the City. The City will

restore the Permit upon proof that the state Permit has been restored to the applicant, provided that no reclaimed Permit will be restored to an applicant until all outstanding advertising and promotion taxes and/or supplemental beverages taxes, if applicable, are paid.

J. All fees taxes and penalties received by the City pursuant to this chapter shall be used for general purposes within the City of Mulberry pursuant to A.C.A. § 3-9-223(f).

K. Permits shall not be transferable or assignable unless and until approval is granted by the Alcoholic Beverage Control Division and notice is provided to the City of Mulberry and all other requirements of this ordinance are met.

L. A City Permit, if granted, shall be specific to the proposed location and to the applicant listed in the application.

Section 5: Right of City to Inspect Records. The Recorder/Treasurer or the Chief of Police or his/her designee of the City of Mulberry shall have the right to inspect and examine the records of any Permittee subject to any tax or Permit fee based on gross sales or receipts pursuant to A.C.A. §3-2-211 and any other employee information required pursuant to the regulations of the Alcoholic Beverage Control Division, Title 1, Subtitle G, Section 1.79 (37).

Section 6: Qualifications of Applicants. Persons to whom a State Alcohol Permit has been issued are presumed qualified to hold a City Alcoholic Beverage Permit.

Section 7: Fraud and Misrepresentation by Applicant.

Any person who acquires a Permit or a renewal of same in violation of this section by any misrepresentation or fraudulent statement shall be deemed guilty of an offense and upon conviction thereof shall be punished in accordance with the penalties outlined in the section.

Any untrue or misleading information contained in, or material omission left out of, an original, renewal or transfer Application for a Permit shall be cause for the denial thereof and, if any Permit has been granted under these circumstances, there shall be cause for the revocation of the same.

Section 8: Issuance of Permit; Payment of Fee.

All Permits must be obtained and fees paid not later than two weeks from the date of the delivery of the Application to the City and, if not so obtained, the issuance granted by the City shall lapse. When a Permit has been issued and the Applicant has deposited

with the City the required fee, the fee shall be paid to the Recorder/Treasurer and a Permit issued.

Section 9: Business Opening within Six Months from Permit; Issuance Required. All holders of Permits shall, within six months after the issuance of the Permit, open for business the establishment referred to in the Permit and begin dispensing the products authorized by the Permit. Failure to open the establishment and begin business as referred to above within the six-month period shall serve as automatic forfeiture and cancellation of the unused Permit, and no refund of Permit fees shall be made to the Permit holder.

Section 10: Effect of Failure to Operate Business for Six Consecutive Months. Any holder of a Permit who shall begin the operation of the business and dispensing the products as authorized in the Permit, but who shall, for a period of six (6) consecutive months thereafter, cease to operate the business or dispensing the products authorized in the Permit, shall upon completion of the six (6) month period automatically forfeit the Permit, which Permit shall, by virtue of that failure to operate, be canceled without the necessity of any further action of the City.

Section 11: Dispensing Alcoholic Beverages Outside of Permitted Premises. It shall be unlawful for any alcoholic beverage to be dispensed, or otherwise provided outside of the enclosed building, premise or place of business Permitted for such, except as Permitted by this section.

Section 12: Same; Payment Dates; Proration. All Permit fees shall be paid between December 1st and December 31st of each year. Permits obtained after July 1st of each year shall pay one half of the annual fee. Delinquent Permit fees shall be subject to a delinquent penalty of twenty-five (25%) percent of the Permit fee for each thirty (30) day period the fee remains unpaid.

Section 13: Term of Permit. No Permit shall issue for more than the remainder of the calendar year, and all shall expire at midnight, December 31 of each year. In case of the revocation or surrender of such Permit before the expiration of such calendar year period, the holder thereof shall not be entitled to receive any refund whatsoever.

Section 14: Transferability of Permits.

Alcoholic Beverage Permits shall not be transferable, except as otherwise provided herein.

All Applications for transfer of locations shall comply with the provisions herein set forth governing new Permits.

Section 15: Notice of Transfer of Business. Should any Alcoholic Beverage Permit holder make a request to the Alcoholic Beverage Control Division to transfer their Permit to another location, individual or organization, the Police Chief shall be notified in writing of such request within seven (7) days.

Section 16: Display of Permit. Every person or organization issued a Permit pursuant to this section shall be required to display this Permit in the same location as is displayed the State Controlled Beverage Permit.

Section 17: Suspension or Revocation of Permit.

Whenever the State shall revoke any Alcohol Beverage Permit, the City Permit to deal in such products shall thereupon be automatically revoked without any action by the City or any municipal officer.

Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax ordinance, and its enabling statutes, fail to obtain any Permits required for that type of business, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.

Should any person, firm or corporation that operates a business which is subject to the requirements of the Advertising & Promotions tax ordinance, and its enabling statutes, become subject to unsatisfied Certificates of Indebtedness filed pursuant to the Advertising & Promotions ordinance and statutes, then the City Alcohol Beverage Permit shall thereupon be automatically revoked.

Section 18: Types of Permits/Fees/Specific Provisions/Hours of Operation.

Private Club Permits; Supplemental Privilege Permit

Private club Permit. Authorizes the purchase of any controlled beverages from persons holding an off-premises retail liquor or beer Permit who have been designated by the director of the State Alcoholic Beverage Control Board as a private club distributor, and authorizes the dispensing of such beverages for consumption on the premises of the private club to members and guests only of the private club.

Supplemental Privilege Permit. For the privilege of operating a private club within the City, a Supplemental Privilege Permit is required which shall be in addition to any regular business license.

Supplemental Privilege Permit fee. For the privilege of operating a private club within the City, there shall not be hereby levied an annual supplemental Privilege Permit fee.

Supplemental beverage tax. In addition to the Supplemental Privilege Permit fee, there is hereby imposed and levied a City supplemental tax of Four percent (4%) upon the annual gross receipts which are derived by such private club from charges to the members and/or their guests for the following services:

For the preparation and serving of mixed drinks, and

For the cooling and serving of beer, light wine, and wine.

The City's supplemental beverage tax is in addition to the state supplemental tax on private clubs and shall be paid to the Recorder/Treasurer's Office, shall be due monthly at the same time that the state supplemental tax is due, and shall be accompanied by one copy of the state supplemental tax return. If any Permittee shall fail to remit the supplemental tax within the time period that the state tax is due, a penalty of 10% of the tax due shall be due and payable in addition to the tax.

Hours of operation. Hours of operation shall be in conformance with state statute, including Title 3 of the Arkansas Code relating to Alcoholic Beverages

Section 19: Penalty. Any person violating the provisions of this ordinance or any person who makes a false affidavit or statement or report or application to the City as part of the procedures of this ordinance shall be deemed guilty of a misdemeanor and upon conviction be fined in an amount not more than $500.00. If a violation is found to be continuing in nature, then the fine shall be not more than $250.00 for each day the violation is found to have occurred.

Section 20: Severability. In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase or word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of this ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this ordinance.

PASSED AND APPROVED THIS 16 DAY OF June IN THE YEAR 2026.

APPROVED:

Gary D. Baxter, Mayor

ATTESTED:

Carla Dickerson, Recorder/Treasurer