

CHAPTER 6
ALCOHOLIC BEVERAGES
REGULATING THE POSSESSION, SALE, AND
DISTRIBUTION OF ALCOHOLIC BEVERAGES

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ARTICLE I. - GENERAL PROVISIONS

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Sec. 6-1. - Definitions.

Unless the context or the specific provisions of this Section demand otherwise, the words and terms used herein shall have the definition and meanings ascribed to them under Title 3 of the Official Code of Georgia Annotated or other provisions of State law applicable to alcoholic beverages.

Business location shall mean the location or proposed location of a retail or wholesale malt beverage outlet.

Board shall mean Alcoholic Beverage Commission, unless otherwise specified.

Clerk shall mean the clerk of the Alcoholic Beverage Commission, unless otherwise specified.

County shall mean the unincorporated areas of Walker County, Georgia.

Measured shall mean the straight line distance from the front door of the building in which the outlet or proposed outlet is located to the front door of the building of an involved institution or establishment except as otherwise stated herein. Except Measured shall be from the front door of the licensed facility to the nearest property line of the real property of a school.

Retail manager shall mean the person who does or will actually manage or operate a licensed outlet on a day to day basis.

Retail Package Store shall mean a business whose primary function is the sale of malt beverages and/or wine packages at retail, and the sale of food and related merchandise, incidental to the operation thereof. All malt beverages and wine must be located within the interior of any such outlet; and no such beverages shall be opened or consumed either inside or outside on the premises. Nothing in this Section nor any Section contained herein shall prohibit the use of a “drive-in window” at a package store outlet.

Convenience Store as defined herein shall be a business whose primary function is the sale of food and related merchandise and the sale of beer and wine at retail is incidental to the operation thereof. All malt beverages and wine must be located within the interior of any such outlet; and no such beverages shall be opened or consumed either inside or outside on the premises. Nothing in this Section nor any Section contained herein shall prohibit the use of a “drive-in window” at a convenience store outlet.

Sec. 6-2. - Necessity for license.

It shall be unlawful to manufacture, sell or offer to sell, at wholesale or retail, within the county, any malt beverage without having the appropriate license for such manufacture or sale, or to carry on such activity in violation of the terms of such license, state law, or of this Ordinance. Licenses granted under this Division shall be mere grant or privilege during the term of said license, subject to all the terms and conditions imposed by this Ordinance and Division, and any other related laws of the State of Georgia and this Code.

Sec. 6-3. - Separate license for each outlet; non-transferability; surrender.

- (a) A separate license shall be required for each wine/malt beverage outlet, and a separate application shall be made for each.
- (b) No license shall be transferable or assignable.
- (c) Immediately upon the sale or closing of an outlet, it shall be the duty of the licensee to surrender his license to the board.

Sec. 6-4. - Classification of licenses.

Licenses under this Division shall be classified as follows:

- (1) *Retail or convenience stores.* A retail store whose primary function is the sale of food, gasoline or medicines and related merchandise and products in which the sale of malt beverages at retail is incidental to the operation thereof.
- (2) *Wholesale.* Wholesale malt beverage distributor, which shall permit only the sale of malt beverages at wholesale.

The amount of the license fee for each class shall be as set forth in the license fee schedule in Section 6-52 of this Ordinance.

Sec. 6-5. - Initial license application.

Application for retail malt beverage license shall be made as follows: Each initial applicant shall make written application to the board for the privilege of engaging in the sale (specifically whether wholesale or retail) of wine/malt beverages, such application using forms approved by the clerk or deputy clerk.

- (1) The application shall be filed with the **Planning Office** ~~clerk~~ along with a fee of ~~\$25.00~~ **as set forth in the county fee schedule** for investigation of the applicant and of the proposed location and processing of the application, which said fee is not refundable.
- (2) The application shall state:

- a. As to the applicant(s): full name, age, home address, business address, complete record of all convictions, guilty pleas and nolo contendere pleas for violations of all laws, local, state and federal (except minor traffic violations).
 - b. As to applicant(s) proposed outlet manager (if not the same as applicant): full name, age, home address, business address, complete record of all convictions, guilty pleas and pleas of nolo contendere for violations of all laws, local, state and federal (except minor traffic violations).
 - c. Exact location (street address) of proposed business outlet.
 - d. Name and address of owner or landlord and or resident manager or property proposed for the outlet location and whether or not there is a building proposed to be used already erected thereon.
 - e. Trade name (or proposed trade name) of proposed business outlet.
 - f. Such other information as may be required by the board, zoning office, sheriff's office or county attorney from time to time.
- (3) The application shall be sworn to.
 - (4) There shall be attached to the application a copy of the applicant's application or proposed application for a license from the State of Georgia, if one is required.

Sec. 6-6. - Action by Alcoholic Beverage Commission.

Within seven days from the time the application is filed, the clerk shall notify the Zoning Administrator (or such other investigative officer as approved by the board) and the Sheriff's Department, who shall investigate the character and criminal background of the applicant and all aspects of the proposed outlet location, and make a full report to the board. The clerk shall also refer said application, together with any objections filed, to the board. The board shall, after investigation of applicant and proposed outlet location, direct the clerk to issue or refuse the license for which application is made, upon payment of the appropriate fee. The board shall either issue or refuse to issue the license for which application is made within 60 days from the time the application is filed.

Sec. 6-7. - Considerations and guidelines for granting or denying license.

The Alcoholic Beverage Commission, in making its determination on an initial application, shall be guided by factors set out in Section 8 of this Division.

Sec. 6-8. - Grounds for denial of license.

(a) *Prohibited location.* It shall be unlawful to grant a license for the sale of malt beverages within the following areas of the county:

(1) Within a measured 300 feet of any church building, or of any public or private alcohol treatment center. The word “building” as used herein shall mean a structure used, at the time the application for license is filed, for the purposes of a church, hospital, nursing rest home or alcohol treatment building. Additionally, for the purpose of this article, a church is hereby defined as an organization for the purpose of preaching the gospel and other related religious activities located within a permanent structure either owned or leased by such organization. Said organization must consist of at least 15 adult members on its official rolls that meet on a regularly scheduled basis of not less than 30 times per year. Such organization must also qualify under the rules of Internal Revenue as an organization to which contributions may be deducted for federal income purposes.

(2) Within 300 feet, measured in a straight line, from the nearest property line of any school or school house to the front door of the building in which the outlet is to be operated

(3) In any existing building or establishment having a history of or reputation for prostitution or other sex offenses; fighting, shooting, or other violence; gambling; illegal dealing of alcoholic beverages or drugs; or other violations of the law.

(4) At least 300 feet must separate the front door of retail package license holders.

(b) *Prohibited outlet building.* It shall be unlawful to grant a license for the sale of malt beverages at retail stores which do not meet the requirements of Section 53 of this Ordinance, except in cases where an outlet is adjacent to a freeway, or where the outlet is part of a campground, or private club from which visibility from a public street, road or highway would be impracticable.

(c) *Prohibited persons.* It shall be unlawful to grant a license for the sale of malt beverages to:

(1) A person who is not of good character and reputation in the community in which he resides.

(2) A person who has been convicted of or entered a plea of guilty or nolo contendere to either a felony, a crime of moral turpitude or an offense under Title 3 of the Official Code of Georgia related to alcoholic beverages within ten (10) years immediately prior to the filing of said application.

- (3) A person whose license under this Ordinance has been revoked for cause or who has had a license of any type under this Ordinance revoked for cause within two years immediately prior to the filing of the application.
- (4) A person who at the time of application for renewal of any license issued hereunder, would not be eligible for such license upon first application.
- (5) A person who is under the age of 21 years.
- (6) A person who is not of sound mind or memory.
- (7) An officer or employee of the county.
- (8) Any partnership or corporation where an individual having the controlling interest, either as owner, partner, stockholder, director or officer, has been convicted of or entered a plea of guilty or nolo contendere to a felony, a crime of moral turpitude or an offense under Title 3 of the Official Code of Georgia related to alcoholic beverages within ten years immediately prior to the filing of said application.

(d) *Additional consideration.* The board in reaching its final determination on an initial application shall also be guided by the following factors as to whether or not to grant such license:

- (1) The proximity of other outlets, giving due regard to the nature of the commercial area.
- (2) The nature of the neighborhood immediately adjacent to the proposed outlet location, that is, whether the same is predominantly residential, industrial or commercial.
- (3) The proximity of public parks and playgrounds.
- (4) Whether the proposed outlet location has adequate off-street parking facilities or other parking available for its patrons.
- (5) Currently existing or future county zoning ordinances.

Sec. 6-9. - Renewal of licenses; denial.

(a) All licenses shall be issued for a period of one year, the same to be as the County's fiscal year, running from October 1 through September 30 of the following calendar year, and, provided the outlet continues to comply with the provisions of this Ordinance, shall be renewable as a matter of course upon payment of the appropriate fee.

(b) Each licensee shall make a written application for renewal on or before August 1 of each year on forms approved by the clerk. Upon receipt of request for renewal by the

clerk, the renewal applications will be presented to the Zoning Administrator and the Sheriff's Department who will review the application and make their recommendations to renew or not to renew. If the recommendation is to renew, then the clerk shall issue the renewal license upon payment of the license fee. In the event the recommendation is not to renew, the application shall be referred to the board for their consideration of renewal or rejection.

(c) The board shall afford the licensee a public hearing upon the consideration of the application for renewal and the licensee shall be afforded complete due process of law on any hearing before the board.

(d) At the public hearing, the board may grant, or deny for cause, the renewal of any license issued hereunder.

Sec. 6-10. - Suspension and revocation of licenses.

(a) *Summary action.*

(1) If at any time during the holding of a license granted under this Ordinance, it should appear that the licensee has violated the provisions of this Ordinance, or the laws of the state or any federal laws, or if it should appear that the application contained known false information, or if it appears necessary for the public safety, health and welfare, the Sheriff, his deputies, the Zoning Administrator or his assistants who are acting under his authority, or any officially designated license inspector may request the board to suspend or revoke said licensee's license to sell or consume any alcoholic beverages within the county.

(2) The board shall hold a hearing on such request for a revocation or suspension and after such hearing, the board may revoke or suspend said license or place said license on probation.

(b) *Action by the Board.* The board shall have full power and authority to revoke, refuse to renew, suspend or place on probation any license to sell or consume alcoholic beverages for a violation of this Chapter, or of the state or federal laws, or when said board shall determine, after five days notice and hearing that the operation of the licensed business is detrimental to the health, safety or welfare of the public, for the purpose of this section, it shall be sufficient if said notice is mailed, giving the time and place of the hearing by United States Certified Mail at the address of the licensee as shown in the application.

Sec. 6-11. - Taxation.

In addition to the annual license fees required under this Ordinance, there is hereby levied and imposed an excise tax which shall be paid to the county, as provided by Georgia

Laws, on all malt beverages sold by each wholesale dealer within the area of the county. That excise tax shall be the maximum allowed by State law, unless a lower tax rate is adopted by County ordinance or resolution.

Sec. 6-12. - Method of tax payment.

Unless otherwise specified by State law, tax shall be paid to the county by each wholesale dealer on all malt beverages sold within the county not later than the 10th day of each month, based upon the units of beverage sold during the previous calendar month by said wholesalers to retailers in the county.

Sec. 6-13. - Payment of tax, report.

The wholesale dealer shall keep true and correct records of all sales and shipments and shall render a sworn statement of the name accompanying the monthly report to the clerk, and said report shall show the exact quantities of malt beverages sold, by size and type of container and the amount of excise tax collected.

Sec. 6-14. - County's right of audit.

The county shall have the right to audit, and to require production of records from each wholesaler supplying retailers in the area of the county, and also from each retailer so supplied.

Sec. 6-15. - Failure to make a timely report and payment; penalty.

The failure to make a timely report and remittance of aforesaid taxes shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due, in addition to the amount due; and additionally, if said report is not filed or if said taxes are not remitted and paid within 30 days from the date that the same are due, the county shall have the right to suspend and/or revoke any wholesale license, and further to prohibit said wholesaler from making any deliveries of any type whatsoever within the area of the county.

Sec. 6-16. - Sale prohibited when tax is not paid.

It shall be unlawful for any person to sell at retail or otherwise dispense beverages within the county on which the tax required in this article has not been paid to the wholesaler or distributor or to the county.

Sec. 6-17-30. - Reserved.

DIVISION 2 - WINE

Sec. 6-31. - Definitions.

Sec. 6-32. - License required.

Sec. 6-33. - Classification of licenses; license fees.

Sec. 6-34. - Application and qualifications for license.

Sec. 6-35. - Taxation.

Secs. 6-36-50. - Reserved.

Sec. 6-31. - Definitions.

(a) Unless the context demands otherwise, the words and terms used in this Division shall have the same meanings ascribed to them in Division 1 of this Ordinance or under Title 3 of the Official Code of Georgia Annotated or other provisions of State law applicable to alcoholic beverages.

(b) “Business location” shall mean the location or proposed of a retail wine outlet.

Sec. 6-32. - License required.

(a) A separate license shall be required for each wine/malt beverage outlet, and a separate application shall be made for each outlet.

(b) A separate license is required for the sale of wine/malt beverage by the package irrespective of whether the proposed outlet has a separate license for the sale of malt beverages by the package.

(c) No license shall be transferable or assignable.

(d) Immediately upon the sale or closing of an outlet, it shall be the duty of the licensee to surrender the license to the county.

(e) A license issued under this Division shall be a mere grant or privilege during the term of said license subject to all the terms and conditions imposed by this Ordinance and Division, and any other related laws of the State of Georgia and this Code.

Sec. 6-33. - Classification of licenses; license fees.

License under this article shall be classified as follows:

- (1) *Retail or convenience stores*, which shall permit only the sale of wine by the package at retail outlets.
- (2) *Wholesale wine distributors*, which shall permit only the sale of wine at wholesale.
- (3) *Farm winery*, as defined and licensed as provided by this Ordinance.

The amount of the license fee for each class shall be set as set forth in the license fee schedule in Section 52 of this Ordinance.

Sec. 6-34. - Application and qualifications for license.

Application for a retail package wine license shall be the same as and in accordance with, the requirements applicable to the sale of malt beverages by the package as set forth in Division 1 hereof, and all provisions of Division 1 pertaining to the application and qualifications for a malt beverage license shall be enforced and applicable to licenses for the sale of wine by the package. All regulations controlling the sale of malt beverages by the package set forth in Division 1 hereof shall also be applicable to the sale of wine by the package to the same extent as if fully set out as a separate section hereunder.

It is the intention of this Division that wine be sold either in conjunction with a qualified and licensed retail malt beverage outlet under the sale standards and restrictions as are applicable to retail malt beverage outlets, or if the licensee so desires that wine may be sold at a qualified licensed wine outlet which does not sell malt beverages; however, under all circumstances wine outlets shall be subject to the same standards and restrictions as are applicable to malt beverage outlets under this Ordinance. Provided however, that wholesalers delivering wine on prior orders are not required to have a wine license when the wholesaler's business is not located in the county.

Sec. 6-35. - Taxation.

(a) In addition to the annual retail wine license fee required, there is hereby levied an excise tax computed as prescribed by Georgia laws, and said tax shall be the maximum

tax allowed by State law unless a lower fee is established by County ordinance or resolution on all wine sold by each wholesale dealer within the area of the county.

(b) The tax shall be paid to the clerk, by each wholesale distributor, on all wine sold to the retailers in the county, no later than the tenth day of each month based upon the units of wine sold during the previous calendar month by said wholesalers to retailers in the county.

(c) Each wholesale distributor shall furnish to the clerk a summary of all purchase invoices for wine sold to each retailer in the county on or before the tenth day of each month following such purchases. Said invoices shall show the amount of excise tax paid.

(d) The county shall have the right to audit, and to require production of records from each wholesaler, supplying retailers in the county and from each retailer so applied.

(e) The failure to make a timely report and remittance of aforesaid taxes shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due, in addition to the amount due; and additionally, if said report is not filed or if said taxes are not remitted and paid within 30 days from the date that the same are due, the county shall have the right to suspend and/or revoke any wholesale license, and further to prohibit said wholesaler from making any deliveries of any type whatsoever within the area of the county.

(f) It shall be unlawful for any person to sell at retail or otherwise dispense beverages within the county on which the tax required in this article has not been paid to the wholesaler or distributor or to the county.

Secs. 6-36-50. - Reserved.

DIVISION 3. - ADDITIONAL RULES AND REGULATIONS

Sec. 6-51. - Business hours of outlets.

Sec. 6-52. - Annual license fees.

Sec. 6-53. - Visibility and lighting of outlets.

Sec. 6-54. - No consumption on premises.

Sec. 6-55. - Intoxicated persons.

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Sec. 6-51. - Business hours of outlets.

Licenses for on-premises consumption of malt beverages, wine, and/or distilled spirits shall not engage in the sale of same except between the hours of 8:00 a.m. through 12:00 a.m. midnight on Monday through Thursday and 8:00 a.m. through 1:00 a.m. on Friday and Saturday and 11:00 a.m. through 12:00 midnight on Sunday. Licensees for package sales of malt beverages and/or wine may engage in sales Monday through Saturday 24 hours per day and Sunday from 12:30 p.m. through 11:30 p.m. Provided however, there shall be no sales of alcoholic beverages on any day on which sales of alcoholic beverages are prohibited by the laws of the State of Georgia.

Sec. 6-52. - Annual license fees.

- (a) The annual retail licence fee and tax for all persons in the unincorporated areas of Walker County for the sale of malt beverages and wine, shall be set forth in the county fee schedule.
- (b) The annual wholesale license for the various malt beverage and wine licenses for unincorporated areas of Walker County, shall be set forth in the county fee schedule.
- (c) There shall be an annual fee and tax for all persons in the unincorporated areas of Walker County for the retail sales for consumption upon the premises of distilled spirits set forth in the county fee schedule.
- (d) The fee for a special event license for the unincorporated areas of Walker County shall be set forth in the county fee schedule.
- (e) No license shall be issued for less than the 12 month fiscal year as herein provided, and in case of revocation or surrender of any license before the expiration of such calendar year, the holder thereof shall not be entitled to receive any refund whatsoever.

- (f) The aforesaid license fees herein set shall not be pro-rated for any portion of a year and shall remain the full amount when said calendar year expires with regard to the time the application is made.
- (g) The county governing authority shall have the authority to set the annual license fees contained in this section by resolution.

Sec. 6-53. - Visibility and lighting of outlets.

No license shall be granted to a retailer under any provision or section of this Ordinance unless the front entrance to the outlet is clearly visible from a public street, road or highway, and the front of any said package sales outlet shall have a minimum window at least three feet by four feet, and no screen, blind, curtain, partition, article or things which shall prevent a clear view into the interior of the outlet shall be permitted in the window or upon the doors of any retail outlet. Each retail outlet shall be so lighted that the interior of the store or premises is visible day or night and all parking areas adjacent to or used in connection with said business shall be fully lighted and unobstructed.

Sec. 6-54. - No consumption on premises.

The retail licenses authorized under Division 1 and 2 hereof shall be for retail sales in package only and there shall be no consumption on the premises of any outlet of any malt beverages or wine unless said outlet has obtained the appropriate license for on-premises consumption under Division 5 or other sections of this Ordinance.

Sec. 6-55. - Intoxicated persons.

No alcoholic beverages shall be sold to any noticeably intoxicated person, nor shall any intoxicated person be allowed to remain upon the premises of any outlet.

Sec. 6-56. - Sale to and/or possession by minors.

No alcoholic beverages shall be sold to a minor under any condition whatsoever. A minor for the purposes of this chapter shall be considered to be any person under 21 years of age. Unless the law enforcement officer has reasonable cause to believe such a person is intoxicated, he or she may arrest a person under 21 years of age who purchases or knowingly possesses alcoholic beverages by issuing a citation in lieu of making a custodial arrest. Any citation issued shall enumerate the specific charges against the person and either the date upon which the person is to appear to answer the charges or notation that the person will later be notified of the date upon which the person is to appear and answer the charges. The law enforcement officer arresting a person by the

issuance of a citation may require such person to deposit a driver's license with the arresting officer to assure the appearance of such person to answer the charges against him or her.

Sec. 6-57. - Employees, drinking on premises.

No employee of any outlet shall work in said outlet while intoxicated and no employee shall drink any malt beverages, wine, or alcoholic beverages whatsoever while working and employed in any outlet.

Sec. 6-58. - Minors on premises of retail stores selling malt beverages or wine.

Minors shall not be allowed to congregate or loiter on the premises of any retail store outlet selling malt beverages or wine.

Sec. 6-59. - Advertising, board approval required.

The board shall have authority to establish uniform rules and regulations regarding advertising. All advertising must be approved by the board prior to use. No other signs, except those meeting the rules and regulations approved by the board, and which are visible from the exterior of the building, shall be permitted.

Sec. 6-60. - Licenses, posting.

All licenses required under this Ordinance must be posted in a conspicuous place within the outlet, as required by law, and if said license is not so posted the outlet shall not be authorized to continue business until the license is posted.

Sec. 6-61. - Posting of ordinance.

A licensee under this Ordinance must be at all times post a copy of this Ordinance in a conspicuous place within the place of business.

Sec. 6-62. - Compliance with rules and regulations of health authorities and other ordinances.

All retail licensees under this Ordinance are hereby required to comply with all rules and regulations and requirements of the county board of health, state board of health and any

and all other state, federal and local authorized public health authorities. In addition, all retail licensees under this Ordinance are also required to comply at all times with any and all applicable Ordinances of the county.

Sec. 6-63. - Retail licenses, categories.

Retail licenses under this Division shall be of three categories as follows:

(1) *Retail store licenses.* A retail store license as defined herein shall be one issued to a business whose primary function is the sale of food, gasoline, medicines and related merchandise and the sale of malt beverages and/or wine at retail is incidental to the operation thereof. All malt beverages and/or wine must be located within the interior of any such outlet, shall be sacked in containers at the check-out counter of such outlet at time of sale, and no such beverages shall be opened or consumed, either inside or outside while on the premises.

(2) *Private clubs.* Private clubs are those clubs which are affiliated with a nationally chartered organization, either service or charitable, or which have an athletic component or purpose (whether golf, tennis, or otherwise), whether or not affiliated with a nationally chartered organization. In order to qualify as a private club, the organization shall have a minimum of 200 members, occupying no less than 5,000 square feet, and provided further that the sale of malt beverage or wine shall not be the major part of said business, but only incidental with its operation.

(3) Other retail commercial buildings which meet the specifications and rules of the board and the requirements of this Ordinance.

Sec. 6-64. - License fees, time to pay.

All license fees required under this chapter shall be paid prior to the issuance of any license.

Sec. 6-65. - Wines authorized under this Ordinance.

For the purpose of this Ordinance wine which is authorized hereunder is that wine which is authorized to be legally sold and distributed in counties which have not authorized the legal sale of distilled spirits and spirituous liquors by the package or container as defined by the laws of the State.

Sec. 6-66. - Possession for the purpose of sale or resale.

It shall be unlawful for any person, firm or corporation to sell or possess for the purpose of sale or resale of any alcoholic beverages where such person, firm or corporation does

not have a license from the county to sell or possess for sale or resale such beverages. There shall be a rebuttable presumption that any person having located on his premises more than 1,440 fluid ounces of malt beverages and five gallons of wine shall have the same in his possession for the purpose of resale.

Sec. 6-67. - Receipt of any delivery to retail licensee.

Alcoholic beverages and/or wine shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer with a permit from the county to make deliveries and said transportation of alcoholic beverages by any other means shall be grounds for a revocation of a wholesale permit or license. Receipt of alcoholic beverages by any other means by a retail licensee shall be grounds for revocation of a retail license.

Sec. 6-68. - Licenses, non-transferable.

No licenses granted under this Ordinance shall be transferable from one person to another, nor shall the same be transferable from one outlet (location) to another.

Sec. 6-69. - Manager of outlet; requirement for registration of manager.

If the person to whom any license under this chapter is issued does not personally manage the outlet, the name of the manager of the outlet must always be registered with the board, and the manager of the outlet must meet all the requirements of a person to whom a license could be granted hereunder. If such licensed outlet is not managed directly by the holder of the license, or there is no manager registered as provided thereunder who meets all requirements hereunder, then said license, may be suspended or revoked. If such a manager is changed, the holder of the license must notify the clerk no later than ten business days from the date of the change of such manager and all information required hereunder with no regard to managers shall also be furnished to the clerk at said time.

Sec. 6-70. - Package sales prohibited in certain establishments; exemptions.

The sale of alcoholic beverages by the package to be carried off the premises shall be prohibited in any restaurant, cafe, eating place, private club or in any establishment other than in a retail store or grocery store owning a retail license for the sale of alcoholic beverages to be consumed off the premises, except for the removal of partially consumed bottles of wine as permitted by O.C.G.A § 3-6-4.

Sec. 6-71-80. - Reserved.

DIVISION 4 - ALCOHOLIC BEVERAGE COMMISSION.

Sec. 6-81. - Establishment of Alcoholic Beverage Commission.

Sec. 6-82. - Appointment of members.

Sec. 6-83. - Powers and duties.

Sec. 6-84-90. - Reserved.

Sec. 6-81. - Establishment of Alcoholic Beverage Commission.

The governing authority of the county shall appoint a five member “Alcoholic Beverage Commission,” independent of the county authority. Other than the appointment of the initial Alcoholic Beverage Commission, each member appointed shall serve a three year term from the date of his or her appointment. The Alcoholic Beverage Commission, by majority vote, shall designate one of its members as its “chairman.” The chairman shall moderate all meetings of the Alcoholic Beverage Commission during his term of office, but shall have no executive functions or powers greater than the other members of the Alcoholic Beverage Commission. Upon designation by the board, the chairman shall serve as same for the remainder of his term upon the board. The chairman may be removed by majority vote of the board. However, the chairman must be given written notice of such meeting, sent at least twenty (20) days in advance thereof, setting forth the grounds for removal, and must be given the opportunity to be heard in person or by a representative. A quorum of three members of the Alcoholic Beverage Commission shall be necessary at any meeting for the transaction of any business.

Sec. 6-82. - Appointment of members.

As soon as practicable following the adoption of this Ordinance, the governing authority of the County shall appoint the initial Alcoholic Beverage Commission for three year terms or until their successors are appointed.

Sec. 6-83. - Powers and duties.

The Alcoholic Beverage Commission shall have all the powers, duties and responsibilities as are granted to them by the terms and provisions of this entire Ordinance, including but not limited to, all other provisions of State law as may be applicable to the sale of alcoholic beverages. It is not the intent of this Ordinance that all of the duties, responsibilities, and decisions pertaining to the granting of licenses, revoking the same, suspending same, and the like, and all other matters pertaining to the control of alcoholic beverages as provided under this Ordinance shall be vested in said board as herein provided.

The Alcoholic Beverage Commission shall furnish a copy of the issuance of any license, license renewal, suspension, revocation, appeals, minutes of Alcoholic Beverage Commission meetings and such other documents as the Alcoholic Beverage Commission may designate to the Commissioner, County Attorney and Zoning Administrator.

The Planning office shall, upon the filing of any appeal, suspension and revocation of an alcoholic beverage license or any decision concerning same, document the date and time of the filing thereof and shall furnish a copy of same instant to the Alcoholic Beverage Commission, County Attorney, Sheriff, and Code Enforcement department.

The Alcoholic Beverage Commission shall meet no less than monthly at a designated and properly advertised time, date and location, and all meetings and other actions of the Alcoholic Beverage Commission shall otherwise comply with the State Open Meetings Act and State Open Records Act. Members of the Alcoholic Beverage Commission may be compensated for their services at a rate or amount established by the county governing authority.

Secs. 6-84-90. - Reserved.

DIVISION 5. - ON-PREMISES CONSUMPTION

Sec. 6-91. - Licensed issuance authorized.

Sec. 6-92. - Conflicts.

Sec. 6-93. - License.

Sec. 6-94. - Laws and regulations adopted.

Sec. 6-95. - Business application.

Sec. 6-96. - Hours of sales of malt beverages, wine and/or distilled spirits for consumption on-premises.

Sec. 6-97. - Open area and patio sales.

Sec. 6-98. - License fees hereinafter set forth shall not be prorated for any portion of a calendar year.

Sec. 6-99. - Taxation/wholesaler and dealer collection.

Sec. 6-100. - Special event license.

Sec. 6-101. - Special event-Definition.

Sec. 6-102. - Applications.

Sec. 6-103. - Indemnifications of county/liability.

Sec. 6-104. - Termination of activities.

Sec. 6-105. - Wine or growler sample for wine or beer brews on tap to go in sealed containers.

Sec. 6-106-120. - Reserved.

Sec. 6-91. - License issuance authorized.

Licenses for the sale of malt beverages, wine and distilled spirits for on-premises consumption shall be a mere grant or privilege during the term of said license, subject to all the terms and conditions imposed by this Ordinance and Division, and any other related laws of the State of Georgia and this Code. A license for on-premises consumption may be issued as provided in this Ordinance.

Sec. 6-92. - Conflicts.

All Sections and Divisions of this Ordinance are herein made applicable to this Division, to the extent that same are not in conflict with any provision of his Division. In the event of a conflict between a term or provision contained in another Division of this Ordinance and this Division, the provisions of this Ordinance shall control unless otherwise specified.

Sec. 6-93. - License.

An applicant for an on-premises consumption license shall be required to submit an application as is set forth in Division 1 of this Ordinance and pursuant to the requirements of O.C.G.A § 3-3-2. An application for a license may be denied upon the grounds as is set forth in Section 8 or 9 of this Ordinance.

Sec. 6-94. - Laws and regulations adopted.

The State laws and regulations as they now exist or as they may be changed from time to time, relating to the sale and distribution of alcoholic beverages in Georgia, as revised and promulgated by the General Assembly of the State and by the State Revenue Department, and especially as they relate to wholesale, retail package sales, and retail sales for consumption on the premises, are hereby incorporated into and made a part of this Ordinance as if fully set out herein. Said laws and regulations are made applicable to all portions of this Ordinance, including this Division.

Sec. 6-95. - Business application.

(a) Except as otherwise specifically provided for in this Ordinance, no retail consumption license shall be issued to any person unless the business of proposed business to be licensed hereunder is a bona fide eating establishment or a bona fide private club. For the purpose of this section, a “bona fide eating establishment” means any public place selling prepared food for consumption to the public on the premises, containing a minimum of one thousand two hundred (1,200) square feet of heated space devoted to eating and food preparation with a minimum of twenty-five (25%) percent of

any such area to be devoted to kitchen and food preparation area, which derives at fifty-one (51%) percent of its total annual gross sales from the sale of prepared meals.

(b) Applicants possessing all of the necessary qualifications for the issuance of a license for the sale of malt beverages, wine and/or distilled spirits for consumption on the premises shall be required to possess a county business license and the appropriate state, county, and county health department certificates for the sale and service of food and beverages to the general public with a seating capacity of not less than 50 people. It shall be further required of applicants as a condition to the issuance of a license for the sale of alcoholic beverages for consumption on the premises, that said sale of alcoholic beverages shall be ancillary to the primary business of the serving of food and that the service of food shall consist of at least fifty-one (51%) percent of the gross receipts of the business applying for said license. A condition of the issuance of a license for the sale of alcoholic beverages for consumption on the premises is that food sales of the licensee shall account for the majority of the gross revenue of said business. The licensee shall be required at all reasonable times and places as designated by the Alcoholic Beverage Commission, to produce financial records and documentation as may be required by the Alcoholic Beverage Commission. The requirements contained herein shall not apply to a farm winery or wine or growler sample license described in Section 105 of this Ordinance.

Sec. 6-96. - Hours of sales of malt beverages and/or wine for consumption on-premises.

Licensees for the sale of malt beverages, wine and/or distilled spirits for consumption on the premises shall be authorized to sell on the days and times authorized and permitted in Section 51 of this Ordinance.

Sec. 6-97. - Open area and patio sales.

The consumption and/or sale of alcoholic beverages by outlets possessing a license for on-premises consumption shall be allowed in open areas and patios, provided such open areas and patios are separated from areas in which consumption of alcoholic beverages are prohibited by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person except through a controlled access point and, further, provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment, including but not limited to regulations pertaining to maximum capacity, ingress and egress. If the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to another, it shall be unlawful for alcoholic beverages to be carried from one premises to the designated area or vice versa by anyone but the licensee or the licensee's employees.

Sec. 6-98. - License fees for on-premises consumption.

~~A license shall be issued for not less than the County's fiscal year (October 1 -- September 30), unless hereinafter provided. The license fees set forth below shall not be prorated for any portion of 12 month year and shall be due in full irrespective of when an application is filed.~~

~~(a) The annual license fee for the privilege of selling malt beverages and wine for consumption on-premises shall be \$500.00.~~

~~(b) The annual license fee for the privilege of farm wine production shall be \$250.00.~~

~~(c) The annual license fee for the privilege of selling distilled spirits for consumption on-premises shall be \$2,000.00.~~

~~(d) Special event license fee for the privilege of selling alcoholic beverages for consumption at a special event shall be \$300.00 per application, nonrefundable.~~

~~(e) The county governing authority shall be authorized to set the schedule of license fees contained in this section by resolution.~~

~~(f) Sample license fee shall be \$200.00.~~

A license shall not be issued or pro-rated for less than the county's fiscal year (October 1 - September 30). The annual fee for the privilege of selling malt beverages, wine and/or distilled spirits for consumption on premises shall be set forth in the county fee schedule.

Sec. 6-99. - Taxation/wholesaler and dealer collection.

In addition to the annual license fees required, there is hereby a levied and imposed an excise tax in accordance with the O.C.G.A. § 3-4-130, that shall be paid to the county in the amount equal to the maximum tax allowed by State law (currently three percent of the charge to the public for the beverages).

Sec. 6-100. - Special event license.

Notwithstanding any provisions to the contrary, the Alcoholic Beverage Commission shall have authority to issue a special event license for the sale of alcoholic beverages. The issuance of a special event license shall be conditioned upon said special event's compliance with all other Walker County Ordinances and State laws in addition to such other terms as the board may require in its discretion.

Sec. 6-101. - Special event-Definition.

“Special event” for the purpose of the license permitted in this Division shall mean any organized activity sponsored by a business, organization, corporation, association or individual having its purpose entertainment, recreation, and/or education, such as a festival or celebration, foot or vehicle race, parade or march, rally or assembly which takes place on a public street, sidewalk or right-of-way, or occurs on private property and impacts government services on public right-of-way, or occurs on private property and impacts services on public right-of-ways and streets. Special events shall not include an occasional family celebration, parties, wedding, anniversary and private gatherings.

Sec. 6-102. - Special event license-Application.

The applicant for any special event license shall be responsible for the provision of police and sanitation services within the boundaries of the event and for the grant of the license privilege the director of public utilities, director of public works, the sheriff, and the fire chief shall approve the impacted government services. In addition, each department of the government reviewing an application may recommend in writing certain recommendations or restrictions as deemed necessary to facilitate the event, to comply with other laws or regulations and or to ensure the safety, health and welfare of the community. Applicants shall further be responsible for compliance with all laws at a special event, including but not limited to preventing underage consumption of alcoholic beverages.

Sec. 6-103. - Termination of activities.

The safety, health, welfare and good order of all citizens and the community shall be first and foremost and every special event shall be conducted in such a manner as to comport with this standard. The zoning administrator, sheriff or fire chief or their representative or their respective designee, may terminate any activity, whether a portion of or the entire event, which does not meet the conditions upon which the special event license was issued. Upon notification to the applicant to cease any activity, the activity so ordered to be ceased shall immediately be terminated and the continuation of said unauthorized activity shall be unlawful and may subject the applicant to criminal and civil sanctions.

Sec. 6-104. - Indemnification of county/liability.

As a condition of issuance of any license under any Division of this Ordinance, the approved applicant agrees to indemnify, hold harmless, release and defend the county, county officials, and officers and employees from and against any and all liability, loss, suits, claims, damages, cost, judgments and expenses including attorney’s fees and cost of litigation which in whole or in part result from, or arise out of, or are claimed to result from or to arise out of any acts, negligence, errors, or omissions of applicant, applicant’s

employees, representatives, contractors, subcontractors, or other agents whatsoever, and without limitations.

Sec. 6-105. - Wine or growler sample for wine or malt beverages on tap for purchase in sealed containers for off-premises consumption.

(a) A licensee for the sale of package malt beverages or wine may be issued a license to give or sell samples of tap malt beverages for growlers or wine offered for purchase in sealed containers for off-premises consumption. The fee for said license is set forth in Section 98 of this Ordinance and said license shall be subject to the application and all other requirements of this Ordinance.

(b) A growler or wine sample shall not exceed one ounce nor shall an individual be offered more than three samples within a 24-hour period.

(c) The intent of the sample license is to permit customers to lawfully taste a sample of a tap malt beverage or wine on-premises in order to make a selection or determination of whether to purchase the malt beverage or wine sampled in a sealed container for off-premises consumption.

Sec. 6-106. - Private Clubs.

Private clubs that meet State requirements under O.C.G.A. § 3-7-2 and other State law requirements may be licensed for the sale of alcoholic beverages, including distilled spirits, by the drink for consumption on premises. The Board may issue a license for all activities authorized by State law, unless otherwise prohibited by this Ordinance.

State law currently provides:

To qualify for a bona fide private club, the organization must have been in existence at least one year prior to the filing of the license application, have at least 75 dues paying members, own or lease building space which has a suitable kitchen and dining room space and equipment, be staffed with a sufficient number of employees for preparing meals, and have no member or employee receiving any profits from the sale of alcohol.

Sec. 6-107. - Caterers.

Caterers may be issued additional alcoholic beverage licenses as allowed by State law. State law currently provides:

Caterers that hold alcoholic beverage licenses may obtain additional alcoholic beverage licenses from the same local government that grants their on-premises license for off-premises sales and be charged an additional license fee, provided that the combined license fees do not exceed \$5,000.00 annually. O.C.G.A. § 3-41-2. Caterers engaging in off-premises catered events outside of their primary licensing authority may be charged a permit fee of \$50.00 per event as well as excise taxes by the local government into which the alcoholic beverages have been brought. O.C.G.A. § 3-11-3. Caterers may only serve alcoholic beverages at catered events that are legal to be sold in the jurisdiction where the event is held. O.C.G.A. § 3-11-5. Caterers, unlike other establishments, may not employ anyone under the age of 21 to sell or serve alcohol. O.C.G.A. § 3-11-5.

Sec. 6-108. - BrewPubs and Farm Wineries.

Brewpubs and Farm Wineries may be licensed by the County as allowed by State law. State law currently provides:

Brewpubs are locations where malt beverages are manufactured on licensed premises and sold only on such premises in draft form. Brewpub owners must receive a State license and must comply with local ordinances, and pay both local license fees and excise taxes. The state will only issue a license for brewpubs located in jurisdiction that permit the sale of alcoholic beverages. O.C.G.A. § 3-11-5, *et seq.* Farm wineries are domestic manufacturers of wine located on premises where agricultural products are cultivated for use in the making of the wine sold. These locations may sell their wine on the premises provided that they have a state and local license. Farm wineries are subject to local license fees and excise taxes. O.C.G.A. § 3-6-21.1 *et seq.*

Sec. 6-109. - Advertising.

No advertising of alcohol or alcohol sales shall be offered except as provided by the rules and regulations as established by the Board.

This new Board shall begin with all rules and regulations as to advertising and other matters as previously adopted by their prior Board and existing as of the time of adoption of the Ordinance.

Sec. 6-110. - Special Events Permit.

The Board may issue special events permits as allowed by State law and State Department of Revenue Commissioner regulations. Present regulations provide:

1. The Commissioner may issue a special events use permit subject to the following conditions which be met:
 - (a) Using the Georgia Tax Center, accessible through the Department's website at etax.dor.ga.gov, the licensee shall submit an application to the Department no later than ten (10) business days prior to the event; and
 - (b) The licensee shall secure all appropriate and necessary local licenses, permits or authorization for the event, which must be available for Department inspection upon request.
2. The following events shall qualify for a special events use permit:
 - (a) Estate sales;
 - (b) Sales of inventory authorized under a bankruptcy proceeding;
 - (c) Inventory auctions; and
 - (d) Other such activities as deemed appropriate by the commissioner.
3. All applicable bonds and fees must be paid.
4. No special events use permit shall be issued unless applicant is in full compliance with the laws and regulations governing the sale of alcoholic beverages, including alcohol excise tax laws.

Sec. 6-111-120. - Reserved.

DIVISION 6. - THE CIVIC CENTER AND ANY OTHER COUNTY FACILITY

Sec. 6-121. - Applicability of chapter.

Sec. 6-122. - License required.

Sec. 6-123. - Authority license authorized.

Sec. 6-124. - Minimum policy guidelines.

Sec. 6-125-130. - Reserved.

Sec. 6-121. - Applicability of chapter.

All other sections of this Ordinance not inconsistent with this Division shall apply. In the event of a conflict between any other provisions of this Ordinance and the provisions of this Division, the provisions of this Division shall control unless otherwise stated.

Sec. 6-122. - License required.

No person shall sell or offer for sale or pour or offer to pour any alcoholic beverages in the Civic Center or any other County facility without first having applied for and received an appropriate license from the County.

Sec. 6-123. - License authorized and required.

If otherwise qualified, the Civic Center or any other County facility is authorized to apply for and to obtain licenses to sell alcoholic beverages for on-premises consumption within the confines of the Civic Center or another Walker County facility. The costs of such licenses shall be the same as the costs for a special event as provided in Section 98 of this Ordinance. Any third party (whether caterer or otherwise) desiring to sell alcoholic beverages for on-premises consumption at the Civic Center or another County facility shall first be required to obtain either a Special Events license or other appropriate license under this Ordinance.

Sec. 6-124. - Minimum policy guidelines.

The following shall be the minimum policy guidelines for the Civic Center and any other County facility shall use in regulating the consumption and sale of alcoholic beverages on the premises of the Civic Center and any other County facility:

- (1) No alcoholic beverage shall be sold, dispensed or given away at youth-oriented events. The management, in its sole discretion, will determine whether an event is youth-oriented.
- (2) No alcoholic beverages shall be sold, dispensed or given away at religious-oriented functions unless requested by the lessee.
- (3) No alcoholic beverage shall be sold, dispensed or given away to anyone under 21 years of age. It shall be the policy of the County to ensure that identification of those who purchase or consume alcoholic beverages are checked to determine whether the person is 21 years of age or older.
- (4) The selling and dispensing of alcoholic beverages shall be curtailed prior to the conclusion of a public event.
- (5) Only designated areas shall be used for selling or dispensing or consuming alcoholic beverages. These areas are to be designated by the management.
- (6) Alcoholic beverages shall not be permitted to be taken outside of the Civic Center building or off the premises of other County facilities.

(7) Only a licensee possessing the appropriate license is to be permitted to sell or dispense alcoholic beverages.

(8) Food must be served and/or offered for sale during any period of time that alcoholic beverages are served at either the Civic Center or the other County facilities. Alcoholic beverages may be sold during the hours authorized for other consumption on the premises licensees holding licenses pursuant to this article.

DIVISION 7. - EFFECTIVE DATE; REPEAL

Sec. 6-131. - Effective date; repeal.

Sec. 6-131. - Effective date; repeal.

This Ordinance becomes effective December 4, 2014, and shall repeal all prior ordinances of Walker County regulating or otherwise addressing the subject matter of this Ordinance.

Sec. 6-132. - Severability of Ordinance.

In the event any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect or invalidate the other sections, subsections, paragraphs, sentences, clauses or phrases of this Ordinance, unless it clearly appears that such other parts are wholly and necessarily dependent upon the part or parts held to be invalid or unconstitutional, it being the intent in adopting this Ordinance, that each section, subsection, paragraph, sentence, clause or phrase thereof be enacted separately and independently of each other.

