

**ORDINANCE NO.: 23-01**

**AMENDING CHAPTER 6 OF THE OFFICIAL PAULDING COUNTY CODE TO PROVIDE  
FOR THE ISSUANCE OF PACKAGE DISTILLED SPIRITS LICENSES AND TO PROVIDE  
AMENDMENTS TO THE CHAPTER CONSISTENT WITH STATE LAW**

STATE OF GEORGIA

COUNTY OF PAULDING

WHEREAS, the Board of Commissioners of Paulding County is charged with the responsibility of protecting the health, safety, and welfare of the citizens of Paulding County, and as such, is authorized to enact ordinances governing activities and properties in the unincorporated areas of Paulding County, Georgia;

WHEREAS, on November 8, 2022, the voters of Paulding County approved a referendum authorizing the issuance of licenses for the package sale of distilled spirits within the unincorporated portions of Paulding County by an affirmative vote of 73.07 percent;

WHEREAS, pursuant to O.C.G.A. §§ 3-4-45 and 3-4-47, Board of Commissioners now has the discretionary authority to regulate the grant, denial, suspension, or revocation of alcoholic beverage licenses for the package sale of distilled spirits, including the authority to regulate the locations thereof;

WHEREAS, pursuant to its police powers, the Board of Commissioners desires to limit the number, location, and standards of package distilled spirits licensees so as to recognize the affirmative vote of the citizenry authorizing package sales while simultaneously protecting the safety and welfare of the community; and

WHEREAS, the Board of Commissioners further desires to update various provisions of the larger Chapter 6 regarding the general regulation of alcohol sales within the County.

NOW THEREFORE, be it resolved by the Paulding County Board of Commissioners as follows:

**1.**

Chapter 6 of the Paulding County Code of Ordinances, entitled “Alcoholic Beverages,” is hereby amended so as to authorize the issuance of package distilled spirits licenses and to make further amendments to said chapter as set forth on the attached Exhibit A (with ~~strike through~~ language indicating deletions and underlined language indicating additions).

2.

These ordinance revisions shall be effective as of the date of execution of this ordinance.

3.

The sections, subsections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any section, subsection, paragraph, sentence, clause or phrase shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining section, subsections, paragraphs, sentences, clauses and phrases of this ordinance.

4.

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

5.

All other aspects of the Paulding County Code of Ordinances shall remain in full force and effect.

SO ORDAINED THIS \_\_\_\_DAY OF \_\_\_\_\_, 2023.

**VOTE ON ORDINANCE**

	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Abstain/Absent</b></u>
Chairman David L. Carmichael	_____	_____	_____
Post 1 Keith Dunn	_____	_____	_____
Post 2 Sandy Kaecher	_____	_____	_____
Post 3 Virginia Galloway	_____	_____	_____
Post 4 Brian Stover	_____	_____	_____

**ATTEST:**

\_\_\_\_\_  
Rebecca Merideth  
Clerk, Paulding County Board of Commissioners

PART II - CODE OF ORDINANCES  
Chapter 6 ALCOHOLIC BEVERAGES

**Chapter 6 ALCOHOLIC BEVERAGES<sup>1</sup>**

**ARTICLE I. IN GENERAL**

**Sec. 6-1. Purposes.**

- (a) The purposes of this chapter include, without limitation, the following:
- (1) Compliance with and effectuation of the general state law;
  - (2) Prevention and control of the sale of alcoholic beverages by unfit persons;
  - (3) The protection of schools, homes, churches, parks, and other institutions;
  - (4) Promotion of appropriate land use and zoning and the effectuation of the county's land use and zoning policies;
  - (5) Protection of the public health, safety, and welfare.
- (b) To the maximum extent possible under state and federal law, the business of manufacturing and/or selling alcoholic beverages under this chapter shall be considered a privilege to be accorded in conformity with the foregoing and other public policies of the county, and not a right.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 1, 11-20-2020)

**Sec. 6-2. Definitions.**

Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in a comparable provision of the Georgia Alcohol Beverage Code, O.C.G.A. §§ 3-1-1, ~~et seq. through 3-12-3~~. Any reference to "license" or "licensee" shall also mean "permit" or "permittee" as appropriate given the context. ~~As to the use of gender specific pronouns, the masculine includes the feminine, and the feminine includes the masculine.~~

<sup>1</sup>Editor's note(s)—Res. No. 12-08, §§ 1—4(Exh. A), 5—7 adopted April 4, 2012, effective July 1, 2012, repealed the former ch. 6, §§ 6-1—6-5, 6-31—6-37, 6-51—6-54, 6-71—6-73, 6-91—6-97, 6-111, 6-112, 6-116—6-119, 6-141—6-145, and enacted a new ch. 6 as set out herein. The former ch. 6 pertained to similar subject matter and derived from Res. No. 04-40, § 1(Exh. A), 12-14-2004. For complete derivation, refer to Code Comparative Table. Section 6 of Res. No. 12-08 states, "For the purposes of Chapter 6, the attached Exhibit B entitled 'Paulding County Marshal Bureau—Alcoholic Beverage License and Permit Fees' which is included herein by reference thereto is approved and adopted." Said Exhibit B is not set out herein but is available for review in the offices of the county. The exhibit was subsequently amended by Res. No. 12-45, § 4(Exh. A).

Cross reference(s)—Alcoholic beverages in parks, § 50-9.

State law reference(s)—Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; authority to adopt rules and regulations relating to manufacture, sale and distribution of distilled spirits, O.C.G.A. § 3-4-49.

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The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

*Alcoholic beverage* means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

*Barrel* means 31 gallons for malt beverages.

*Beer or malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

*Bottle club* means any restaurant, music hall, theater or other establishment providing food or entertainment in the normal course of business, and in which the owners or their agents knowingly allow patrons to bring in and consume the patrons' own alcoholic beverages.

*Brewery* means a premises where beer and malt beverage are manufactured.

*Brewpub* means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail ~~consumption on the premises~~~~on-premises consumption~~ and solely in draft form.

*Caterer* means any person who prepares food for consumption off the premises.

*Church* means any permanent place of public religious worship.

*County marshal* means the chief marshal in the office of the county marshal, the highest ranking peace officer of the county marshal's office, or his/her designee.

*Distilled spirits or spirituous liquor* means any alcoholic beverage obtained by distillation or containing more than ~~21-24~~ percent alcohol by volume including, but not limited to, all fortified wines.

*Eating establishment* means an establishment which is licensed to sell or otherwise dispense distilled spirits, malt beverages, or wines; which contains at least 50 patron seats; which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food; and which holds a valid food service permit issued by the Paulding County Health Department.

*Fortified wine* means any alcoholic beverage containing ~~not~~ more than ~~21-24~~ percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.

*Full-service kitchen* means a kitchen consisting of a commercial sink and refrigerator and either a commercial stove, grill or microwave oven and which has a valid food service permit from the Paulding County Health Department.

*Immediate family* means all persons related to by consanguinity or affinity within the first degree, as computed according to state law.

*Interest* includes any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power, or authority of control.

*Licensee* means the individual to whom a license is issued or, in the case of a partnership, corporation, or company, all partners, officers, members, administrators, and directors of the partnership, corporation, or company.

*Manufacturer* means any maker, producer, or bottler of an alcoholic beverage. The term also means:

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- (a) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits;
  - (b) In the case of malt beverages, any brewer; and
  - (c) In the case of wine, any vintner.

*Package* means a bottle, can, keg, barrel, or other original consumer container.

*Registered agent* means that individual who is a resident of the county and at least 25 years of age, required to be designated by a licensee to receive any process, notice, or demand required or permitted by law or under this chapter to be served upon a licensee or owner.

*Retail consumption dealer* means any person who sells ~~alcoholic beverages~~distilled spirits for ~~consumption on the premises~~on-premises consumption at retail only to consumers and not for resale.

Retailer or retail dealer means, except as to distilled spirits, any person who sells alcoholic beverages, either in unbroken packages or for on-premises consumption, at retail only to consumers and not for resale. With respect to distilled spirits, the term shall have the same meaning as the term "retail package liquor store."

Retail package liquor store means a retail business establishment owned by an individual, partnership, corporation, association, or other business entity which has been issued a package distilled spirits license:

(a) Primarily engaged in the retail sale of distilled spirits, malt beverages, and wine in unbroken packages, not for on-premises consumption, except as authorized under this chapter; and

(b) Which derives from such retail sale of alcoholic beverages in unbroken packages at least 75 percent of its total annual gross sales from the sale of a combination of distilled spirits, malt beverages, and wine.

*Wine* means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 2, 11-20-2020)

**Secs. 6-3—6-29. Reserved.**

## **ARTICLE II. LICENSING**

### **Sec. 6-30. License required.**

- (a) It shall be unlawful for any person to manufacture, sell, offer for sale, or otherwise dispense any alcoholic beverages within the county except under a valid license issued under this chapter and in compliance with the provisions of this chapter.
- (b) All licenses issued pursuant to this chapter shall have printed on the front: "This license is a mere privilege subject to being revoked and annulled and is subject to the Laws of Georgia and the Ordinances of Paulding County."

- (c) The applicant for an alcoholic beverage license or permit shall be subject to all state laws and regulations regarding alcoholic beverages, except as may be otherwise specifically provided in this chapter.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 3, 11-20-2020)

#### **Sec. 6-31. ~~Retail p~~Package licenses.**

~~Applicants may apply for one or more of the following types of retail package licenses or permits: There are two types of retail package licenses authorized in accordance with the provisions of this Chapter:~~

- (a) ~~Package malt beverage~~ wine license. Retail sale of malt beverages and wine in the original package.
- (b) ~~Package wine license. Retail sale of wine in the original package.~~
- ~~(c) Combination package malt beverage and wine license. Retail sale of both malt beverages and wine in the original package.~~ Package distilled spirits license. Retail sale of malt beverages, wine, and distilled spirits in the original package.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-31.1. Package distilled spirits licenses.**

- (a) Maximum number. There shall be no more than two package distilled spirits licensees within the unincorporated limits of Paulding County.
- (b) Location. Subject to zoning approval, the location of each package distilled spirits licensee shall be as follows:
  - (1) One licensee shall be at a physical location in the north side of the county along any of the following roads:
    - i. Cedarcrest Road;
    - ii. Seven Hills Connector;
    - iii. Seven Hills Boulevard northeast of its intersection with Blackberry Run Drive and Bent Leaf Drive;
    - iv. Dallas Acworth Highway north of its intersection with Fairwood Lane; or
    - v. Hiram Acworth Highway north of its intersection with Battle Gate Lane.
  - (2) One licensee shall be at a physical location in the south side of the county along any of the following roads:
    - i. Villa Rica Highway north of the Douglas County line and south of its intersection with Butler Park Place; or
    - ii. Ridge Road east of its intersection with Villa Rica Highway and west of its intersection with Devynwood Drive.
- (c) Applications.
  - (1) Application period. Applications for the initial issuance of licenses shall be accepted by the county marshal beginning on March 6, 2023, and shall no longer be accepted after 5:00 p.m. on May 5, 2023. Thereafter, in the event of future availability of licenses, applications will be received for a period of 60 days before their review and consideration.

(2) Additional application requirements. In addition to the other requirements set forth in this chapter, license applicants shall provide the following:

- i. Three consecutive monthly statements from a financial institution for the period immediately preceding application submittal showing sufficient funds on deposit or a letter of credit from a financial institution in an amount equal to or greater than the value of the minimum inventory requirement set forth in subsection (d)(4).
- ii. A Corridor Overlay-compliant site plan and color elevations of front, sides, and rear of the proposed building, portraying the building which building shall be constructed in substantial conformity with such elevations in the event the license is granted to the applicant.
- iii. A deed, lease, or land sales contract in the name of the applicant for the real property of the proposed building location.

(3) Review and issuance. Upon the close of the application period, the county marshal and community development department shall review the applications for compliance with this chapter. Applicants whose applications fail to comply with the terms and requirements of this chapter or are otherwise incomplete shall be notified and afforded 5 business days to remedy the defect. Applicants who fail to remedy an application deficiency within 5 business days of notification and applicants whose applications contain false information shall be rejected from further consideration. In the event that a single applicant satisfies the requirements of this chapter for a particular geographic area, the county marshal shall issue a package distilled spirits license to the applicant.

(4) Multiple qualifying applicants. In the event there are more qualified applicants than available package distilled spirits licenses for a particular geographic area, then the selection of the successful applicant shall be conducted by a lottery system overseen by the Alcohol License Review Board which shall randomly select the successful qualifying applicant.

(5) Failure to commence operations. In the event that a licensee fails to open the business for which the license was awarded within 18 months of the granting thereof, the license shall expire, and new applications shall be received for a new 60-day period. Prior to expiration, a licensee may request a six-month permit extension from the Board of Commissioners for good cause shown as determined by the Board of Commissioners. Any expired licensee shall be disqualified from submitting a new application.

(d) Operating requirements and restrictions. Package distilled spirits licensees shall operate in accordance with the following provisions:

- (1) Distances. Package distilled spirits licensees shall be subject to the distance requirements set forth in Section 6-90.
- (2) Building size. Licensee must operate as sole owner/tenant of a freestanding building of at least 7,500 square feet on a lot that is a minimum of one-half acre in size. At least 5,000 square feet of the building must consist of showroom area. Showroom area shall not include cooler space, storage areas, offices, mechanical rooms, breakrooms, nor bathrooms.
- (3) Design Standards. Except as otherwise provided by this section, a licensee's building shall comply with the provisions of the Corridor Overlay District, UDO Section 220-20, et seq. The front entrance and a separate front exit shall be constructed of clear glass.
- (4) Minimum inventory. Licensee shall maintain a minimum inventory of at least \$750,000.00 in alcohol available for sale at all times.

(5) Authorized merchandise. A licensee shall only be authorized to sell the following and is prohibited from selling or offering products or services not included herein:

- i. Distilled spirits, wine, and malt beverages;
- ii. Beverages containing no alcohol commonly used to dilute distilled spirits;
- iii. Cigars and cigarettes, but excluding all other tobacco products, pipes, and vaping products;
- iv. Packaged ice (in packages of 5 pounds or greater and as further defined by Georgia Department of Revenue Rule 560-2-3-.04(e)1) and ice chests;
- v. Paper, styrofoam, or plastic cups, gift bags, which are limited in size to accommodate one 750 ml size bottle of wine or distilled spirits, and contain only products approved for sale or display by this subsection;
- vi. Bar supplies, limited to:
  - 1. Corkscrews, openers, straws, swizzle stirrers, and bar-related containers, and wares made of glass, plastic, metal or ceramic materials.
  - 2. Cocktail olives, onions, cherries, lemons, limes, and sugars or salts produced and marketed specifically for the preparation of alcohol beverage drinks.
  - 3. Alcoholic Beverage drink recipe booklets, bar guides, and consumer-oriented alcoholic beverage publications.
- vii. Gift certificates for use only at the issuing licensee.
- viii. Devices and related accessories designed primarily for accessing or extracting alcohol and/or flavorings from prepackaged containers, including pods, pouches, capsules or similar containers, to mix or prepare alcoholic beverages. Devices which are not designed primarily for these purposes, including but not limited to household blenders, are not eligible under this subsection.

(6) Days and hours of operation. See Section 6-104(a).

(7) On-premises consumption. Except as authorized by O.C.G.A. § 13-15-1, et seq. (Tasting Events), it shall be unlawful for any person to consume any alcoholic beverages on premises licensed for the sale of package distilled spirits.

(8) Deliveries and screening. All deliveries to the licensee shall be made at the rear of the licensee's building, and all loading areas, dumpsters, recycling bins, and compactors shall be screened from view of the adjoining property.

(9) Drive-thru. If the building is equipped with a drive-thru window, the drive-thru area must be of sufficient space to ensure the order flow of traffic which shall not create any type of obstruction upon or approaching the county road system.

(10) Outdoor storage. There shall be no outside storage of any type, including the outdoor storage of shopping carts.

(e) One license per owner. No owner may hold more than one package distilled spirits license.

(f) Fees. Package distilled spirits application and license fees shall be as set by the board of commissioners.



(g) Construction. Except as otherwise provided by this section, package distilled spirits licensees shall comply with all other requirements applicable to retail package licensees.

(h) Conflict with package malt beverage/wine provisions. For package licensees who wish to operate a business which conducts both the retail sale of package distilled spirits and the retail sale of package malt beverages and wine, in the case of conflict, the provisions of this section regulating the retail sale of package distilled spirits shall prevail, and compliance with those provisions, rather than the provisions applicable to the license permitting the retail sale of package malt beverages and wine, is required.

#### Sec. 6-32. Ancillary wine tasting permit.

Upon filing an application and payment of a permit fee, a permit may be issued to a ~~licensed package retail package wine dealer~~ malt beverage/wine licensee or ~~licensed~~ wine wholesale ~~dealer~~ to hold a wine tasting for a period of time not to exceed two days. The application shall be accompanied by the requisite fee in an amount as set by the board of commissioners. No more than 12 such permits may be issued per year to a single permittee. The permit shall allow the ~~applicant~~ permittee to provide samples of wine to the public for consumption at a location which otherwise meets legal requirements for on-premises consumption.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Sec. 6-33. Retail on-premises consumption ~~on the premises~~ licenses.

(a) ~~Five-Three~~ classes of retail ~~consumption on the premises~~ on-premises consumption licenses are available as set forth below. Unless otherwise specifically provided in this chapter, such licenses ~~retail consumption on the premises licenses~~ are available only to eating establishments as defined in section 6-2 having a full-service kitchen.

(1) *Full on-premises consumption license.* Retail sale of distilled spirits, wine, and malt beverages -by the drink for on-premises consumption.

(2)

*Limited on-premises consumption license.* Retail sale of wine and/or malt beverages by the drink for on-premises consumption, but not distilled spirits.

~~(53)~~ *Brewpub.* See definition in section 6-2.

(b) The application shall be accompanied by the requisite fee in an amount set by the board of commissioners. Sunday sales are included without an additional fee.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Res. No. 12-45, § 1, 12-11-2012)

#### Sec. 6-34. Wholesale licenses.

(a) Any wholesale dealer in alcoholic beverages who is licensed by the State of Georgia and who does not have its principal place of business in the county may be granted a license to distribute such beverages in the county upon application for such license to the county marshal. ~~Wholesale dealers whose principal place of business is a location other than Paulding County shall pay a license fee of \$100.00 as authorized by O.C.G.A. § 3-5-43 (or such fee as may be authorized by any future amendment or revision thereto).~~

(b) Any wholesale dealer in alcoholic beverages who is licensed by the state and who has its principal place of business in the county shall procure a license under the same provisions applicable to retail package

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licensees. The application for a resident wholesale dealer's license shall be accompanied by the requisite fee in an amount set by the board of commissioners.

- (c) No retailer shall knowingly and intentionally purchase any alcoholic beverage from any person other than a wholesale dealer licensed under this article. No wholesale dealer shall knowingly and intentionally sell any alcoholic beverages to any person other than a licensed retailer.
- (d) No alcoholic beverage shall be delivered to any retail sales outlet in the county except by a duly licensed wholesale dealer. The name of the wholesale dealer shall be clearly marked on the delivery vehicle.

(e) Wholesale malt beverage dealers whose principal place of business is a location other than Paulding County shall pay a license fee of \$100.00 in accordance with O.C.G.A. § 3-5-43.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-34.1. Manufacturer licenses.**

- (a) Any person desiring to operate a brewery for the manufacturing of malt beverages must apply for a malt beverage manufacturer's license which shall be required to operate a brewery. This subsection shall not be interpreted to preclude the otherwise legal practice of private production of beer as permitted under O.C.G.A. § 3-5-4.
- (b) Except as otherwise provided for Georgia farm wineries pursuant to O.C.G.A. § 3-6-21.1, any person desiring to manufacture wine must apply for a wine manufacturer's license.

(Ord. No. 21-09 , § 1, 12-14-2021)

Editor's note(s)—Ord. No. 21-09 , § 1, adopted Dec. 14, 2021, amended § 6-34.1 in its entirety to read as herein set out. Former § 6-34.1, pertained to malt beverage manufacturer licenses, and derived from Ord. No. 20-12, § 4, adopted Jan. 20, 2020.

#### **Sec. 6-35. Alcoholic beverage caterers.**

- (a) *Definitions for purposes of this section.*

*Nonresident caterer* means a caterer that does not have its ~~principle-principal~~ place of business located within unincorporated Paulding County and which desires to serve or sell alcoholic beverages at a permitted event or function.

*Resident caterer* means a caterer that has its ~~principle-principal~~ place of business located within unincorporated Paulding County and which desires to serve or sell alcoholic beverages at a permitted event or function.

- (b) *Annual alcoholic beverage caterer's license for resident caterers.*

- (1) Any resident caterer who possesses a valid alcoholic beverage license from the county may apply for an annual alcoholic beverage caterer's license that permits off-premises alcoholic beverage sales at authorized catered events or functions for which an event permit has also been obtained.
- (2) The fee for such annual resident alcoholic beverage caterer's license shall be set by the board of commissioners, provided however that pursuant to O.C.G.A. § 3-11-2(e), the annual resident alcoholic beverage caterer's license fee shall not exceed \$5,000.00 for any one licensed location.

- (c) *Event permits.*

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- (1) In order to serve alcoholic beverages at a catered event or function, both resident and nonresident caterers must first apply and obtain an event permit from the county marshal.
  - (2) An event permit application shall include the following information:
    - a. Name of the event;
    - b. Date of the event;
    - c. Address and location of the event;
    - d. Times during which the event will be held;
    - e. The alcoholic beverage caterer's license number; and
    - f. Any other information requested by the county related to the event.
  - (3) All event permit applications shall be accompanied by a non-refundable event permit fee in the following amounts:
    - a. A resident caterer who possesses an annual alcoholic beverage caterer's license shall not be charged an event permit fee.
    - b. A nonresident caterer shall be charged an event permit fee of \$50.00.
  - (4) In order to be eligible for issuance of an event permit, caterers must have the following licenses:
    - a. A resident caterer must possess a Paulding County alcoholic beverage caterer's license.
    - b. A nonresident caterer must possess an alcoholic beverage caterer's license from a local political subdivision or municipality other than Paulding County.
  - (5) The county marshal shall review the application and may either grant or deny the permit application. The county marshal may deny the permit based upon the applicant's failure to adequately address public safety concerns. If granted, the county marshal may place reasonable restrictions upon the permit to address public safety concerns such as traffic management, noise abatement, crowd control, fire safety, or building code compliance.
- (d) *[Original event permit.]* The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function.
- (e) *A licensed alcoholic beverage caterer may sell or otherwise dispense only that type of alcohol which is authorized by his alcoholic beverage license.* For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or dispense only malt beverages at the authorized catered event or function.
- (f) *[Resident caterer.]* Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in article VIII of this chapter.
- (g) *[Nonresident caterer.]* Excise taxes are imposed upon the total of individual alcoholic beverage drinks served by a nonresident caterer in the amounts set forth in article VIII of this chapter and shall be paid within 30 days after the conclusion of the catered event or function.
- (h) *[Licenses and event permit required.]* It shall be unlawful for any person to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained the licenses and an event permit as required by this chapter.
- (i) *[Violation of restrictions.]* It shall be unlawful for any person to violate the restrictions of an event permit or otherwise dispense alcoholic beverages except as authorized by the event permit.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

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State law reference(s)—O.C.G.A. § 3-11-1, et seq.

#### **Sec. 6-36. Nonprofit civic organization temporary permit.**

- (a) The county marshal may issue a temporary permit to sell alcoholic beverages to a nonprofit civic organization upon the organization meeting the following requirements:
  - (1) The applicant must be a bona fide non-profit organization;
  - (2) The applicant must be currently listed on IRS Publication 78;
  - (3) The applicant must acquire an event permit pursuant to the procedure set forth in section 6-35(c)(2) and (5); and
  - (4) The authorized event for which the event permit is issued must be associated with and benefit the cause of the applicant.
- (b) Pursuant to state law, a temporary permit shall authorize the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed three days, subject to all laws and ordinances regulating the time for selling such beverages; the temporary permit shall be valid only for the place specified in the permit; and no more than six such permits may be issued to the applicant organization in any one calendar year.
- (c) Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount as set by the board of commissioners.
- (d) It shall be unlawful for such organization or person acting on behalf of the organization to violate the restrictions of an event permit or temporary permit or otherwise dispense alcoholic beverages except as authorized by the event permit or temporary permit.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-37. On-premises special event temporary permit.**

- (a) A retail ~~consumption on the premises~~ on-premises consumption licensee may apply for an on-premises special event temporary permit. An on-premises special event temporary permit shall authorize the retail ~~consumption on the premises~~ on-premises consumption licensee to sell alcoholic beverages for consumption on the premises for an additional period not to exceed a two-hour extension of the hours of operation specified in section 6-104 for the specified day.
- (b) No more than six such permits may be issued to any location in any one calendar year.
- (c) Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount as set by the board of commissioners.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-38. Duration of licenses and proration of license fees.**

All licenses, except as otherwise indicated, issued under this chapter shall be issued on a calendar year basis, and all licenses shall expire at ~~midnight~~ 11:59 p.m. on December 31 of the year for which they are issued. License fees shall be prorated as follows:

- (a) New applications received prior to July 1 shall be assessed a full license fee.
- (b) New applications received on or after July 1 shall be assessed one-half of the annual license fee.

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(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Sec. 6-39. Application.**

- (a) All persons or entities desiring to ~~sell~~obtain an alcoholic ~~beverages~~beverage license shall make application on the form prescribed by the county marshal.
- (b) The application shall include but not be limited to the following:
- (1) The name and address of the applicant;
  - (2) The proposed business to be carried on;
  - (3) If a partnership, the names and residence addresses of the partners;
  - (4) If a corporation, the names and addresses of the officers;
  - (5) The name and address of the agent for service of process; and
  - (6) Such other information as may be required by the county marshal.
- (c) All applicants shall furnish all data, information and records requested of them by the county marshal and failure to furnish this data, information and records within 30 days from the date of the request shall automatically dismiss the application with prejudice. By filing an application, applicants agree to produce for questioning any person requested by the county marshal and considered by the county marshal as important in the ascertainment of the facts relative to the license. The failure to produce the person within 30 days after being requested shall result in the automatic dismissal of the application with prejudice. An application shall not be considered complete until the applicant has furnished all data, information and records requested by the county marshal.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (e) Each applicant and licensee shall consent to and authorize a fingerprint analysis and investigation.
- (f) The application form shall be accompanied by a copy of the lease to the premises, or proof of ownership of the premises, or proof of other authorization for use of the premises.
- (g) Each applicant and licensee authorizes the county marshal to secure from any court, law enforcement agency, or other public agency his criminal and civil history and to use such information in determining whether the license applied for should be issued. Each applicant further authorizes the county to use such information in any public hearing with respect to the license applied for, either before or after the issuance of the license. Each applicant waives any right that he would otherwise have to preclude the county or its agents from obtaining and using such information, and each applicant further waives any liability of the county or its agents for obtaining and using such information.
- (h) Separate applications must be made for each location, and separate licenses must be obtained for each location.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Sec. 6-40. Joint responsibility.**

If a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. If a corporation, the corporation, its officers and directors shall be responsible for the actions of the named licensee and the conduct of the licensed business. If a nonprofit organization, its officers,

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directors, or governing authority shall be responsible for the actions of the named licensee and the conduct of the licensed business.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Sec. 6-41. Eligibility for license.

- (a) Every applicant shall, prior to applying for a license, read and familiarize ~~himself~~ themselves with the provisions of this chapter, and submission of the application shall constitute a certification that applicant has done so. Every licensee shall maintain a copy of this ordinance on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages concerning the relevant provisions of this chapter.
- (b) An applicant shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to ensure compliance with the provisions of this chapter. For purposes of this section, a licensee shall not be considered active unless he is an owner, stockholder, or fulltime employee of the licensed business and is present on the licensed premises a minimum of ten hours per week.
- (c) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any person or entity, where the majority of stock or partnership interests are controlled by individuals who are not citizens of the United States or aliens lawfully admitted for permanent residence. If, an entity is owned by other entities, then this requirement shall apply to the majority stockholders of the other entities to ensure that a license is not granted to an ineligible person or entity.
- (d) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any person who has been convicted under any federal, state or local law of any felony within the last ten years, is or has been on felony probation or parole within the last five years, or released from prison for felony convictions within the last five years prior to filing an application. The term conviction includes any adjudication of guilt, plea of guilty or nolo contendere, or anyone who is actively serving a sentence under the Georgia First Offenders Act, O.C.G.A. § 42-8-60, et seq.
- (e) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any person, or the spouse of any person, who has been convicted under any federal, state or local law of any misdemeanor involving moral turpitude within ten years prior to filing an application. The term conviction includes any adjudication of guilt, plea of guilty or nolo contendere, anyone who is actively serving a sentence under the Georgia First Offenders Act, O.C.G.A. § 42-8-60, et seq., or the forfeiture of a bond when charged with a crime as resolution of the case. The term "moral turpitude" shall include any violation that involves gambling, drugs, a driving under the influence conviction occurring less than five years from a prior driving under the influence conviction, and sale or possession of alcohol.
- (f) A licensee shall not have had revoked, within the two years preceding his application, any license ~~to sell~~ regarding alcoholic beverages issued by any governmental entity.
- (g) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any person that has not attained the age of 25.
- (h) A licensee shall have been, and continuously maintain, as a registered agent, a resident of the county upon whom may be served any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner.
- (i) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any potential licensee (except wholesale licenses) without a certification from the county tax commissioner or ~~his~~ the deputy thereof that there are no delinquent taxes owing to the county against any property both real or personal pertaining to the location of the business for which such application is made. Also, such certification shall

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state that there are no delinquent taxes owing to the county against the applicants, owner and any party of interest in the business for which such application is made. The county shall provide forms for the applicant for such certification.

- (j) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any potential licensee where circumstances show that, even though there is compliance with the minimum distances to schools and churches, the type and number of schools and churches in the vicinity causes minors to frequent the immediate area.
- (k) No alcoholic beverage license ~~for the sale of alcoholic beverages~~ shall be granted to any potential licensee where in the opinion of the department of transportation and/or community development department there is evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking spaces for ~~automobiles~~vehicles. Sufficient parking shall be determined by the community development department in reviewing the ~~event permit~~ application. In general, a licensee shall have sufficient parking on the premises so as to provide parking for such licensee's customers so as to prevent parking on the streets or adjoining property.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-42. Application fee.**

Each application for a license under this chapter shall be accompanied by a non-refundable application fee in an amount as set by the board of commissioners. Application fees shall be paid at the time the application is filed and shall not be refunded under any circumstances.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-43. Procedure for consideration of application; temporary licenses.**

- (a) Each application shall be reviewed by the county marshal, and thereafter the county marshal shall either grant or deny the application.
- (b) A temporary license for a full pouring-on-premises consumption license, a limited pouring-on-premises consumption license, package malt beverage/wine license, ~~package wine license, or~~ malt beverage manufacturer license, or wine manufacturer license may be issued by the county marshal for a period of up to 60 days, provided the county marshal is satisfied that the applicant substantially complies with the provisions of the applicable ordinances and meets required qualifications, and the denial of a temporary license would create undue hardship upon the applicant, such as the closing of an existing business or delaying of the opening of a new business. No right or property shall vest in any applicant by virtue of the issuance of such license. The applicant shall sign an acknowledgment that the temporary license is a mere accommodation and may be revoked, with or without cause, by the county marshal at any time. No temporary package distilled spirits licenses shall be issued
- (c) The fee for issuance of a temporary license shall be set by the board of commissioners.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 5, 11-20-2020; Ord. No. 21-09, § 2, 12-14-2021)

#### **Sec. 6-44. Publication of application notice.**

After filing an alcoholic beverage license application with the county marshal, the applicant shall cause to be published, in the form prescribed by the county marshal, a notice of application in the Dallas New Era or such

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other newspaper that may as some future time become the legal organ for the county, once per week for two consecutive weeks, to run beginning at the first available publication date following the filing of the application. The notice shall contain the name of the applicant, the location of the proposed licensed premises, and a deadline for submission of comments to the county marshal. The comment deadline shall be 30 days after the application filing date.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Sec. 6-45. Denial of application.

- (a) A license application may be denied by the county marshal for failing to meet the qualifications and requirements of this chapter; for any violation of this chapter; for any violation of state laws and regulations relating to alcoholic beverages; or for any material misrepresentation or omission in the application for the license.
- (b) Except in the case of package distilled spirits license application which shall be governed by Section 6-31.1(c)(3), where where the county marshal denies a license application, the following procedures shall apply:
  - (1) The county marshal shall notify the applicant of the denial in writing, personally or by certified mail return receipt requested, or statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b) to the applicant's address as listed in the application. The notice shall include the following information:
    - a. The reason/s for the denial;
    - b. The effective date of the denial; and
    - c. A statement advising that if the applicant desires to appeal the denial, the applicant must file a written "notice of appeal" with the county marshal which must either be postmarked or actually received by the county marshal within ten days from date of delivery of the denial notification letter.
  - (2) If the county marshal receives a written notice of appeal from the applicant which is either postmarked or actually received by the county marshal within ten days from date of delivery of the denial notification letter, the county marshal shall set a hearing date with the alcohol license review board within 30 days of receipt of the notice of appeal.
  - (3) Upon the scheduling of an appeals hearing, the county marshal shall give written notice to the applicant of the time, place, purpose of the hearing, and a statement of the reasons upon which the denial is based. Service of such notice shall be by certified mail return receipt requested or statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b) to the applicant at the address listed in the application.
  - (4) Delivery of any notice originating from the county marshal referenced in this subsection sent to the applicant shall be deemed to take place upon:
    - a. Receipt; or
    - b. If sent to the last known address in the license application but then returned as unclaimed or refused.

~~(c)~~ In all instances in which an application is denied, the applicant may not reapply for a license for at least one year from the final date of the denial.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)



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#### Sec. 6-46. Transferability of license.

- (a) Except as provided in this section, no license shall be transferable to any other person or location. All applications seeking a transfer of a license in any respect shall be made upon application forms provided by the county marshal and shall be accompanied by a nonrefundable fee in an amount set by the board of commissioners.
- (b) If a licensee seeks to move his place of business from the licensed premises to another place within the county, new application shall be made as for an original license.
- (c) In case of the death of the licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 30 days from the date of death, or until expiration of the license, or until approval of a new license, whichever occurs first; provided, however, that the county marshal must be notified of the licensee's death within ten days of the death or the license shall automatically terminate on the ~~11~~<sup>11</sup>th day following the death of the licensee.
- (d) If a license is surrendered, or a licensee severs its association with the licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 30 days from the date of surrender, or from the date determined to be the date of severance; provided, however, that the county marshal must be notified of the change within ten days of the severance or the license shall automatically terminate on the ~~11~~<sup>11</sup>th day following the date of the severance. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- (e) Nothing in this section shall prohibit one or more of the partners in the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license; nor shall it prohibit transfers of stock which do not result in any person increasing stock holdings to a total of ten or more percent of any class of corporate stock, or any other entity having a financial interest in the entity.
- (f) Except as provided herein, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued under this division automatically, without the necessity of a hearing.
- (g) Violation of this section shall result in revocation of the license.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Sec. 6-47. ~~Sale or disposition~~ of licensed business; temporary license.

- (a) If any licensee withdraws from, ~~or sells, or otherwise transfers~~ the licensee's interest in the licensed business, the licensee shall notify the county marshal within 30 days of the change.
- (b) In the case of such a withdrawal, ~~transfer,~~ or sale, the county marshal may issue a temporary license as provided in section 6-43 to the successor in interest; if the successor in interest has properly completed an application and paid the appropriate fee. The temporary license shall be valid for up to 60 days or until the application for a permanent license is granted or denied, whichever first occurs.
- (c) In the event of the sale of a licensed package distilled spirits business, a new package distilled spirits license may only be issued to the purchaser if the purchaser operates from the same previously licensed location and otherwise satisfies the qualifications and requirements of this chapter.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

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#### Sec. 6-48. Notice.

Except as may otherwise be specifically provided in this chapter, any required notice may be delivered by hand ~~or~~, sent by certified mail return receipt requested, or sent by statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b). Delivery of any notice referenced herein shall be deemed to take place upon:

a. Receipt; or

b. If sent to the last known address but then returned as unclaimed or refused.

in which event delivery shall be deemed to take place on the third day following the date of deposit in the United States mail.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Sec. 6-49. Collection of sums due.

As to any failure to pay any sum due for fees or taxes under this chapter, the county may issue an execution against the licensee and ~~his-its~~ property for the amount of the delinquent fee or tax in addition to any other remedies the county may have. Such execution shall constitute a lien upon the real estate of the licensee for the benefit of Paulding County, Georgia. The lien shall be filed in the records of the Paulding County Superior Court Clerk. The lien shall be assessed coequal to and enforced in the same manner as liens for state and county ad valorem property taxes by issuance of a fi. fa. and levy and sale as set forth in O.C.G.A. ~~title-Title~~ 48. The lien shall have a duration of seven years.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### Secs. 6-50—6-69. Reserved.

### **ARTICLE III. SUSPENSION OR REVOCATION OF LICENSE; HEARING**

#### Sec. 6-70. Suspension or revocation of license.

- (a) A license may be suspended or revoked by the county manager for any violation of this chapter; for any violation of state laws and regulations relating to alcoholic beverages; for any material misrepresentation or omission in the application for the license; or if the licensee or the licensed business ceases to meet the eligibility requirements for licensure.
- (b) Whenever the state revokes any permit or license ~~to sell~~ regarding alcoholic beverages or denies issuance of the corresponding state license or permit after a county license has first been issued, the county license/s shall thereupon be automatically revoked by operation of law. The county marshal, upon notice of such revocation, shall take the necessary steps to see that signs are removed. The county marshal is also authorized to take appropriate measures to bring about the cessation of alcohol sales at the premises of the licensee.
- (c) When suspension of a license is permitted under this chapter, but no specific period of suspension is mandated, the following guidelines shall apply:
  - (1) First suspension in a 24-month period of time shall not exceed 30 days.
  - (2) Second suspension in a 24-month period of time shall not exceed 60 days.

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- (3) Third suspension in a 24-month period of time shall cause revocation of the license.
- (d) When a revocation or suspension of a license is permitted under the chapter, such license may be suspended or revoked by the county manager. Following such action, the following procedures shall apply:
- (1) The county manager shall notify the licensee of the suspension or revocation by certified mail return receipt requested, or sent by statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b) to the licensee's registered agent at the last known address of record in the licensing records of the county marshal. The notice shall include the following information:
    - a. The reasons for the suspension or revocation;
    - b. The effective date of the suspension or revocation; and
    - c. A statement advising that if the licensee desires to pursue an appeal, the licensee must file a written "notice of appeal" with the county manager which must either be postmarked or actually received by the county manager within ten days from date of delivery of the suspension/revocation notification letter.
  - (2) If the county manager receives a written notice of appeal from the licensee which is either postmarked or actually received by the county manager within ten days from date of delivery of the suspension/revocation notification letter, the county manager shall set a hearing date with the alcohol license review board within 30 days of receipt of the notice of appeal.
  - (3) Upon the scheduling of an appeals hearing, the county manager shall give written notice to the licensee's registered agent of the time, place, purpose of the hearing, and a statement of the charges upon which the decision is based. Service of such notice shall be by certified mail return receipt requested, or sent by statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b).
  - (4) Delivery of any notice originating from the county manager referenced in this subsection sent to a registered agent shall be deemed to take place upon:
    - a. Receipt; or
    - b. If sent to the last known address on record with the county marshal but then returned as unclaimed or refused.
  - (5) Pending the outcome of the administrative appeal process pursuant to this subsection, the licensee may continue to operate his place of business that the license in question pertains to, assuming the licensee has a current valid occupation tax certificate and any other pertinent license. Upon affirmation of any suspension or revocation by the alcohol license review board, the suspension or revocation shall take effect, and shall not thereafter be stayed.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 22-09, § 5, 7-14-2022)

#### **Sec. 6-71. Alcohol license review board; hearings.**

- (a) There is hereby established the alcohol license review board consisting of three members, not to include the county marshal or county manager. The three members shall be nominated by the ~~director of community development~~ county manager and confirmed by the board of commissioners. Members shall serve two-year terms, to expire of December 31 of each even numbered year. Members shall receive no compensation for their service.
- (b) The board shall have the following duties:
  - (1) To hear deferred applications or appeals from administrative decisions by the county marshal regarding license applications, license transfers, license renewals, change of ownership, or other

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matters affecting such applications, licenses, permits, or decisions by the county marshal pursuant to this chapter;

- (2) To hear deferred applications or appeals from administrative decisions by the county manager with regard to license suspensions or revocations, permits, transfers, renewals, change of ownership, or other matters affecting such licenses, permits, or decisions by the county manager pursuant to this chapter;
  - (3) To hear appeals with regard to issuance, renewal, suspension, or revocation of alcoholic beverage employee permit/identification cards;
  - (4) To consider and act upon any other matter specifically delegated to the board.
- (c) The applicant/licensee, and interested parties as determined by the board, shall be afforded the opportunity to be heard and to present evidence to the board under procedures determined by the board. ~~The rules of evidence shall not apply to~~ Hearsay evidence shall be admissible in hearings before the board. The hearing shall be recorded either by audio. In the event of an appeal, the audio shall be transcribed by a certified court reporter and provided as a part of the record to the reviewing court.
- (d) Any applicant/licensee desiring to appeal to the alcohol license review board shall pay a \$50.00 appeal processing fee at the time of filing the appeal. No appeal may be filed without first paying the appeal processing fee.
- (e) Where an appeal is timely filed, no alcoholic beverage license or permit having been issued shall be suspended or revoked except after a finding of due cause by the board. Due cause for the suspension or revocation of license or permit shall consist of the violation of any laws or ordinances regulating the business; the violation of any state or federal law pertaining to alcoholic beverages; or any violation of this chapter.
- (f) Where an appeal is timely filed, no alcoholic beverage application shall be denied except after a finding of due cause by the board. Due cause for the denial of an application shall consist of any reason which would authorize the county to refuse the issuance of a license or permit as set forth by the requirements of this chapter.
- (g) All decisions of the board shall be in writing, and a copy shall be furnished to the applicant or licensee.
- (h) The board shall have the authority to hear or determine any matter set forth in this chapter unless specifically prohibited therefrom.
- (i) Upon close of the public hearing, the board shall reach a decision on the matter before it, and the decision of the board shall be final unless the applicant, licensee, or permit holder appeals the decision to the Superior Court of Paulding County by filing a petition for ~~writ of certiorari~~ judicial review, limited to the record and not de novo, within 30 days of the date of decision of the board.
- (j) The board shall meet at such times as necessary as determined by the board and shall render its decisions within 30 days after the close of a hearing on any matter. Three members of the board (which is the full board) shall constitute a quorum, and all decisions of the board shall require a majority vote of the quorum.
- (k) The board shall select one of its members to serve as chair and one member to serve as secretary, both to serve in those roles at the pleasure of the board. Minutes and records of all proceedings shall be kept and maintained in the office of the county marshal.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 22-09 , § 6, 7-14-2022)

**Secs. 6-72—6-89. Reserved.**

## ARTICLE IV. LOCATION OF SALES

### Sec. 6-90. Distance ~~from schools, churches, and private residential dwellings~~ requirements.

- (a) No alcoholic beverage license shall be issued for any place of business which is located within 600 feet of any school building, educational building, school grounds, college campus, or adult entertainment establishment.
- (b) No alcoholic beverage license shall be issued for any place of business which is located within 500 feet of a church, or within 300 feet of a private single-family or two-family dwelling in a zoning district that permits single- and/or two-family dwellings; provided, however, this prohibition shall not apply with respect to a private dwelling or church located in a zoning district in which alcoholic beverage sales are authorized.
- (c) The distances in this chapter shall be measured along the route traversed by vehicle along a public road between the front door of the licensed business to a point at the front door of the ~~main applicable~~ structure of the church, school, or residential dwelling.
- (d) If a school, church, or residential dwelling subsequently locates within the prohibited area of a preexisting licensed premises this provision shall not be applicable and such an event would not cause a license holder to be in violation of this provision or prohibit the renewal nor transfer of the license.
- (e) Unless otherwise on file with the county, no application for a license shall be approved which does not include, or have attached thereto, a certificate from a registered surveyor which shows a scale drawing of the premises and the location at which the applicant desires to operate an alcoholic beverage establishment and which shows, with linear foot measurements where appropriate, such location's compliance or noncompliance with the provisions of this section. When a license is issued under such circumstances, it will not become valid until the premises are completed.
- (f) When a license application is for premises not yet constructed or not yet completed, a license may be issued if the application includes the plans for the premises and a surveyor's certificate, as required under subsection (e) of this section, clearly showing that the premises will, when completed, meet the requirements of this section.
- (g) The owner of a residential dwelling or the official governing authority of the organizational structure of a legal church entity which is located within the prohibited area described in this subsection may consent in writing to the applicant obtaining a license for the sale of alcoholic beverages by waiving the distance requirements.
- (h) As used in this section, the term "school building" or "educational building" shall apply only to state, county, city or church school buildings and to such buildings at any other schools in which are taught subjects commonly taught in the schools and colleges of this state and which are public schools and private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered. The term "church building" as used in this section means the main structure used by any religious organization for purposes of worship.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Res. No. 12-45, § 2, 12-11-2012; Ord. No. 20-12, § 6, 11-20-2020)

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**Sec. 6-91. Sales and consumption on public property.**

- (a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to sell, serve, or otherwise dispense any alcoholic beverage in a street, alley, or parking lot commonly used by the general public or in any other public place or on public property.
- (b) Private parties, organizations, and event sponsors may secure an event permit from the county manager to allow for the consumption of alcoholic beverages on property owned or leased by the county. The sale, serving, or dispensing of such alcoholic beverages may only be conducted by a licensed alcoholic beverage caterer.
- (c) Pursuant to O.C.G.A. § 3-8-1, alcoholic beverage licenses other than retail package licenses, may be issued in accordance with this chapter within the boundaries of any publicly owned or operated airport within the county.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 7, 11-20-2020; Ord. No. 22-09, § 7, 7-14-2022)

**Sec. 6-92. Open area sales.**

- (a) Unless authorized in an event permit or the location involved is part of a special events facility, it shall be unlawful for any person to sell, serve, or otherwise dispense alcoholic beverages outside the structure of the licensed premises.
- (b) Nothing contained in this section shall prohibit a hotel, motel, or restaurant with an ~~on-premises~~ consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas.
- (c) Nothing contained in this section shall prohibit a licensed brewery from making sales and allowing consumption of alcoholic beverages in a patio area which is attached to the brewery.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 8, 11-20-2020)

**Secs. 6-93—6-99. Reserved.****ARTICLE V. BUSINESS REGULATIONS****Sec. 6-100. Display of license.**

Each license issued under this chapter shall at all times be kept in a public area plainly exposed to view upon the licensed premises.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Sec. 6-101. Purchase and sales records.**

- (a) Every licensee shall keep and preserve records of all alcoholic beverages purchased, sold, manufactured, or otherwise dispensed by the licensee. All ~~consumption on the premises~~ consumption on the premises licensees shall keep and preserve records of all food and nonalcoholic beverages purchased and sold or otherwise dispensed by them. These records shall be maintained for a period of at least three years.

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- (b) No later than the tenth day of the following calendar month, all licensees shall provide the county marshal with their gross monthly sales receipts.
  - (c) If the county marshal deems it advisable to conduct an audit of the records of a licensee, ~~he the county marshal~~ shall notify the licensee of the date, time, and place of the audit. The licensee shall cooperate with the audit or be subject to having ~~his its~~ license suspended or revoked.
  - (d) At the request of the county marshal, the licensee shall make available the following records:
    - (1) Monthly income or operating statements;
    - (2) Daily sales receipts showing distilled spirits, malt beverage, wine, and food sales separately (this requirement does not apply to package ~~malt beverage and/or wine~~sale licensees, nor does it apply to wine manufacturing licensees);
    - (3) Daily cash register receipts such as Z tapes or guest tickets;
    - (4) Monthly state sales and use tax reports; and
    - (5) Federal income tax returns.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 9, 11-20-2020; Ord. No. 21-09, § 3, 12-14-2021)

#### **Sec. 6-102. Sale to, purchase or possession by underage person.**

- (a) Except as otherwise provided in this section:
  - (1) No person, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.
  - (2) No person under 21 years of age shall purchase or possess any alcoholic beverage.
  - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining unlawfully any alcoholic beverage.
  - (4) No person shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
  - (5) No person under 21 years of age shall misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in subsections (a)(1), (2), and (4) of this section shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:
  - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
  - (2) At a religious ceremony.
- (c) The prohibitions contained in subsections (a)(1), (2), and (4) of this section shall not apply when the parent or guardian of the underage person gives the alcoholic beverage to the underage person and when possession is in the home of the parent or guardian and such parent or guardian is present.
- (d) The prohibition contained in subsection (a)(1) of this section shall not be violated when a person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, the person's photograph, and the person's date of birth. Proper identification includes, without being limited to, a passport, military

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identification, driver's license, or an identification card authorized under O.C.G.A. § 40-5-100, et seq. The term "proper identification" shall not include a birth certificate.

- (e) This section shall not prohibit employment of a person under 21 years of age in a licensed premises if such employment is lawful under this chapter.
- (f) In any case where a reasonable or prudent person could doubt whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is 21 years of age or older, the person selling or otherwise furnishing such alcoholic beverage shall request to see and be furnished with proper identification as provided in subsection (d) of this section. The failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1) of this section.
- (g) In any case where a person selling or otherwise furnishing alcoholic beverages checks for a proper identification, such person shall carefully inspect such identification. If a reasonably prudent person could determine that such identification has been altered and if such person sells or otherwise furnishes alcoholic beverages to the holder of such altered identification, then such may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1) of this section.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

State law reference(s)—Persons under 18 years of age not allowed to serve, sell, or take orders for alcoholic beverages, O.C.G.A. § 3-3-24.

#### **Sec. 6-103. Days when sales unlawful.**

- (a) No licensee shall permit the sale of alcoholic beverages on any day or during any time of day when such sales are prohibited by state law.
- (b) Except as specifically authorized by law, no person shall knowingly and intentionally sell or offer to sell alcoholic beverages on Sunday or Christmas Day.
- (c) The sale of alcoholic beverages may be sold on any election day, subject to all other provisions of this chapter and notwithstanding any other provision of this chapter, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on primary or election days.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-104. Hours of operation.**

- (a) Retail package licensees shall not engage in the sale of alcoholic beverages except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday, and 12:30 p.m. and 11:30 p.m. on Sunday. Such licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 midnight, Monday through Saturday, and 12:30 p.m. and 11:30 p.m. on Sunday, except that where the primary business of a package malt beverage/wine package licensee ~~or wine package licensee~~ is other than the sale of alcoholic beverages, such restrictive hours shall apply only with respect to the sale of malt beverages ~~or and~~ wine.
- (b) ~~Consumption on the premises~~On-premises consumption licensees shall sell alcoholic beverages only between the hours of 9:00 a.m. and 2:00 a.m. ~~on the following day~~, Monday through Saturday. ~~Consumption~~

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~~on the premises~~ On-premises consumption licensees shall not allow alcoholic beverages sold under this subsection to be consumed on the premises after 2:30 a.m.

(c) Sunday ~~consumption on the premises~~ on-premises consumption sales may be made by eating establishments, as defined herein, or by a private club between the hours of 11:00 a.m. and ~~12:00 a.m. (midnight)~~ 11:59 p.m.

(ed) The business hours of wholesale dealers shall be between the hours of 6:00 a.m. and 11:00 p.m., Monday through Saturday, and 12:30 p.m. and 11:30 p.m. on Sunday.

(de) Breweries may engage in the sale of alcoholic beverages during any times when retail package licensees or ~~consumption on the premises~~ on-premises consumption licensees are authorized to sell alcoholic beverages.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Res. No. 16-51, 12-13-2016; Res. No. 18-56, 11-13-2018; Ord. No. 20-12, § 10, 11-20-2020)

#### Sec. 6-105. Delivery and storage.

(a) Alcoholic beverages shall be delivered to and received at licensed premises in the original container and in a conveyance owned and operated by a licensed wholesale dealer (or a licensed common carrier acting for a wholesaler) with a permit from the county to make deliveries in the county. Alcoholic beverages shall be sold at retail only on the licensed premises.

(b) A retail package licensee shall store alcoholic beverages only on the licensed premises and at no other place. All stock shall be available at all times for inspection by any authorized agent of the county. Any alcoholic beverages found in any retail package licensee's stock which were not received from a wholesaler dealer licensed to make deliveries in the county shall be subject to immediate confiscation.

(c) A brewery shall store alcoholic beverages only on the licensed premises and at no other place. All stock shall be available at all times for inspection by any authorized agent of the county.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 11, 11-20-2020)

#### Sec. 6-106. On-premises consumption unlawful.

It shall be unlawful for any person to consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package. It shall be unlawful for any package licensee to open or break the package of any alcoholic beverages for a purchaser or to permit the consumption of alcoholic beverages on the licensed premises. This section shall not apply with respect to sales pursuant to a license for ~~consumption on the premises~~ on-premises consumption, an ancillary wine tasting permit, ~~or~~ a malt beverage manufacturer licensee pursuant to O.C.G.A. § 3-5-24.1, or as otherwise provided for a licensed distiller in accordance with O.C.G.A. § 3-4-24.2(b).

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 12, 11-20-2020)

#### Sec. 6-107. Condition of premises requirements.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption. All licensed premises shall be open at all times for inspection by the county marshal, the fire chief, and other authorized agents of the county.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

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### Sec. 6-108. Breweries.

- (a) The owner of a brewery must have a malt beverage manufacturer's license to operate a brewery.
- (b) A brewery shall be a minimum of 3,000 square feet in size not to include the patio/outdoor area.
- (c) No alcoholic beverages may be displayed or stored on the outside of the brewery premises.
- (d) All alcoholic beverage production shall occur inside the brewery.
- (e) Any outside patio at a brewery must be enclosed by a fence with a minimum height of 42 inches.
- (f) A brewery may sell up to 6,000 barrels of malt beverage per year produced at the licensed premises to individuals who are on such premises for:
  - (1) ~~Consumption on the premises~~On-premises consumption of the brewery in ~~its the brewery's~~ taproom; and
  - (2) Consumption off the premises, provided that such sales for consumption off the premises shall not exceed a maximum of 288 ounces of malt beverages per consumer per day.
- (g) All alcoholic beverages dispensed for ~~consumption on the premises~~on-premises consumption ~~at~~ the licensed brewery shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for ~~consumption on the premises~~on-premises consumption, and it shall be unlawful for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for ~~consumption on the premises~~on-premises consumption. The licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container, except via unopened container as permitted by O.C.G.A. § 3-5-24.1(a)(2).
- (h) A brewery is prohibited from selling any alcoholic beverages that are not manufactured on the premises of the brewery.
- (i) No malt beverage manufacturing licensee may lease out to any third party any of the brewery equipment or supplies that are part of the licensed brewery premises.

(Ord. No. 20-12, § 13, 11-20-2020; Ord. No. 21-09, § 5, 12-14-2021)

### Secs. 6-109—6-119. Reserved.

## ARTICLE VI. EMPLOYMENT RESTRICTIONS AND HANDLING REQUIREMENTS

### Sec. 6-120. Age requirements.

- (a) No ~~consumption on the premises~~on-premises consumption licensee, including nonprofit civic organizations and ancillary wine tasting permittees, or malt beverage manufacturer licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (b) A licensed alcoholic beverage caterer shall not employ any person under the age of 21 years who, in the course of such employment, would dispense, serve, sell, take orders for, or handle alcoholic beverages.
- (c) No person shall allow or require a person in his employment under the age of 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages. This Code section shall not prohibit persons under 18 years of age who are employed in supermarkets, drug stores, and convenience stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 15, 11-20-2020)

**Sec. 6-121. Server identification required.**

- (a) Retail ~~consumption on the premises~~on-premises consumption licensees, malt beverage manufacturer licensees, and alcoholic beverage caterers may only sell alcoholic beverages through employees that have been issued a valid alcoholic beverage employee permit/identification card.
- (b) Any employee of a retail ~~consumption on the premises~~on-premises consumption licensee or alcoholic beverage caterers, except employees who do not sell or serve alcohol to customers (including but not limited to busboys, dishwashers, hostesses, cashiers and/or cooking staff), shall be required to receive an alcoholic beverage employee permit/identification card.
- (c) All managers of a retail ~~consumption on the premises~~on-premises consumption licensee or a brewery, whether or not they directly serve alcohol to customers, shall be required to obtain an alcoholic beverage employee permit/identification card.
- (d) Alcoholic beverage employee permit/identification cards may be applied for through the county marshal. The application consists of a criminal background check and a certification that the applicant has not pled guilty, nolo contendere to, nor have they been convicted of any felony in the past ten years, nor has the applicant had a second conviction for an alcohol-related misdemeanor or local ordinance offense.
- (e) The county marshal may refuse to issue an alcoholic beverage employee permit/identification card to any applicant whose background check reveals either a conviction or nolo contendere plea to a felony within the last ten years; or a second conviction of an alcohol related misdemeanor or local ordinance. Appeals from the denial of such applications shall be governed by the procedures set forth in section 6-45(b).
- (f) All persons subject to this section shall make application for an alcoholic beverage employee permit/identification card to the county marshal within 72 hours of employment. Fees related to such applications, renewals, and permit replacement shall be set by the board of commissioners. ~~The cost of the application shall be \$30.00.~~ Each alcoholic beverage employee permit/identification card shall be valid for a 12-month period from the date of issuance. At the expiration of the 12 months, the applicant may apply for a renewal alcoholic beverage employee permit/identification card. ~~A \$10.00 annual renewal fee will apply. The cost of replacement alcoholic beverage employee permit/identification cards shall be \$15.00.~~
- (g) Alcoholic beverage employee permit/identification cards may be revoked or suspended pursuant to the same rules associated with revocation or suspension of licenses as set forth in section 6-70. Appeals therefrom shall be governed by the procedures set forth in section 6-70(d).
- (h) The employee/applicant shall be responsible for maintaining a copy of the alcoholic beverage employee permit/identification card on their person at all times while working on the premises of the licensee or on the premises of the event.
- (i) No manager, nor other employee of any ~~pouring on-premises consumption~~outlet, brewery, or alcoholic beverage caterer, shall permit any violation of the above subsections.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 20-12, § 16, 11-20-2020)

**Sec. 6-122. Licensee to report disciplinary action.**

Any licensee who sells, takes orders for, delivers, or handles alcoholic beverages and who has any disciplinary action taken against him or any of his employees by any governmental authority (municipal, county, state, or federal) shall notify the county marshal of such action within five days of such action. The following shall be considered to be disciplinary action: any arrest; the issuance of any citation; any indictment, presentment, or

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accusation; any conviction, including the acceptance of a plea of nolo contendere; any penalty imposed by any regulatory agency; and any other written charge or reprimand against the licensee or any of his employees.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Secs. 6-123—6-139. Reserved.**

**ARTICLE VII. REQUIREMENTS FOR RETAIL ~~CONSUMPTION ON THE PREMISES~~  
PREMISES CONSUMPTION LICENSES**

**Sec. 6-140. Eligibility for license.**

Except as provided in section 6-32 (ancillary wine tasting permit), an ~~consumption on the premises~~  
premises consumption license may be granted only to the establishments described in this article and subject to the specified conditions.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Sec. 6-141. Hotel and hotel room service.**

- (a) In order to be eligible for an ~~on-premises consumption (license for) consumption on the premises~~ license, a hotel must:
- (1) Be used and held out to the public as a place where food is served and consumed and sleeping accommodations are offered to guests for adequate pay;
  - (2) Contain 50 or more rooms used for the sleeping accommodations of guests; and
  - (3) Contain one or more public dining rooms, with adequate and sanitary full-service kitchen facilities.
- (b) A hotel may consist of a single building or may consist of two or more buildings located on the same parcel and used in connection with the hotel operation.
- (c) A facility which is styled as a motel, motor lodge, inn, or other similar establishment may be licensed as a hotel if it meets the requirements of this section.
- (d) Notwithstanding any other provisions of this chapter to the contrary, any hotel (as the term "hotel" is commonly used and without regard to the requirements of this section), inn, or other establishment which offers overnight accommodations to the public for hire, may provide "in-room service" of alcoholic beverages if such establishment:
- (1) Holds a valid county ~~consumption on the premises~~premises consumption license; and
  - (2) Has been authorized to provide in-room service by the state.
- (e) For purposes of this section, the term "in-room service" consists of:
- (1) The delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and
  - (2) The provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages and which is provided upon request of the guest and which is accessible by lock and key only

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to the guest and for which the sale of alcoholic beverages contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.

- (f) Except as otherwise provided in this section, in-room service of alcoholic beverages shall be subject to all restrictions and limitations in this chapter relative to the sale of alcoholic beverages. In-room service sales shall be authorized only on such days and only during such hours as the sale of alcoholic beverages is otherwise authorized.
- (g) Distilled spirits sold pursuant to this section shall not be sold in packages containing less than 50 milliliters each.
- (h) All alcoholic beverages sold to the hotel pursuant to this section shall be purchased from a licensed wholesale dealer and shall be subject to all excise taxes imposed under this chapter.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-142. Restaurant.**

- (a) In order to be eligible for a ~~a consumption on the premises~~an on-premises consumption license, an eating establishment must:
  - (1) Be used and held out to the public as a place where meals are regularly served to the public for adequate pay;
  - (2) Contain one or more public dining rooms, with adequate and sanitary ~~full~~full-service kitchen facilities and staff to prepare, cook, and serve suitable food for guests;
  - (3) Serve at least one meal per day at least five days per week, with the exception of holidays, vacations, and periods of redecoration; and
  - (4) Be prepared to serve food every hour ~~they are~~it is open.
- (b) Brewpubs, as defined in section 6-2 and O.C.G.A. § 3-1-2(3), shall be allowed upon acquiring a ~~an consumption on the premises~~on-premises consumption license.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-143. Lounge.**

- (a) A lounge is a separate room which is located in a hotel.
- (b) In order to be eligible for a retail ~~consumption on the premises~~on-premises consumption license, a lounge must be arranged and maintained such that all booths, stools, and tables are open and unobstructed to the view of other customers in the lounge.
- (c) A lounge which is operated on a different floor, or in a separate building from, or which is not connected or adjacent to, another licensed facility shall be considered a separate establishment from such other licensed facility and shall pay a separate annual license fee.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-144. Private clubs.**

- (a) In order to be eligible for a ~~an consumption on the premises~~on-premises consumption license, a private club must be a nonprofit association which is organized under the laws of this state and which:

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- (1) Has been in existence at least one year prior to the filing of its application for a license;
  - (2) Has at least 75 regular dues-paying members;
  - (3) Is organized and operated exclusively for pleasure, recreation, or other nonprofit purposes; and
  - (4) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
    - a. Has suitable kitchen and dining room space and equipment;
    - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
    - c. Has no member, officer, agent, or employee directly or indirectly receiving in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed salary.
  - (b) For purposes of subsection (a)(4)c. of this section, the term "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages. Tips or gratuities added to the bills under club regulations shall not be considered profits from the sale of alcoholic beverages.
  - (c) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.
  - (d) Veterans' organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the state income tax law shall not be required to operate a food establishment serving prepared food; provided, however, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and ~~consumption on the premises~~on-premises consumption establishments.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-145. Special events facility.**

In order to be eligible for an ~~on consumption on the premises~~on-premises consumption license, a special events facility must:

- (a) Be available to public or private groups of persons;
- (b) For monetary consideration on a rental, fee, percentage, or similar basis, be used primarily for special occasions, including, but not limited to, receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings;
- (c) Be open to or attended by invited or selected guests or paying patrons; and
- (d) Must be in compliance with all ordinances of Paulding County, including specifically but without limitation, the Paulding County Zoning Ordinance.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-146. Physical requirements of premises.**

All licensed premises where customers are served and including all passageways for customers, shall be sufficiently well-illuminated so that they may be viewed by those inside the premises. The sale or dispensing of

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alcoholic beverages in any back room or side room that is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

- (a) Private parties which have been scheduled in advance;
- (b) Sales to hotel guests in their hotel rooms;
- (c) Private clubs; or
- (d) Special events facilities.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-147. Security.**

As a condition of all ~~consumption on the premises~~on-premises consumption licenses, the county marshal or the sheriff may require the presence of security personnel at a licensed facility for specific events to assist in compliance with safety-related laws, ordinances, and regulations.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-148. Package sales prohibited.**

Except as permitted pursuant to O.C.G.A. § 3-6-4, it shall be unlawful for any alcoholic beverages to be sold by the package from premises licensed solely for ~~consumption on the premises~~on-premises consumption.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-149. Carry-out of alcoholic beverage unlawful.**

Except as permitted pursuant to O.C.G.A. § 3-6-4 or as otherwise specifically authorized by this chapter, all alcoholic beverages sold or otherwise dispensed by ~~consumption on the premises~~on-premises consumption licensees shall be consumed only on the licensed premises. Subject to the above exception, it shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for ~~consumption on the premises~~on-premises consumption, and it shall be unlawful for the licensee to permit any person to remove from the licensed premises any alcoholic beverages sold for ~~consumption on the premises~~on-premises consumption. The licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container, ~~except as permitted by O.C.G.A. § 3-6-4~~.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-150. Bottle clubs.**

It is unlawful for any person to bring his own malt beverages, wine, or distilled spirits into any licensed ~~retail~~ establishment. For purposes of this section, the term "~~retail licensed~~" establishment" shall not include a private hotel room or other similar guest room or a private club.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

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**Sec. 6-151. Happy hour discounts; other unlawful practices.**

- (a) No ~~consumption on the premises~~on-premises consumption licensee or malt beverage manufacturer licensee shall engage in any of the following practices:
- (1) The giving away of any alcoholic beverages in conjunction with the sale of any other alcoholic beverages;
  - (2) The sale of all the alcoholic beverages a customer can or desires to drink; provided, however, nothing herein shall prohibit offering a sampler of malt beverages or wine in containers not exceeding two ounces each;
  - (3) Requiring or encouraging the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed;
  - (4) Providing two or more alcoholic beverages to a single customer who has an unconsumed alcoholic beverage;
  - (5) Selling distilled spirits in containers or glasses containing more than three ounces of distilled spirits.
- (b) This section shall not apply to private functions not open to the public with respect to which the licensee has agreed to the use of the licensee's establishment by a person, firm, or organization for a set period of time and for a valuable consideration.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Res. No. 12-45, § 3, 12-11-2012; Ord. No. 20-12, § 17, 11-20-2020)

**Secs. 6-152—6-169. Reserved.**

***ARTICLE VIII. EXCISE TAX***

**Sec. 6-170. Tax imposed on sale of drinks containing distilled spirits.**

- (a) There is imposed upon the retail sale of drinks containing distilled spirits in the county a tax in the amount of three percent of the purchase price of the drink to the consumer. A record of each sale shall be made in writing and maintained for inspection by any authorized agent of the county.
- (b) Every ~~consumption on the premises~~on-premises consumption licensee or alcoholic beverage caterer shall collect the tax imposed by this article from purchasers of drinks containing distilled spirits. The licensee shall furnish such information as may be required by the county to facilitate the collection of the tax.
- (c) The county marshal shall be responsible for collection of the taxes required by this article.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

State law reference(s)—Local excise taxes on distilled spirits, O.C.G.A. § 3-4-131.

**Sec. 6-171. Payment and returns by licensee regarding sales of distilled spirits.**

- (a) Each licensee shall pay the amount of taxes collected and coming due under this article in any calendar month to the county not later than the 10th day of the following calendar month.



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- (b) On or before the 10th day of each month, a return for the preceding month shall be filed with the county by each licensee liable for the payment of tax under this article. Returns shall be in such form as the county may specify and shall show the licensee's gross receipts from the sale of drinks containing distilled spirits and the amount of taxes collected or coming due thereon. Any amounts collected in excess of three percent of the taxable sales shall be reported and paid to the county.
- (c) Licensees shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if said amount is not delinquent at the time of payment. The rate of deduction shall be the same rate authorized for deductions from state sales and use tax under O.C.G.A. § 48-8-50.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

State law reference(s)—Local excise taxes on distilled spirits, O.C.G.A. § 3-4-131, et seq.

#### **Sec. 6-172. Excise tax on malt beverages and wine; wholesalers.**

- (a) There is imposed by the county an excise tax on the first sale or use of malt beverages in the county, as follows:
- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;
  - (2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (b) There is imposed by the county an excise tax on the first sale or use of wine in the county at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (c) There is imposed by the county an excise tax on the first sale or use of distilled spirits by the package, excluding fortified wine, in the county at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (d) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer distributing to retails at premises located within the county. Such taxes shall be paid on or before the tenth day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the county. Remittances shall be accompanied by completed forms as prescribed or authorized by the county.
- (e) Excise taxes on the manufacturing of malt beverages and wine by licensed breweries and wineries within the county shall be assessed in the same manner as excise taxes for wholesale dealers.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 21-09, § 4, 12-14-2021)

State law reference(s)—Local excise taxes on distilled spirits, O.C.G.A. §§ 3-5-80 and 3-6-60

#### **Sec. 6-173. Deficiency assessment.**

- (a) If the county has cause to believe that a return or the amount of tax paid to the county by a licensee is not proper, the county may compute and determine the amount due on the basis of any information available. One or more deficiency determinations may be made of the amount due for any month.

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- (b) The amount of a deficiency determination shall bear interest at the rate of one percent per month, or fraction thereof, from the due date of the taxes until paid, in addition to any other penalties which may be imposed.
- (c) The county shall give notice of a deficiency determination to the licensee. The notice may be served personally ~~, or by certified mail, or by statutory overnight delivery in accordance with O.C.G.A. § 9-10-12(b).~~ Service by certified mail or statutory overnight delivery shall be addressed to the named licensee at the licensed premises, ~~shall be made by certified mail,~~ and is complete when delivered with a receipt signed by the addressee or agent thereof, or if sent to the last known address on record with the county marshal but then returned as unclaimed or refused, by the receipt of mailing from the United States Postal Service.
- (d) Except in the case of fraud, intent to evade this article, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the tenth day of the month following the month for which the amount is proposed to be determined or within three years after the return is filed, whichever is later.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-174. Failure to file return.**

- (a) If a licensee fails to make a return, the county shall make an estimate of the amount of the tax due for the period for which a return was not filed. Such estimate may be based on any information available to the county. Written notice of the estimate shall be given to the licensee in the manner specified by section 6-173.
- (b) If the failure to file a return is due to fraud or an intent to evade this article, a penalty of 25 percent of the amount required to be paid by the licensee shall be added to the estimate of the amount due in addition to any other penalties which may be imposed.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-175. Interest.**

Any licensee who fails to pay to the county within the time required any amount required to be paid under this article shall pay, in addition to the principal unpaid amount, interest at the rate of one percent per month or fraction thereof from the date the tax payment was last due until payment.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

#### **Sec. 6-176. Actions for collection; overpayment.**

- (a) At any time within three years after the delinquency of any amount due under this article, the county may bring an action in the courts of this state, any other state, or the United States in the name of the county to collect the amount delinquent, together with penalties, interest, court fees, filing fees, attorneys' fees, and other legal fees incident thereto.
- (b) Whenever any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the county, it may be offset against any future liability for the tax.
- (c) If the licensee determines that he has overpaid or paid more than once and such fact has not yet been determined by the county, the licensee shall have three years from the date of payment to file a claim with respect to such overpayment or double payment. Such claim shall be in writing and shall state the specific

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grounds upon which it is based. If the county approves the claim, the excess amount paid may be credited against any other amounts due from the licensee or refunded.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012)

**Sec. 6-177. Administration and enforcement of article.**

- (a) The county manager or his/her designee may promulgate rules and regulations for the enforcement of this article.
- (b) Every licensee engaging in the sale of alcoholic beverages shall keep such records, receipts, invoices, and other pertinent papers in such form as may be required by the county.
- (c) The county may examine the books, papers, records, financial reports, equipment, and facilities of any licensee engaging in the sale of any alcoholic beverage, retail or wholesale, in order to verify the accuracy of any return, or if no return is made to ascertain the amount of tax due.
- (d) In the administration of the provisions of this article, the county may require the filing of reports by any person or class of persons having in their possession or custody any information relating to purchases subject to taxation under this article.

(Res. No. 12-08, § 4(Exh. A), 4-10-2012, eff. 7-1-2012; Ord. No. 22-09, § 8, 7-14-2022)

**Secs. 6-178—6-~~199~~299. Reserved.**

**~~ARTICLE IX. PENALTIES FOR VIOLATION~~**

**~~Secs. 6-200—6-219. Reserved.~~**

~~Editor's note(s)—Ord. No. 20-08, § 4(a), adopted July 28, 2020, repealed § 6-200, which pertained to general penalty and derived from Res. No. 12-08, § 4 (Exh. A), 4-10-2012.~~

**~~ARTICLE X. PROHIBITED ATTIRE AND CONDUCT<sup>2</sup>~~**

**~~Sec. 6-220. Purpose.~~**

~~The purpose of this article is to suppress the increased crime rate and other negative secondary effects which the experience of other locales has shown to accompany bar room entertainment and nude dancing.~~

~~(Res. No. 12-08, § 5, 4-10-2012, eff. 7-1-2012)~~

~~Note(s)—Formerly § 6-161.~~

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<sup>2</sup>~~Editor's note(s)—Formerly Ch. 6, Art. III, Div. 2, §§ 6-161—6-163. See also the editor's note at the beginning of this chapter.~~

### **~~Sec. 6-221. Prohibited acts.~~**

~~The following types of entertainment, attire, and conduct are prohibited upon any premises licensed to sell, serve, or dispense alcoholic beverages within the unincorporated area of the county:~~

- ~~(1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume, or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva, and genitals.~~
- ~~(2) Live entertainment where any person appears in the manner described in subsection (1) of this section or where such person or persons performs or perform any act or acts which simulate any of the following:
  - ~~a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual act which is prohibited by law.~~
  - ~~b. The caressing, or fondling of the breasts, buttocks, anus, or genitals.~~
  - ~~c. The displaying of the male or female pubic hair, anus, vulva, or genitals.~~~~
- ~~(3) The holding, promoting, sponsoring, or allowing of any contest, promotion, special night, event, or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) of this section; provided, however, that nothing contained in this section shall apply to the premises of any mainstream performance house, museum, or theater which derives less than 25 percent of its gross annual income from the sale of alcoholic beverages.~~

~~(Res. No. 12-08, § 5, 4-10-2012, eff. 7-1-2012)~~

~~Note(s) — Formerly § 6-162.~~

### **~~Sec. 6-222. Prohibited locations.~~**

~~No alcoholic beverages shall be sold at any location which is known as an erotic dance establishment as defined in this chapter and in chapter 10 of the Paulding County Code of Ordinances or where professional belly dancers, strip dancing, exotic dancing or any exhibitions of any like kind are performed at a restaurant, lounge, or private club.~~

- ~~(1) An "erotic dance establishment" is defined as a night club, theater, or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.~~
- ~~(2) "Specified sexual activities" is defined to include the following:
  - ~~a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral, anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;~~
  - ~~b. Clearly depicted human genitals in a state of sexual stimulation, arousal, or tumescence;~~
  - ~~c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;~~~~

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- d. ~~Fondling or touching of nude human genitals, pubic region, buttocks or female breasts;~~
- e. ~~Masochism, erotic or sexually oriented torture, beating or the infliction of pain;~~
- f. ~~Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or~~
- g. ~~Human excretion, urination, menstruation, vaginal or anal irrigation.~~

(3) ~~"Specified anatomical areas" is defined as:~~

- a. ~~Less than completely and opaquely covered human genitals or pubic region;~~
- b. ~~Buttock;~~
- c. ~~Female breast below a point immediately above the top of the areola;~~
- d. ~~Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.~~

~~(Res. No. 12-08, § 5, 4-10-2012, eff. 7-1-2012)~~

~~Note(s) — Formerly § 6-163.~~

~~Secs. 6-223—6-299. Reserved.~~

## **ARTICLE ~~XIX~~. AGRITOURISM FARM WINERIES**

### **Sec. 6-300. Definitions.**

As used in this Code section, the term:

*Farm winery* means a winery which makes at least 40 percent of its annual production from agricultural produce grown in the county or where the winery is located or within the State of Georgia and:

- (1) Is located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery; or
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the agricultural produce used in its annual production.

*Farm winery* means a farm winery which is licensed by the commissioner under O.C.G.A. § 3-6-21.1 et seq. to manufacture wine in Georgia.

*Tasting room* means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for ~~consumption on the premises~~on-premises consumption and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee.

(Res. No. 18-14, § 1, 3-27-2018)

### **Sec. 6-301. Permitted sales.**

A farm winery may sell its wine at retail in a tasting room or like facility on the premises of the farm winery for ~~consumption on the premises~~on-premises consumption and in closed packages for consumption off the premises provided that the farm winery receives proper licenses through the state and local authorities.

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(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-302. Licenses.**

The license issued pursuant to this article shall be deemed a "farm winery" retail and ~~pouring-on-premises consumption~~ license.

(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-303. License requirements.**

The qualifications to obtain the license for sale of alcohol by a farm winery shall be the same as set forth in article II of this chapter, including the provisions in sections 6-39 through 6-48 and is otherwise subject to the other regulations of chapter 6 ~~of the Paulding County Code of Ordinances~~. Then a farm winery must obtain a farm winery retail and ~~pouring-on-premises consumption~~ license and any servers must obtain the server license identified in chapter 6 ~~of the Paulding County Code of Ordinances~~.

(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-304. License fee.**

~~The applicant for a for the sale of retail wine and the operation of a farm winery with a tasting room shall pay the application fees as set forth in the fee schedule. All application and permit fees related to this article shall be set forth in the fee scheduled approved by the board of commissioners.~~

(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-305. License limitations.**

The license created in accordance with this article shall be limited to farm wineries as defined in this article and as designated by the State of Georgia pursuant to O.C.G.A. § 3-6-21.1, and the licensee shall be permitted to only perform acts allowed in accord with such statutes. No license is hereby created authorizing any other purpose.

(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-306. Hours of sale.**

The hours of sale for a farm winery shall be the same times as retail alcohol ~~sales are permitted to be sold for in unincorporated Paulding County.~~

(Res. No. 18-14, § 1, 3-27-2018)

**Sec. 6-307. Fees.**

The fees for a farm winery license shall be as published in the Paulding County alcohol fee schedule.

(Res. No. 18-14, § 1, 3-27-2018)

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**Secs. 6-308—6-330. Reserved.**