

AN ORDINANCE TO AMEND THE CODE OF ATHENS-CLARKE COUNTY, GEORGIA WITH RESPECT TO **EXCISE TAXATION OF DISTILLED SPIRITS**; AND FOR OTHER PURPOSES.

WHEREAS, the Georgia Alcoholic Beverage Code, specifically O.C.G.A. § 3-4-80, permits local governments to impose “an excise tax on the sale of distilled spirits by the package at either the wholesale or retail level, which tax shall not exceed 22¢ per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter”; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, through an ordinance adopted and approved on or about August 8, 1991, imposed this 22¢ per liter liquor excise tax upon “every retail dealer of distilled spirits as defined in OCGA section 3-1-2”; and

WHEREAS, said ordinance has been codified as Section 6-4-2 of the Code of Athens-Clarke County, Georgia, and has not been amended since 1991; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, desires to amend this Section 6-4-2 of the Code of Athens-Clarke County, Georgia, to modernize the language; and

WHEREAS, the Commission of Athens-Clarke County, Georgia, recognizes the three-tier system of distribution for alcoholic beverages in Georgia, as described in state statutes such as O.C.G.A. §§ 3-3-1.1 and 3-4-24.2, and enacts this ordinance recognizing the three tiers of manufacture, wholesale distribution, and retail sale; and

WHEREAS, it is the intent of the Commission of Athens-Clarke County, Georgia, that this excise tax shall be imposed at the wholesale level, and shall be paid by all persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, to wholesalers at the time that the wholesaler delivers the distilled spirits; and

NOW THEREFORE, the Commission of Athens-Clarke County, Georgia, hereby ordains as follows:

SECTION 1. Section 6-4-2 of the Code of Athens-Clarke County, Georgia, entitled “Same—Distilled Spirits,” found in Title 6, Chapter 6-4 of said Code, is hereby deleted in its entirety and replaced as follows:

Sec. 6-4-2. – Excise Taxes—Distilled Spirits.

- (a) In accordance with O.C.G.A. § 3-4-80, there is hereby levied an excise tax on the sale of distilled spirits by the package at the wholesale level, at the rate of 22¢ per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) Persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, shall pay the excise tax imposed in this code section

to wholesalers at the time of delivery of the beverages. It shall be the duty of wholesalers to receive the proper amount of tax and to remit such tax as described elsewhere in this code section.

- (c) All persons selling or delivering distilled spirits at the wholesale level in Athens-Clarke County shall remit by the tenth (10th) of each calendar month, less a three percent (3%) collection fee, all excise taxes imposed in this code section. Along with this monthly remittance, each wholesaler shall submit a report or return on a form approved by the director of finance.
- (d) All persons selling or furnishing distilled spirits at the retail level, whether by the package or by the drink, and all persons selling distilled spirits at the wholesale level shall keep correct and accurate records of all purchases, transfers, or distributions of distilled spirits within Athens-Clarke County.
 - (1) Each person selling or furnishing distilled spirits within Athens-Clarke County at the retail level must obtain an invoice from wholesalers for each purchase, and such person must keep such invoices at the person's place of business. Furthermore, each person selling or furnishing distilled spirits at the retail level must keep an accurate record of each date such person receives a delivery of distilled spirits and the type and amount of distilled spirits delivered to such person on that date.
 - (2) Each person selling or distributing distilled spirits at the wholesale level must keep accurate records of all sales and distributions of distilled spirits within Athens-Clarke County. At a minimum, such wholesale records must contain the following: (i) the identity and location of each person to whom distilled spirits were sold or distributed; (ii) the type and amount of distilled spirits distributed to each person; (iii) the date of each sale and delivery of distilled spirits; (iv) the amount of excise tax collected for each sale or distribution and from whom collected; and (v) any other information as may be required by the director of finance.
 - (3) The records described herein must be kept and maintained for a period of not less than three (3) years from the date of purchase or sale. Such records shall be open to inspection or audit by the director of finance and his or her designee(s).
 - (4) The director of finance is hereby authorized to require that other books and records be kept relating to the excise tax assessed in this code section, and he or she may issue written policies concerning the same.
- (e) The following shall be unlawful and a violation of this code section:

- (1) For any person to furnish, sell, or offer to sell distilled spirits at the retail level, whether by the package or by the drink, if the excise tax imposed in this code section has not been paid on such beverages.
 - (2) For any person to sell or deliver any distilled spirits at the wholesale level in Athens-Clarke County unless that person collects the tax imposed in this code section at the time of delivery.
 - (3) For any person furnishing, selling, or offering to sell distilled spirits at the retail level, whether by the package or by the drink, to receive any such beverages from another person selling such beverages at the retail level unless the tax herein imposed shall have been paid and properly remitted to the director of finance.
 - (4) To deny the director of finance or his or her designee(s) access to the records required by subsection (d) of this code section during normal business hours at the place of business.
- (f) Any person who violates this code section, or who willfully aids or abets another in the violation of the same or in the evasion of the collection of the taxes due hereunder shall be subject to the penalties imposed by section 1-1-5 of this Code. Furthermore, any distilled spirits found on the premises of any person selling, or offering to sell, distilled spirits at the retail level, whether by the package or by the drink, on which the excise tax has not been paid as provided herein may be confiscated, with the right of such person to petition the administrative hearing officer for the return of such beverages upon a showing that the requisite taxes have been paid.
 - (g) Any person holding a license to furnish or sell alcoholic beverages at the retail level in Athens-Clarke County, whether by the package or by the drink, who is found to violate this code section may be subject to having such license revoked, suspended, put on probation, or other penalties as may be lawfully imposed by the administrative hearing officer.
 - (h) Any person holding a license to sell or distribute alcoholic beverages at the wholesale level in Athens-Clarke County who is found to violate this code section may be subject to having such license revoked, suspended, put on probation, or other penalties as may be lawfully imposed by the administrative hearing officer.
 - (i) The director of finance is hereby authorized to inspect and audit the returns or reports of wholesalers and the records of persons selling distilled spirits at the retail level, whether by the package or by the drink, to determine whether the correct amount of excise tax imposed in this code section has been remitted and reported to the director of finance. The director of finance may designate persons to act in his or her place for such audits. The director of finance is

further authorized to issue assessment notices when he or she finds that such taxes have not been properly remitted or reported.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. The Clerk of Commission is authorized, in consultation with the Athens-Clarke County Attorney, to correct any scrivener's errors that may be found in this Ordinance after the adoption and approval hereof.

SECTION 4. The recitals in the preamble of this Ordinance provide necessary context, are an integral part of this Ordinance, and are hereby adopted into the Ordinance as if fully set forth herein.

SECTION 5. The provisions of this Ordinance are severable, and should any part of this Ordinance be deemed by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

SECTION 6. This Ordinance shall become effective once approved by the Mayor or as otherwise set forth in Section 2-204 of the Charter of the Unified Government of Athens-Clarke County, Georgia.