

AN ORDINANCE OF THE COMMISSIONER OF BARTOW COUNTY FOR THE PURPOSE OF **AMENDING THE CODE OF BARTOW COUNTY, CHAPTER 44, ARTICLE II, ALCOHOL LICENSES; AMENDING PROVISIONS RELATING TO SETBACKS, ON-PREMISES CONSUMPTION LICENSES; OUTDOOR SERVICE; RESTAURANTS AND OTHER USES;** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 14th DAY OF JUNE, 2017.

WHEREAS, Bartow County has previously adopted regulations governing the licensing of business for the sale of alcohol, which regulations are contained in the Code of Bartow County as Article II of Chapter 44; and

WHEREAS, the Commissioner has determined it is in the best interests of the public health, safety and welfare to adopt the amendments set forth below; and

NOW THEREFORE BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by virtue of the authority vested in the Commissioner by law, that Article II of Chapter 44 of the Code of Bartow County is amended as follows:

I. Existing Sec. 44-34 is revised to delete the existing definition of “alcoholic beverage caterer” and “business license office” and replace them with the following:

Licensed alcoholic beverage caterer means the same as defined by OCGA 3-11-1.

Business license office means the Bartow County Community Development Department.

II. Existing Sec. 44-62 is revised to add a new subsection (8) as follows:

Sec. 44-62. - Classification.

Only the following classes of licenses shall be authorized:

* * *

(8) Alcoholic Beverage Caterer

III. Existing Sec. 44-64 is amended as follows:

Sec. 44-64. - General application requirements and procedures.

The following requirements apply to all license applications, and renewals, unless otherwise noted.

* * *

(6) Applications must be submitted not less than 20 days before such application is to be considered by the commissioner. ~~The publisher's affidavit may be submitted later, but must be submitted prior to the hearing at which such application is to be considered by the commissioner.~~

IV. Existing Sec. 44-63 amended by deleting subsection (h) and replacing it with the following:

Sec. 44-63. - License fees.

* * *

(h) Alcoholic beverage caterers. The applicant for an alcoholic beverage caterer's license shall pay the business license office at the time of application the sum of \$200.00. The caterer must first have a consumption on the premises or package license before seeking this license.

V. Existing Sec. 44-70 is deleted and replaced with the following:

Sec. 44-70. Alcoholic beverage caterer's license.

(a) Off-Premises alcoholic beverage catering license.

(1) Any caterer who possesses a valid license from the county to sell or otherwise dispense malt beverages, wine or distilled spirits i) by the drink at a fixed location within the unincorporated area, or ii) by the package for consumption off the premises within the unincorporated area, may apply for an off-premises permit that permits sales of the same class of beverages by the drink for consumption at an authorized catered event or function.

(2) Each off-premises catering license, authorized herein, shall be valid through December 31 of the year for which they are issued. The fee for each license shall be \$200.00.

(3) 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 a license as provided herein.

(4) In order to distribute or sell malt beverages, wine or distilled spirits at an authorized catered function, a licensed alcoholic beverage caterer shall file an application for an off-premises event permit to the county. See Sec. 44-75.

(5) 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 a license and event permit(s) as provided herein.

VI. Existing Sec. 44-71 is deleted and replaced with the following:

Sec. 44-71. - License approval procedures.

(a) Applicants for a license shall be required to consent to a fingerprint-based background check against Georgia and FBI Crime Information Databases.

(b) Upon request of the business license office, applications for a license may be reviewed and investigated by the Sheriff, County fire chief and the engineering, building and zoning divisions of the Community Development Department. Those officials may review the premises for compliance with all relevant ordinances and applicable safety regulations, and may provide a written report to the license official.

(c) Upon receiving a completed application from the business license office, along with any reports from the officials conducting investigations, the Commissioner shall, at the meeting of the Commissioner, review such application for alcoholic beverages licenses and shall approve or deny said application. The public may be heard on any application, and may present any relevant evidence at the hearing. The applicant shall have the right to present evidence and cross-examine any opponents. The applicant shall have the right to have counsel and have the hearing transcribed.

(d) The Commissioner shall make the decision based on the standards listed in Code Sections 44-101 and 44-102 as well as other requirements of this Article. No prohibited person, as defined in Sec. 44-103, may be licensed. Approval shall be entered into the minutes. Any decision to deny shall be reduced to writing, with reasons given, within 3 days of the date of the Commissioner's hearing and provided to the applicant via certified mail. The Commissioner may table the application should additional information be required by the Commissioner before acting upon said application or should the meeting of the commissioner be continued or rescheduled for any reason. If the application is tabled, or the meeting continued or rescheduled, the application shall be considered at such time and place as announced by the Commissioner.

VII. New Sec. 44-75 is added as follows:

Sec. 44-75. Event permits

(a) *Alcoholic beverage caterer licensed by the county.* In order to distribute malt beverages and/or wine at an authorized catered function, an alcoholic beverage caterer licensed by the county shall be required to:

(1) Apply for an event permit. The application shall include:

- a. The name of the alcoholic beverage caterer, including the name of the specific representative of the caterer who will be responsible for, and present at, the catered function;
- b. The date of the event;
- c. The address of the event;
- d. The time of the event;
- e. The licensed alcoholic beverage caterer's license number; and
- f. The name, address and phone number of the host of the catered function.

No event permit fee shall be charged.

(2) Provide satisfactory reports to the state revenue commissioner on forms provided by that department, stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by the commissioner.

(3) Maintain original local event permits and documents required by the state revenue department in the vehicle transporting the alcoholic beverages to the catered function at all times.

(4) Comply with all laws and ordinances regulating the sale and distribution of alcoholic beverages, and no permit will be issued to any alcohol beverage caterer on probation or with a suspended license.

(b) *Alcoholic beverage caterer licensed by other jurisdictions.* In order to distribute malt beverages and/or wine at an authorized catered function, an alcoholic beverage caterer licensed by a subdivision of the state other than the county shall be required to:

(1) Apply for an event permit. The application shall include:

- a. The name of the alcoholic beverage caterer, including the name of the specific representative of the caterer who will be responsible for, and present at, the catered function;
- b. The date of the event;
- c. The address of the event;
- d. The time of the event;
- e. The jurisdiction issuing the alcoholic beverage caterer's license;
- f. The licensed alcoholic beverage caterer's license number;

- g. A photocopy of the alcoholic beverage caterer's license; and
- h. The name, address and phone number of the host of the catered function.

(2) Pay an event permit fee of \$10.00;

(3) Pay local excise taxes that will be levied on the total quantity of alcoholic beverages brought into the county by the caterer, as calculated under this article, within 15 days of the conclusion of the catered event;

(4) Provide satisfactory reports to the state revenue commissioner on forms provided by that department, stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by the commissioner; and

(5) Maintain original local event permits and documents required by the revenue department in the vehicle transporting the alcoholic beverages to the catered function at all times.

(c) *Issuance of event permits.* The issuance of event permits is an administrative function of the county, and the county is permitted under this article to request additional information from the licensed alcoholic beverage caterer and/or host of the catered event in deciding whether to issue an event permit. However, no event permit will be issued:

(1) Where the requirements set forth under subsection (a), (b) or (c) of this section have not been met;

(2) Where the host or the alcoholic beverage caterer has violated any of the prohibitions set forth in this Article; or

(3) To licensed alcoholic beverage caterers, where the total cost of alcohol at a catered event will exceed the total cost of food at an event. This subsection does not apply to qualified charitable organizations.

VIII. Existing Sec. 44-127 is deleted and replaced with the following:

Sec. 44-127. – Distance setbacks from other uses.

This ordinance incorporates by reference state law (OCGA Sec. 3-3-21) regarding distance setbacks. Distances for purposes of this section shall be measured by the most direct route of travel on the ground from door to door unless State law specifies otherwise.

IX. Existing Sec. 44-128 is deleted and replaced with the following:

Sec. 44-128. – Outdoor Service authorization

An applicant for a license for consumption on the premises may seek as a part of that license an “outdoor service authorization.” This is permission to serve alcohol outside the

premises in adjacent outdoor areas controlled by the licensee. This can be patio area next to the licensed premises or a space as large as a golf course. The outdoor area must be separated from non-licensed property and public rights of way by a fence, barrier, vegetation or similar demarcation. The applicant will be required to demonstrate how the outdoor area is to be separated from the adjacent areas, how any nuisance towards adjacent properties will be mitigated, and how patrons will be prevented from leaving the permitted area with an alcoholic beverage. Sales through drive-thru windows or other windows or doors to the street, sidewalk or vehicles are prohibited.

X. Existing Sec. 44-147 (d) is deleted and replaced with the following:

Sec. 44-147. – Hotels

* * *

(d) Hotels with full service restaurants and/or taverns can obtain a consumption on the premises license for the entire premises. Sales on Sunday are permitted if the establishment derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging. The regulations of Sec. 44-148 and 44-149 do not apply to restaurants and taverns within hotels.

XI. Existing Sec. 44-148 is deleted and replaced with the following:

Sec. 44-148. – Restaurants.

A “restaurant” as used in this Article is an establishment where meals and refreshments may be purchased. In order to be eligible for a consumption on the premises license, a restaurant 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-service kitchen facilities and staff to prepare, cook, and serve suitable food for its guests; and
- (3) Have at least 50 percent of its total annual gross sales be from the sale of prepared meals or food, if it permits Sunday alcohol sales; if it does not permit Sunday alcohol sales, a restaurant must have at least 35 percent of its total sales from the sale of prepared meals or food.

XII. Existing Sec. 44-149 is deleted and replaced with the following:

Sec. 44-149. – Tavern.

A “tavern” as used in this article is an establishment for the sale of malt beverage, wine and/or distilled spirits to be consumed on the premises, sometimes also serving food (also known as a lounge or bar). In order to be eligible for a consumption on the premises license, a tavern must:

- (1) Operate in a licensed premises located in a commercial zoning district, where the front of the premises is clearly visible from a public street;
- (2) Be designed such that any rooms in which alcohol is served are at least 500 square feet.
- (3) Have at least 50 percent of its total annual gross sales be the sale of the sale of prepared meals or food, if it permits Sunday alcohol sales; if it does not permit Sunday alcohol sales, a tavern is not required to meet a minimum sales percentage for food.

XIII. New Sec. 44-150 is adopted as follows:

Sec. 44-150. – Theaters

A theater or other performance venue designed for the performance of plays, music or motion pictures may obtain a consumption on the premises license. To qualify as a theater the premises must contain at least one space for the performance of plays, music or motion pictures containing at least fifty seats organized in rows facing the stage or screen. In addition, the primary purpose of the premises must be as a theater. Except Sundays when alcohol sales cannot commence until 12:30 p.m., the theater may only offer alcoholic beverages commencing each day one (1) hour before any performance or screening occurring on the premises and ending at the completion of the performance or screening.

XIV. Existing Sec. 44-154 is deleted and replaced with the following

Sec. 44-154. – Breweries and Distilleries.

Breweries and distilleries are permitted to obtain local licenses for consumption on the premises and package sales without selling through wholesalers as permitted by state law.

XV. Sec. 44-163 is deleted and replaced with the following:

Sec. 44-163. – Gross Sales Reporting Requirements.

- (a) Alcoholic licenses may be revoked or not renewed if required annual gross sales percentages are not met.
- (b) License holders are required to maintain records demonstrating annual gross sales of alcoholic beverages versus prepared meals or food and to produce those to the County upon application for renewal of the license.
- (c) Failure to submit requested documents shall result in late fees as follows: \$50 for each calendar day the report is late. If all requested document are not submitted within 30 days of the date the request is submitted, the license shall be authorized to be suspended by action of the Commissioner.

XVI. New Sec. 44-167 is adopted as follows:

Sec. 44-167. – Ancillary to Retail Use

A retail use including a retail store or shop and a grocery store may seek a license for consumption on the premises as an ancillary use to the main retail use. For grocery stores this shall be a separate license in addition to a retail package license. The area devoted to sales for consumption on the premises must not exceed 10 percent of the floor space and the revenue from consumption on the premises must not exceed 10 percent of the store's gross annual sales. A "grocery store" for purposes of this Section is a use of at least 15,000 square feet primarily engaged in retailing a general line of food, such as packaged, canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish, and poultry. Any use selling alcohol by the package, other than grocery stores, brewpubs, breweries and distilleries, may not receive an ancillary license for consumption on the premises (for example, convenience stores and package stores).

XVII. New Sec. 44-195 is adopted as follows:

Sec. 44-195. – Reporting of Violations

The County shall, pursuant to OCGA Sec. 3-3-2.1, notify the Department of Revenue any citation or arrest arising out of the violation of any provision of any state law or this ordinance relating to the manufacture, distribution, sale, or possession of alcoholic beverages against a licensee, an employee of a licensee, or any person holding a financial interest in the license of the licensee on the premises or place of business of any licensee. Such notice shall be provided within 45 days.

SO ADOPTED this 14th day of June, 2017, to be effective immediately, the public health, safety, and general welfare demanding.

ATTEST:

BARTOW COUNTY, GEORGIA

Kathy Gill, County Clerk

Steve Taylor, Sole Commissioner