

COUNTY OF CHATTOOGA

STATE OF GEORGIA

RESOLUTION TO AMEND ALCOHOLIC BEVERAGES CONTROL ORDINANCE

WHEREAS, the Chattooga County Alcoholic Beverages Control Ordinance (hereinafter "ordinance") was adopted on June 29, 2018 and amended on December 14, 2018, May 23, 2019 and February 27, 2020; and

WHEREAS, Chattooga County, Georgia desires to amend its Ordinance to restructure certain requirements; and

WHEREAS, Chattooga County desires that paragraph (b) of Article 2, Section 2.12 be deleted in its entirety and replaced as follows:

"(b) All applicants must obtain, at their own expense, a certificate from the Chattooga County Health Department certifying the results of an inspection of the water and sewerage disposal system at the outlet location. The burden shall be upon the applicant to obtain and submit, at the time of filing the application, such a certificate; and where food is served in conjunction with the sale of alcoholic beverages for consumption on the premises, the food preparation facilities shall also be covered by the certificate;" and

WHEREAS, Chattooga County desires to add paragraph (c) to Article 2, Section 2.12 as follows:


"(c) The Alcoholic Beverages Control Board shall take into consideration the certification of the Chattooga County Health Department in deciding whether to grant a license under this Ordinance."

NOW, THEREFORE, BE IT RESOLVED by the governing authority of Chattooga County, Georgia that the proposed amendment is hereby adopted and approved by the governing authority of Chattooga County, Georgia. The Commissioner of Chattooga County, Georgia is hereby authorized to take any actions necessary to amend this Ordinance. The amendments hereby adopted shall be effective immediately and the Ordinance attached hereto as Exhibit "A" reflects the current version of said Ordinance.

SO RESOLVED, this 17 day of June, 2021.

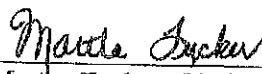


BLAKE ELSBERRY, Commissioner

Attest: 

MARTHA TUCKER, Clerk

I hereby certify that the above and foregoing Resolution was duly entered upon the Minutes of the Commissioner this 17 day of June, 2021.



Martha Tucker, Clerk (SEAL)



AN ORDINANCE TO PROVIDE FOR THE REGULATION AND CONTROL OF DISTILLED SPIRITS, MALT BEVERAGES AND WINE; TO ESTABLISH THE ALCOHOLIC BEVERAGES CONTROL BOARD; TO PROVIDE FOR THE CONTENTS OF APPLICATIONS FOR LICENSES TO SELL DISTILLED SPIRITS, MALT BEVERAGES AND WINE; TO PROVIDE FOR PENALTIES FOR VIOLATION OF THE ORDINANCE; AND FOR OTHER PURPOSES.

ARTICLE 1. Alcoholic Beverages.

Section 1. BE IT ORDAINED by the Commissioner of Chattooga County, and it is ordained by the authority of said Commissioner as follows:

This ordinance shall be known as the Chattooga County Alcoholic Beverages Control Ordinance.

Section 1.1. Definitions:

- (a) Unless the context or the specific provisions of this section demand otherwise, the words and terms used in this Ordinance shall have the same definition and meaning as state law where used in Title 3 of the Official Code of Georgia Annotated.
- (b) "Alcoholic Beverages" shall mean all alcohol, distilled spirits, beer, malt beverages, wine or fortified wine.
- (c) "Alcoholic beverages for consumption on the premises" shall mean all distilled spirits, alcohol, beer, malt beverage, wine or fortified wine that are consumed on the premises, including bottles of beer or malt liquor and bottles of wine that are opened only for consumption on the premises, except for certain partially consumed bottles of wine in accordance with O.C.G.A. § 3-6-4 and this ordinance.
- (d) "Applicant" shall mean the owner of the outlet and include those persons having the authority to act on behalf of the owner where the owner is a firm, partnership, association, corporation or other group of persons acting as a unit.
- (e) "Board" shall mean the Alcoholic Beverages Control Board of Chattooga County, Georgia.
- (f) "Brown Bag Establishment" shall mean any restaurant, or any other establishment, providing food or entertainment in the normal course of business in which the owners or their employees or agents knowingly allow patrons to bring in and consume on the premises the patron's own alcoholic beverages.
- (g) "Brown Bagging" shall mean the act of a patron or patrons entering any restaurant or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron's own alcoholic beverages.
- (h) "Business Location" shall mean the location, or proposed location, of a retail outlet, wholesale malt beverage outlet, wine outlet or restaurant.
- (i) "Clerk" shall mean the Clerk or Deputy clerk of the Alcoholic Beverages Control Board of Chattooga County.

- (j) "County" shall mean Chattooga County, Georgia.
- (k) "Distilled spirits" shall mean any alcoholic beverage obtained by distillation or any alcoholic beverage containing more than 24 percent alcohol by volume (or any other such percentage that may be determined by the laws of Georgia) available by the drink in a Restaurant.
- (l) "Eating establishment" shall mean any public place, including a place available for rental by the public, with seating for 30 or more persons, or other number as specified in this ordinance, selling prepared food for consumption by the public on the premises, with a full-service kitchen which must be approved by the Chattooga County Health Department and have sanitary restroom facilities.
- (m) "Farm winery" shall mean a domestic winery that is licensed as a farm winery by the state.
- (n) Reserved.
- (o) "Legal Alien" means a foreign national who possesses a valid United States government issued I-551 card. An application for I-551 status does not meet the legal alien definition. Any other status which allows a person to enter the United States does not comply with this definition.
- (p) "Legal Resident" means a United States Citizen or Legal Alien.
- (q) "Licensee" means a person, as defined herein, holding any class of license issued under this ordinance.
- (r) "Malt Beverages" shall mean any 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 six (6%) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer.
- (s) "Measured" shall mean the straight-line distance from the closest corner of the building in which the outlet or proposed outlet is located to the closest corner of the building of an involved institution or establishment, except as otherwise stated herein.
- (t) "Outlet" shall mean an eating establishment, restaurant, location, premises, or store for the sale of alcoholic beverages.
- (u) "Owner" shall mean the person in whom is vested the ownership and control of the outlet. If the outlet is being leased, the tenant(s) under the lease shall be deemed the "owner" for all purposes under this Ordinance.
- (v) "Package" shall mean a bottle, can, keg, barrel, box or other original consumer container.
- (w) "Person" shall mean any individual, firm, partnership, association, corporation or other group of persons acting as a unit.
- (x) "Premises" shall mean the entire building, including patios, porches and decks. In some instances, where indicated, premises may also include the entrance area, parking lot and the entire lot or parcel wherein the licensed establishment is located.

- (y) "Restaurant" shall mean any public place kept, used, maintained and advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and having employed a sufficient number of cooks and kinds of employees to prepare, cook and serve suitable food at tables with seating, and holding a certificate of inspection and approval from the County Health Department. At least one meal a day shall be served at least four days a week, with the exception of holidays, vacations and periods of remodeling, and serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall have fifty-one (51%) percent or more of its total annual gross sales of food and alcoholic beverages from the sale of prepared meals or food.
- (z) "Retail consumption dealer" shall mean any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.
- (aa) "Retail package dealer" shall mean any convenience store or grocery store which offers for the retail package sale of beer, malt beverages or wine, or any combination thereof, by unbroken packages in sealed containers to consumers at retail only and not for resale.
- (bb) "Sheriff" shall mean Sheriff of Chattooga County, Georgia.
- (cc) "Wholesaler or wholesale dealer" shall mean an entity that sells alcoholic beverages to other wholesale dealers, retail package dealers, or retail consumption dealers.
- (dd) "Wine" shall mean any alcoholic beverage containing not more than twenty-one (21%) 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, all sparkling wine, champagne, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

Section 1.2. Necessity for License.

It shall be unlawful to manufacture, sell or offer to sell at retail within Chattooga County, Georgia, alcoholic beverages without having the appropriate license for such manufacture or sale, or to carry on such activity in violation of the terms of such license or of this Ordinance.

It shall be the duty of each licensee to maintain and prominently display a copy of any license obtained pursuant to this Ordinance at the licensed outlet/premises and to instruct each employee as to the terms of this Ordinance. The licensee and each employee shall at all times be familiar with this Ordinance and any amendments thereto.

A licensee is charged with the responsibility for compliance with this Ordinance by its officers, agents, servants and employees. A licensee is responsible for acts in violation of this Ordinance committed by others, other than those listed in this Ordinance, if within the knowledge of the licensee.

All federal and state laws and regulations relating to the sale, manufacture, and distribution of alcoholic beverages in Georgia, including all laws which may subsequently be enacted, are incorporated into and made a part of this ordinance as if fully set out herein. Any violation of such state or federal law or

regulations shall be grounds for suspension or revocation of any license issued under this Ordinance.

Section 1.2.1. Privilege for License.

The holding of a license and the granting of same under this Ordinance is a privilege and not a right.

Section 1.3. Separate license for each outlet and restaurant; license not transferable; surrender of license.

- (a) A separate license shall be required for each outlet, eating establishment, or restaurant, and separate application shall be made for each.
- (b) Except as otherwise provided by Section 2.16, immediately upon the sale, closing, transfer of ownership, including a lease, of an outlet, it shall be the duty of the licensee to surrender the license to the Board within ten (10) days from the closing or transfer of said outlet.

Section 1.4. Classification of licenses; license fee.

A license granted pursuant to this ordinance shall be classified as follows:

- (a) **Retail package --**
 - i. Package malt beverage license – retail sale of malt beverages in the original package; and/or
 - ii. Package wine license – retail sale of wine in the original package.
- (b) **Retail consumption on the premises –**
 - i. Full pouring license – Retail sale of distilled spirits, wine and/or malt beverages by the drink;
 - ii. Limited pouring license – Retail sale of wine and/or malt beverages by the drink;
 - iii. Limited pouring license – Retail sale of distilled spirits by the drink; and
 - iv. Farm winery tasting room – See Sections 1.14 and 1.15.
- (c) **Private Clubs -** Private clubs which are affiliated with a nationally chartered organization, with a minimum of seventy-five (75) members, and further occupying no less than 1,500 square feet, and provided further that the sale of malt beverages and wine at said club shall be an incidental part of its functions. This license shall solely be for the sale of malt beverages and wine by the drink and shall not be for the sale of distilled spirits by the drink.

Section 1.4.1. A Person is Required to File an Application.

An application for a license under this Ordinance shall be made by the applicant.

Section 1.5. Initial application for license.

- (a) Application for a license under this ordinance shall be written, under oath, on the form as provided by the Alcoholic Beverages Control Board.
- (b) The application shall be filed with the Clerk with a fee of \$250.00 for investigation of the applicant and the proposed location and processing of the application, which fee is not refundable, but shall be credited towards the initial license fee, if granted.
- (c) The application shall state:

- (1) As to the applicant(s): Full name, age, home address, business address, name of spouse, complete record of all convictions, guilty pleas and nolo contendere pleas for violations of all laws, City, State and Federal, of both applicant and spouse, and proposed manager of outlet.
- (2) Exact Location: Name and address of owner or landlord and/or resident manager of business location/outlet and whether there is a building proposed to be used already erected thereon.
- (3) Trade name (or proposed trade name) of proposed business.
- (4) Name(s) and address(es) of all persons having any financial interest in the outlet by way of ownership of building or stock, receipt of income from business or otherwise, except for a corporation publicly traded.
- (5) A consent statement by the applicant that all necessary investigation reports on applicant and any employees in the applicant's establishment including, but not limited to, credit reports and reports from law enforcement agencies may be obtained; that any information in such reports may be furnished to the licensor; and that applicant will be responsible for the cost thereof. If so requested, applicant shall also obtain such consent forms from each employee who will be employed in applicant's establishment. Licensor may, at its option, require fingerprints and/or photographs of applicant and applicant's employees for the purposes of conducting its investigation.
- (6) Such other information as may be required by the Chattooga County Commissioner, the Board, the Sheriff or County Attorney through interrogatories or otherwise.

Section 1.6. Attachments to Application.

- (a) All applications shall include a scaled drawing, showing the location of the business, proposed or existing premises, and the straight line distance to the property line of the nearest church, its building, the nearest residence or school.
- (b) All applications shall include a copy of applicant's application or proposed applications for a license from the State of Georgia, if one is required by the State of Georgia.
- (c) All applications for licenses shall include any additional information now required by applicable state law or subsequently required by statute.

Section 1.6.1. Advertisement of Application.

- (a) All applicants for licenses at a new location must advertise said application for such license once a week for two weeks, in the local newspaper wherein the Sheriff's advertisements are published, prior to the granting of said license by the Board.
- (b) The advertisement and notice of application for a license shall state the proposed site and location of the outlet, the name of the applicant, the type and character of the proposed alcoholic beverages sale, the date the Board will hear same, and notice to the public that the public may protest the issuance of such license at any time before its issuance. Said notice

or advertisement of application for a license shall be of the size, type, form and contents approved by the Board. Applicant shall furnish proof that said advertisement has been run as herein provided before said application may be considered, and failure to submit said proof shall result in a dismissal of the application with prejudice.

Section 1.7. Action by Alcoholic Beverages Control Board.

Within seven days from the time an application is filed, the Clerk shall notify the Sheriff or other such investigative officer as approved by the Board, who shall investigate the character of the applicant and the reputation of the outlet location and make a full report to the Board. The Clerk shall also refer said application, together with any objections filed, to said Board. The Board shall, after investigation of applicant and proposed outlet location, direct the Clerk to issue or refuse the license for which application is made upon payment of the appropriate fee. The Board shall either issue or refuse to issue the license for which application is made within sixty (60) days from the time application is filed. All actions by the Board shall be upon majority vote of a quorum of its members as defined in Article 3 of this Ordinance.

Section 1.8. Grounds for denial of license.

(1) Prohibited location. A license for the sale of alcoholic beverages within Chattooga County, Georgia shall not be granted to any applicant for an outlet that:

- (a) Does not meet the minimum set back requirements of O.C.G.A. § 3-3-21 as now enacted or hereinafter amended; and/or
- (b) Has a history of or reputation for prostitution or other sex offenses; fighting, shooting, stabbing, or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violation of the law. By history or reputation is meant within the six months next preceding the filing of said application and provided said business is not owned, operated, managed, or any way connected to the person operating said business during the times these offenses occurred.

(2) Prohibited outlet. It shall be unlawful to grant a license for the sale of alcoholic beverages where the outlet does not have a front entrance to the premises which is clearly visible from a public street, right of way, road or highway, except as to a freeway, campground, or private club which would be impossible.

(3) Prohibited Persons. It shall be unlawful to grant a license for the sale of alcoholic beverages to:

- (a) A person who is not a legal resident or legal alien of the United State of America.
- (b) A person who is not of good character and reputation in the community in which he resides.
- (c) A person who has been convicted of a felony, or of a crime opposed to decency and morality within ten years immediately prior to the filing of said application.
- (d) A person who has been convicted, pled guilty or entered a plea of nolo contendere for any felony or any misdemeanor involving the illegal possession, transportation or sale of any alcoholic spirits, prohibited liquors, wine or malt beverages, or taxability thereof within ten years immediately prior to the filing of said application, except that as to such misdemeanors this prohibition as to applicants

may be waived by the unanimous vote of all Board members.

- (e) A person whose license under this Ordinance has been revoked for cause or who has had a license of any type under this Ordinance revoked for cause within five (5) years immediately prior to the filing of the pending application, except that where said revocation was due to the conviction, guilty or nolo contendere plea of a misdemeanor, this prohibition may be waived by the unanimous vote of all Board members.
- (f) A person whose application for license under this Ordinance has been denied for less than one (1) year from the date of said denial by the Board.
- (g) A person, who, at the time of application of renewal of any license issued hereunder would not be eligible for such license upon a first application.
- (h) A person who is not of sound mind and memory.
- (i) A person who is under the age of twenty-one (21) years.
- (j) Any owner, partnership or corporation where any individual having any interest, either as owner, partner, stockholder, director or officer, or his spouse, shall have been convicted, pled guilty or shall have entered a plea of nolo contendere within ten (10) years immediately prior to the filing of said application for any felony or crime opposed to decency and morality or any felony or misdemeanor involving the manufacturing, possession, transportation or sale of beer, alcoholic spirits, wine or prohibited liquors or taxability thereof, or a violation of this Ordinance, except that as to such misdemeanor this prohibition as to applicants may be waived by the unanimous vote of all board members.

(4) Additional Considerations. The Board in reaching its final determination on a initial application may also be guided by the following factors as to whether or not to grant such license:

- (a) The proximity of other outlets, and give due regard to the nature of the commercial area.
- (b) The nature of neighborhood immediately adjacent to the proposed outlet location, that is whether the same is predominantly residential, industrial, or commercial .
- (c) The proximity of public parks and playgrounds.
- (d) Whether the proposed outlet location has adequate off-street parking facilities or other parking available for its patrons.
- (e) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom. For the purposes of this Ordinance there is hereby established a rebuttable presumption that any proposed outlet to be located within five hundred (500) feet of an existing outlet would create a traffic hazard.

Section 1.9. Renewals of license; denial of renewals.

- (a) All licenses shall be issued for a period of one year, the same to be a calendar year, running

from January 1 through December 31, and shall be renewable at the option of the Board.

- (b) Each licensee shall make written application for renewal on or before November 1st of each year on forms approved by the Clerk.
- (c) If the Sheriff or designated investigator reports any activity which constitutes probable cause for not renewing a license, the renewal may not be made, and the matter shall be referred to the Board for its consideration.
- (d) The Board may grant, or deny for cause, the renewal of any license issued hereunder. If denied the grounds therefore shall be specified in writing and mailed directly to applicant. If applicant is dissatisfied with the decision he may appeal according to the provision of Section 1.10.

Section 1.10. Suspension and revocation of licenses.

(1) Summary Action

- (a) If at any time during the holding of the license granted under this Ordinance, it should appear that the licensee has violated the provisions of this Ordinance, or the law of the State of Georgia or any Federal laws, or if it should appear that the application contains known false information or if it appears necessary for the public safety, health and welfare, the Sheriff of Chattooga County, or any deputy sheriff of Chattooga County with specific authority and approval of the Sheriff, Clerk, or any officially designated license inspector or tax inspector so designated by the Board, shall provide written notice to the license holder of an alleged violation and further informing that the Board will hold a hearing within TEN days of the date of the letter for the purpose of determining whether a suspension of owner's license is warranted. Notice shall be left at the outlet with a copy mailed to the licensee at the address on file with the Board. The person serving the notice shall also provide a copy of said notice to the Clerk.
- (b) Being informed that a notice has been served as provided for in subparagraph (a), the Board shall set a hearing date and time and provide notice of the date, time and place of the hearing to licensee at least twenty-four hours prior to the hearing. Notice of the hearing date is sufficient if it is delivered to the outlet and left with an employee of owner.
- (c) If in the Sheriff's sole discretion, it appears that immediate suspension of license is warranted, the Sheriff may seize any license issued by the Board to sell alcoholic beverages within Chattooga County, Georgia, and the license shall be thereafter suspended until a hearing is conducted by the Board. Any hearing held by the Board following the seizure of the license pursuant to this subparagraph by the sheriff shall be held and conducted within TEN days of the seizure and notice shall be provided to the licensee as set forth in subparagraph (b).
- (d) If the Board feels that a suspension of a license is warranted, the Board may suspend a license for a first violation for a period of time as the Board

deems appropriate but the suspension shall be for a minimum of fourteen days. For a second violation by licensee occurring within three years, a license shall be suspended for a period of time as the Board deems appropriate but the suspension shall be for a minimum of twenty-eight days. For any subsequent violation by licensee as determined by the Board within three years, the license shall be suspended indefinitely.

- (e) The Board shall have the full power and authority to revoke, refuse to renew, suspend or place on probation any license to sell alcoholic beverages for a violation of this Ordinance, any local, State or Federal laws, or when said Board shall determine that the operation of the licensed business is detrimental to the health, safety or welfare of the public.
- (f) Should a licensee be dissatisfied with a suspension or termination of license by the Board, the licensee may appeal to the Commissioner of Chattooga County by providing a written request to the Commissioner of Chattooga County, Georgia within five days of the Board's order. The Commissioner shall conduct a hearing after notice to the licensee, delivered and provided as set forth in subparagraph (b). The Commissioner may either affirm, deny or modify the Board's judgment.
- (g) The Commissioner of Chattooga County may review any decision of the Board made pursuant to this Section by providing written notice to the Clerk and to any licensee having a matter before the Board. The Commissioner shall give notice of his intent to review said decision within five (5) days of the Board's decision, or if a licensee has appealed a decision of the Board to the Commissioner, which appeal is subsequently dismissed by the licensee prior to review by the Commissioner, within five (5) days of the entry of the licensee's dismissal of appeal. Any notice to the licensee shall be delivered and provided as set forth in subparagraph (b) of this Section. The Commissioner may either affirm, deny or modify the Board's decision relating to a licensee as the Commissioner deems warranted.

Section 1.11. Taxation on malt beverages and wine.

- (a) In addition to the excise taxes levied by the state, there is hereby levied and imposed an excise tax which shall be paid to Chattooga County, Georgia, on all malt beverages and wine sold by each wholesale dealer within the unincorporated areas of Chattooga County, Georgia, as follows:
 - (i) Malt Beverages – Maximum excise tax as provided by O.C.G.A. 3-5-80 or subsequent amendments thereto.
 - (ii) Wine – Maximum excise tax as provided by O.C.G.A. 3-6-60 or subsequent amendments thereto.
- (b) Said tax shall be paid to the Commissioner of Chattooga County, Georgia, by each wholesale dealer on all malt beverages and wine sold within the unincorporated areas of Chattooga County, Georgia, not later than the 10th day of each month, based upon the units

of malt beverages and wine sold during the previous calendar month by said wholesalers to retailers in said Chattooga County, Georgia.

- (c) The wholesale dealer shall keep true and correct records of all sales and shipments and shall render a sworn statement of the same accompanying the monthly report to the Commissioner of Chattooga County, Georgia, and said report shall show the exact quantities of malt beverages and wine, by size and type of container and the amount of excise tax collected.
- (d) Each licensee shall maintain for a period of twelve (12) months records of all deliveries made to licensee's establishment of malt beverages, wines, and delivery of food items by all wholesalers, which records shall include copies of the wholesaler's invoice accompanying said delivery. The licensee shall make available to the Board all such records upon request of the Board.
- (e) The Commissioner of Chattooga County, Georgia, and also the Board shall have the right to audit, and to require production of records from each wholesaler supplying retailers in the unincorporated areas of Chattooga County, Georgia, and also from each licensee retailer so supplied.
- (f) The failure to make a timely report and remittance of taxes as provided by this Section shall render a wholesaler dealer liable for a penalty equal to ten percent of the total amount due, in addition to the amount due; and additionally, if said report is not filed or if said taxes are not remitted and paid within thirty (30) days from the date that the same are due, the Board may seek to prohibit said wholesaler from making any deliveries of any type whatsoever within the unincorporated areas of Chattooga County, Georgia.
- (g) It shall be unlawful for any person to sell at retail or otherwise within the unincorporated areas of Chattooga County, Georgia any malt beverage or wine on which the tax required in this Section has not been paid.

Section 1.12. Taxation on distilled spirits for consumption on the premises.

In addition to the annual license fees required, and the excise taxes levied by the state, there is hereby levied and imposed an excise tax which shall be paid to Chattooga County, Georgia, on all distilled spirits sold by each retail consumption dealer within the unincorporated areas of Chattooga County, Georgia, as follows:

- (a) Distilled spirits – Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent (3%) of the retail price or charge for such drink.

Such taxes shall be collected by the licensee licensed under this Ordinance, and such licensee shall remit the same to the County on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the County to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended provided that the tax is not delinquent at the time of payment.

It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this Ordinance, to maintain and preserve such books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.

Section 1.13. Brown Bagging Permitted.

Except as otherwise prohibited by law, brown bagging of alcoholic beverages at a brown bag establishment is permitted. No person shall at any time consume alcoholic beverages in the parking areas outside the premises, nor upon any part of the premises that is not also designated for food consumption. Any establishment allowing brown bagging shall place a sign at or near the cashier, checkout counter or other conspicuous place that designates where brown bagging is permitted upon the premises.

Section 1.14 Farm winery tasting room.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicated a different meaning:
 - (i) **Farm winery** means a domestic winery that is licensed as a farm winery tasting by the state.
 - (ii) **Special entertainment district** means a certain area within the county designated by the Alcoholic Beverage Control Board pursuant to O.C.G.A. § 3-6-21.2 solely for the purpose of allowing Sunday sales in a farm winery tasting room.
 - (iii) **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 retail sale of such wine as provided by law. Sample of wine can be given complimentary or for a fee.
- (b) There is hereby created a license for the business of operating a Georgia farm winery tasting room in conformance with the laws of the State and County.
- (c) Under this section, the licensee shall be authorized to carry on the business of operating a farm winery tasting room in the licensed premises. For the purposes of this section, upon application, a certain location may be designated by the Board as a special entertainment district pursuant to O.C.G.A. § 3-6-21.2. Such designation is made solely for the purpose of allowing Sunday sales in a farm winery tasting room.
- (d) The farm winery tasting room created by this section is limited to farm wineries licensed by the state and allows the licensee to deal in its farm winery products pursuant to state law. No license is created by this section authorizing any other person to deal in any other alcoholic beverage.

Section 1.15 Ancillary wine tasting license.

- (a) The holder of a wine license shall be eligible for an ancillary wine tasting license to provide samples of wine offered for sale to customers under the conditions set forth in this section.
- (b) Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- (c) Wine tasting for customers shall only be conducted at a wine counter area constituting no more than ten percent of the entire floor area of the premises.
- (d) Wine sampling for customers shall be limited to no more than one time per day for a period not to exceed two consecutive hours. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period.
- (e) Wine bottles shall be opened only by the licensee or an employee, and sample shall only be poured

by the licensee and/or an employee.

- (f) No open containers of wine shall be removed from the licensed premises.
- (g) Not more than two times per week for a period not to exceed two consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (h) Holders on an ancillary wine tasting permit shall not charge for samples or tastings, but may accept the donations for a charitable organization of their choice.
- (i) Wine sampling and tasting is only permitted within the enclosed portion of the premises.
- (j) The annual fee for an ancillary wine tasting license shall be set and may be revised by resolution of the Commissioner of Chattooga, County, Georgia. .

ARTICLE 2. Additional Rules and Regulations pertaining to alcoholic beverages.

Section 2.1. Hours for sale.

Retail Package Licensees are allowed to engage in the sale of malt beverages or wine twenty-four (24) hours on weekdays (Monday - Friday), on Saturdays from 12:01 a.m. til 11:59 p.m., and on Sundays from 12:30 p.m. till 11:30 p.m.; and shall not permit the sale of malt beverages or wine on Christmas Day and any other day on which State Law prohibits the sale of malt beverages or wine.

Retail Consumption on the Premises Licensees are allowed to engage in the sale of ~~distilled spirits~~ alcoholic beverages by the drink for consumption on the premises twenty-four (24) hours on weekdays (Monday - Friday), and on Saturdays from 12:01 a.m. till 11:59 p.m.; and shall not permit the sale of ~~distilled spirits~~ alcoholic beverages by the drink for consumption on the premises on Sundays, Christmas Day and any other day on which State Law prohibits the sale of distilled spirits by the drink for consumption on the premises.

The sale by wholesale and retail malt beverages and wine and of distilled spirits for consumption on the premises allowed under this ordinance shall be lawful during the polling hours of any election, pursuant to O.C.G.A. 3-3-20.

Section 2.2. The business hours of wholesale dealers shall be the same hours and days as retail dealers and outlets are allowed to engage in the sale of alcoholic beverages by the terms of Section 2.1 above.

Section 2.3. Annual license fees.

- (a) The annual license fee for the privilege of manufacturing malt beverages or wine shall be \$1,000.00 for each license.
- (b) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail shall be \$500.00. The annual fee for selling wine at retail shall be \$500.00 for each license, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$150.00.
- (c) The annual license fee for the privilege of engaging in the business of selling distilled spirits for consumption on the premises within the unincorporated areas of Chattooga

County, Georgia, shall be \$850.00 for each license.

- (d) The annual license fee for the privilege of engaging in the business of selling malt beverages at retail in private clubs within the unincorporated areas of Chattooga County, Georgia, shall be \$500.00. The annual fee for selling wine in private clubs shall be \$500.00 for each license, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$150.00.
- (e) The annual license fee for the privilege of engaging in the sale of malt beverages by the drink shall be \$500.00 and the annual license fee for selling wine by the drink shall be \$500.00, however, if said license is issued in conjunction with a malt beverage license said fee shall be \$150.00.
- (f) The annual license fee for an employee of a consumption on the premises licensee required to obtain a pouring permit under Section 2.23 of this ordinance shall be \$25.00.
- (g) No license shall be issued for less than the calendar year as herein provided and in case of revocation or surrender of any such license before the expiration of such calendar year the holder thereof shall not be entitled to receive any refund whatsoever.
- (h) All licenses issued hereunder prior to July 1st of each year shall be for the balance of said calendar year, and the full license fee shall be paid. On and after July 1st, but excluding a license issued pursuant to subsection (f) of this Section, one-half of the license fee shall be paid, and the license shall be for the remainder of the calendar year.

Section 2.4. Visibility and lighting of outlets.

No license shall be granted under any provision or section of this Ordinance unless the front entrance to the outlet is clearly visible from a public street, right of way, road or highway, and the front of said outlet shall have a minimum window at least 3' x 4' and no screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior of the outlet shall be permitted in the window or upon the doors of any outlet.

Section 2.5. No consumption on premises.

- (a) Except for a license granted to a licensee for sale by the drink at a restaurant, there shall be no consumption on the premises of any outlet of any alcoholic beverages, except those outlets which are licensed for such and signs to this effect shall be placed at or near the cashier or checkout counter in a conspicuous place.

Section 2.6. Intoxicated persons.

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

Section 2.7. Sale to minors.

No alcoholic beverages shall be sold to a minor under any conditions whatsoever. A minor for the purposes of this Ordinance shall be considered to be any person under the age allowed for the selling of alcoholic beverages as provided by Georgia law.

Section 2.8. Employees, drinking on premises.

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

Section 2.9. Advertising.

One outside sign advertising the sale of alcoholic beverages shall be permitted by the licensee, with the prior approval of the Board but no sign shall be larger than 4 feet x 4 feet. No flashing or revolving lights shall be permitted illuminating said sign. The licensee may designate inside the store the location and pricing of said alcoholic beverages sufficient to identify the same to its patrons.

Section 2.10. Licenses, posting of same.

(a) All licenses required under this Ordinance must be posted in a conspicuous place within the outlet or restaurant, and if said license is not so posted said outlet or restaurant shall not be authorized to engage in the sale of alcoholic beverages until same shall be posted.

(b) At any establishment subject to this Ordinance there shall be posted conspicuously at or near each entrance of the establishment, a sign which shall state the following:

“CHATTOOGA COUNTY AND THE STATE OF GEORGIA REQUIRE YOU TO BE 21 YEARS OF AGE IN ORDER TO PURCHASE AND CONSUME ALCOHOLIC BEVERAGES, AND TO PROVIDE PROPER PROOF OF AGE PRIOR TO PURCHASE. PLEASE HAVE YOUR IDENTIFICATION READY TO PRESENT TO THE SERVER, MANAGER OR CASHIER. PERSONS PROVIDING FALSE IDENTIFICATION WILL BE PROSECUTED.”

(c) Further, retail consumption dealers shall post, in a conspicuous place, a sign which clearly reads:

“WARNING: DRINKING ALCOHOLIC BEVERAGES DURING PREGNANCY CAN CAUSE BIRTH DEFECTS.”

Section 2.11. Posting of this Ordinance.

At all times, all licensees under this Ordinance must post within the place of business a copy of this Ordinance in a conspicuous place within the outlet.

Section 2.12. Compliance with rules and regulations of health authorities.

(a) All licensees under this Ordinance are hereby required to comply with all rules and regulations and requirements of the Chattooga County Board of Health, State Board of Health and any and all other State, Federal and Local authorized public health authorities.

(b) All applicants must obtain, at their own expense, a certificate from the Chattooga County Health Department certifying the results of an inspection of the water and sewerage disposal system at the outlet location. The burden shall be upon the applicant to obtain and submit, at the time of filing the application, such a certificate; and where food is served in conjunction with the sale of alcoholic beverages for consumption on the premises, the food preparation facilities shall also be covered by the certificate.”

(c) The Alcoholic Beverages Control Board shall take into consideration the certification of the Chattooga County Health Department in deciding whether to grant a license under this

Ordinance.

Section 2.13. License fees, time to pay.

All license fees required under this Ordinance shall be paid prior to the issuance of a license. All renewal licenses shall be paid by December 31st.

Section 2.14. Possession for purpose of sale or resale.

It shall be unlawful for any person, firm or corporation to sell or possess for the purpose of sale or resale of any alcoholic beverages without a license from Chattooga County, Georgia, to sell or possess for sale or resale such beverages.

Section 2.15. Receipt of and delivery to retail licenses.

Malt beverages and wine shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer. Receipt of malt beverages or wine by any other means by a retail licensee shall be grounds for revocation of a retail license.

Section 2.16. Transferability of License.

A Licensee, due to a change in circumstances not arising from any action against Licensee under Section 1.10 of this Ordinance, that no longer qualifies as an owner as defined by this Ordinance, may, upon endorsement of the license, assign the rights granted under the license to the subsequent owner of the outlet. To be valid, said assignment must occur within twenty-four (24) hours of Licensee's failure to qualify as an owner under this Ordinance. Any license so assigned shall, within seventy-two (72) hours of being assigned, be reported to the Clerk.

A license assigned pursuant to this section, shall automatically expire at 11:59 p.m. on the sixtieth (60th) day following assignment of the license.

Except as provided in this section, no license granted under this ordinance shall be transferrable from one person to another, nor shall the same be transferrable from one outlet (location) to another, except for good cause shown and approved in writing by the Board.

Section 2.17. No drive-in windows or "curb-service" sales.

No drive-in windows or "curb-service" sales shall be permitted by any licensee, and all purchases of alcoholic beverages shall be made inside the outlet.

Section 2.18. Temporary Buildings/Structures.

No retail sales of alcoholic beverages shall be made from a temporary building, tent, mobile home, motor home, or any vehicle or container which is mobile in nature or removable from the real estate upon which it is located.

Section 2.19. Maximum Revenue from Sale of Malt Beverages and Wine.

The sale of malt beverages and wine shall merely be an adjunct to the other legitimate business conducted at any location, whether the license sought or held is for consumption on or off the premises. The gross revenue derived from the sale of malt beverages and wine is limited to forty-nine (49%) percent of the gross sales at any licensed location except retail package stores. It shall be the responsibility of the license holder to ensure that this requirement is met on an annual basis and to maintain all records necessary for a

validation thereof by designated county officials. Beer and wine sales shall only be allowed in conjunction with the sale of grocery items in the case of package sales and with the sale of prepared food in the case of consumption on the premises.

This section shall not apply to the sale of malt beverages and wine by the drink at private clubs.

Section 2.20. Financial Responsibility.

No license shall be granted to any applicant who has not obtained a certificate signed by the Tax Commissioner of the County or the Tax Commissioner's designee stating that all property taxes, both real and personal, due the County by the applicant and all property taxes, both real and personal, due the County by the owner of the establishment have been paid.

Section 2.21. Area Around Licensed Premises to be Clean.

It shall be the duty of any licensee to maintain the grounds and parking areas in a state of cleanliness, taking steps to see that all beverage containers and empty cans are removed from the premises or stored in receptacles provided for same.

Section 2.22. Same-Inventory at Time of Suspension, Revocation or Cancellation.

In the event any license issued under this ordinance is suspended, revoked or canceled, the Sheriff or other designated County officials hereby are authorized to enter any outlet for the purpose of conducting a physical inventory of the alcoholic beverages on hand for retail sales, such inventory to be conducted during reasonable hours.

Section 2.23 Pouring permit required.

- (a) An employee pouring permit shall be required for any employee of a consumption on the premises licensee who prepares or mixes alcoholic beverages.
- (b) No licensee shall allow any person required to have a pouring permit to prepare or mix alcoholic beverages until such person has procured a pouring permit.
- (c) Any person required to obtain a pouring permit shall apply to the Board for such permit. Only one pouring permit per individual will be issued for employment at any and all establishments within the County. The permit will be valid for a period of one calendar year running from January 1 through December 31, and shall be renewable at the option of the Board. Persons applying for the permit or renewal shall make themselves available for photographing, fingerprinting, and such other investigation as may be required by the Board. The fee for a pouring permit shall be set by the Commissioner of Chattooga County, Georgia and shall remain in effect until modified.
- (d) Any person required to obtain or renew a pouring permit shall complete and file with the Board the provided application, which shall include, but not be limited to, name; residence address; date of birth; prior arrest record, if any, which shall be used for investigative purposes only; the name of the employer; and the address of the licensed establishment employment location for which the permit is sought.
- (e) When a person applies for a pouring permit, the Sheriff or his designee shall have a complete and extensive search made to determine if there is a police record of such person. If there is a record of conduct prohibited by this Ordinance, issuance of a permit shall be denied.
- (f) A new search may be conducted on any person issued an employee pouring permit if the Sheriff receives information which warrants such a new search. If the new search reveals evidence that

warrants revocation of the pouring permit, the permit may be revoked.

- (g) Should any of the information provided by the individual on the original application, or any renewal, change during the one-year term of an issued pouring permit, including, by way of example only, employer, licensed establishment employment address, or residence address, the individual shall promptly notify the Board of the change and provide the new information. The Board shall then issue, at no charge to the individual, a new pouring permit for the remainder of the one-year term. The Board is authorized to conduct a concurrent criminal history check at no charge to the individual.
- (h) A pouring permit shall not be issued if it appears that within a period of five years of the application date, the applicant has been convicted, pled guilty or entered a plea of nolo contendere to any felony, any misdemeanor involving moral turpitude, any sexual-related crime, or any criminal offense relating to alcoholic beverages, controlled substances, taxes or gambling. A pouring permit shall not be issued if the applicant has not been released from any parole or probation prior to the filing of the application. This subsection shall apply with respect to the laws of this state, other states, the United States, and other countries. Sentencing as first offender status shall not be considered as a conviction if the sentence was successfully completed without any violation of probation and with no adjudication of guilt ever being entered.
- (i) A pouring permit shall not be issued if it is determined that the person falsified, concealed, or covered up any information requested by the Board in the application process.
- (j) A pouring permit issued through administrative error may be revoked by the Board.
- (k) The Sheriff may revoke an employee's pouring permit and demand its return where the employee violates any of the provisions of this Ordinance.
- (l) Any conviction for violation of the provisions of this Ordinance or of the state's Alcoholic Beverage Code shall result in the automatic suspension of the pouring permit.
- (m) It shall be unlawful for an employee whose pouring permit has been revoked and upon whom demand for return of the permit has been made to refuse to return the permit, to alter, conceal, deface, or destroy the permit.

Section 2.24 On-Premises Consumption Only.

Persons holding a license to sell alcoholic beverages for consumption on the premises shall not be permitted to sell any alcoholic beverages by the package or to allow anyone to take alcoholic beverages in any form away from the building premises except as allowed by O.C.G.A. § 3-6-4.

ARTICLE 3. Alcoholic Beverage Control Board.

Section 3.1. Alcoholic Beverage Control Board – Establishment, Composition, Appointment, Chairman and Clerk.

There is hereby established an Alcoholic Beverage Control Board for Chattooga County, Georgia, as appointed by the Commissioner of Chattooga County, comprising no more than five (5) nor less than three (3) citizens of Chattooga County, Georgia, appointed by the Commissioner of Chattooga County, Georgia. The Commissioner of Chattooga County, Georgia, shall designate which member of the Board shall serve as Chairman. Each member so appointed by the Commissioner of Chattooga County shall serve at the pleasure of the Commissioner and until their successors are duly appointed by the Commissioner of Chattooga County. Any vacancies on the Board shall be filled by appointment by said Commissioner.

The Board shall appoint its own Clerk.

Section 3.2. Same powers and duties.

The Board shall have all of the powers, duties and responsibilities as are granted to them by the terms and provisions of this entire Ordinance. It is the intent of this Ordinance that all of the duties, responsibilities and decisions pertaining to the granting of licenses, revoking the same, suspending the same, and the like, and all other matters pertaining to the control of alcoholic beverages are provided under this Ordinance and shall be vested in said Board except as otherwise provided in this Ordinance.

Section 3.3. Quorum required for action.

Prior to any vote required of the Board for Chattooga County, Georgia, there shall be present a quorum of the members of said Board. A quorum of said Board shall consist of a minimum of three (3) members of the Board, no matter the number of members presently on said Board. No action shall be taken unless a quorum is present. A majority vote of the present quorum is required to approve any action.

ARTICLE 4. Regulations for the sale of distilled spirits for on-premises consumption.

In addition to those general requirements for all licenses, the regulations pertaining to the sale of distilled spirits for on-premises consumption shall include, the provisions of the sections set forth in this Article.

Section 4.1. Eating establishments only.

Distilled spirits for consumption on the premises may be sold only in eating establishments and restaurants regularly serving prepared food, with a full-service kitchen which must be approved by the County Health Department and County Code Enforcement Officer. Such eating establishment will regularly serve food every hour it is open and derive at least 60 percent of its gross receipts annually from the sale of prepared meals or food and derive no more than 40 percent from the sale of alcoholic beverages.

Section 4.2. Building Requirements.

Eating establishments licensed to sell alcoholic beverages for consumption on the premises, unless subject to an exception herein, are required to have seating for food service of at least 30 seats.

In addition to the general building requirements, all on-premises consumption establishments shall comply with the state minimum building codes, the accessibility requirements of the Americans with Disabilities Act, and all applicable State of Georgia and Chattooga County Health Departments statutes, rules, and regulations. In addition, the building shall have access to a public sewer system, or such other septic system approved by the Chattooga County Health Department as being adequate for such eating establishment.

Patio or open area seating shall be permitted only as allowed by the Chattooga County Health Department and County Code Enforcement Officer, and further provided that the patio or open area seating is enclosed by some structure at least three and one-half feet in height allowing for non-emergency ingress/egress only through the main licensed building.

Section 4.3. Restrictions on Advertising and Displays.

An establishment issued a license under this ordinance may not display distilled spirits outside of the building, or within 20 feet of any entrance door on the interior of the building. The name, brand or type of alcoholic beverage served and the price per serving may be provided to customers on a regular printed food

menu.

Section 4.4. Minimum Ages of Employees.

Any person, including the licensee, who pours or mixes any alcoholic beverages must be at least 21 years old; and any person taking orders for, selling, or serving any alcoholic beverages in an eating establishment shall be at least 18 years old.

The minimum age of any person who is employed in supermarkets, convenience stores, breweries, or drugstores shall be as provided by O.C.G.A. § 3-3-24.

ARTICLE 5. General Provisions.

Section 5.1. Severability of Ordinance.

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

Section 5.2.

Nothing in this Ordinance shall be deemed to restrict or change any existing license issued pursuant to a prior Ordinance when same was issued according to the requirements of said Ordinance but shall affect all new applicants and any subsequent renewals.

Section 5.3.

All provisions of O.C.G.A. - Title 3 applicable to alcoholic beverages are incorporated herein if not in conflict with this Ordinance and made a part hereof including any amendments thereto.

Revised June 2021