

EVANS COUNTY ALCOHOL ORDINANCE

CHAPTER 1

ALCOHOLIC BEVERAGESARTICLE

I. IN GENERAL

Sec. 1-1. 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 ordinances and policies of the County;
 - (5) Protection of the public health, safety, and welfare.
- (b) To the maximum extent possible under state and federal law, the business of 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.

Sec. 1-2. 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 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.

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.

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.

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 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 means the Evans County, Georgia, and when used in a geographical sense the unincorporated area of the county.

Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than 21 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 25 patron seats; which derives at least fifty 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 Evans County Health Department.

Fortified wine means any alcoholic beverage containing more than 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, brandy.

Full-service kitchen means a kitchen consisting of a commercial sink and refrigerator and either a commercial stove, grill or oven and which has a valid food service permit from the Evans 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:

- (a) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any
- (b) distilled spirits;
- (c) In the case of malt beverages, any brewer; and
- (d) 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 for consumption on the premises at retail only to consumers and not for resale.

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.

Secs. 1-3 through 1-29. Reserved.

ARTICLE II. LICENSING

Sec. 1-30. License required.

- (a) It shall be unlawful for any person to 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 Evans 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.

(d) **Sec. 1-31. Retail package licenses.**

Applicants may apply for one or more of the following types of retail package licenses or permits:

- (a) Class A: Package malt beverage license: Retail sale of malt beverages in the original package.
- (b) Class B: Package wine license: Retail sale of wine in the original package.
- (c) Class C: Combination package malt beverage & wine license: Retail sale of both malt beverages and wine in the original package.
- (d) Class D: Package distilled spirits license: Retail sale of distilled spirits in the original package.
- (e) Class E: Combination package malt beverage, wine, & distilled spirits in the original package.

Sec. 1-32. Deleted.

Sec. 1-33. Retail consumption on the premises licenses.

- (a) Four classes of retail consumption on the premises licenses are available. Unless otherwise specifically provided in this chapter, retail consumption on the premises licenses are available only to eating establishments as defined in section 1-2 having a full-service kitchen.
 - (1) Full pouring license: Retail sale of distilled spirits, wine, and malt beverages by the drink.
 - (2) Limited pouring license: Retail sale of wine AND malt beverages by the drink.
 - (3) Limited pouring license: Retail sale of wine OR malt beverages by the drink.
 - (4) Brewpub: See definition in section 1-2
- (b) The application shall be accompanied by the requisite fee in an amount set by the Board of Commissioners.

Sec. 1-34. Deleted.

Sec. 1-35. Alcoholic beverage caterers.

- (a) Definitions for purposes of this section:
 - (1) *Resident caterer* means a caterer that has its principle place of business located within unincorporated Evans County and which desires to serve or sell alcoholic beverages at a permitted event or function.
 - (2) *Nonresident caterer* means a caterer that does not have its principle place of business located within unincorporated Evans 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 Evans County 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.

- (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.
 - (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 an Evans 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 Evans County.
 - (5) The County shall review the application and may either grant or deny the permit application. The County may deny the permit based upon the applicant's failure to adequately address public safety concerns. If granted, the County 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) 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.
- (t) Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in article VIII of this chapter.
- (g) 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) 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) 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.

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

Sec. 1-36. Nonprofit civic organization temporary permit.

(a) The County 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 1-35(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.

Sec. 1-37. On-premises special event temporary permit.

(a) A retail consumption on the premises 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 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 1-104 for the specified day.

(b) No more than three 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.

Sec. 1-38. 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 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.

Sec. 1-39. Application.

- (a) All persons or entities desiring to sell alcoholic beverages shall make application on the form prescribed by the County.
- (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.
- (c) All applicants shall furnish all data, information and records requested of them by the County 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 and considered by the County 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.
- (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 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.

Sec. 1-40. 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, directors, or governing authority shall be responsible for the actions of the named licensee and the conduct of the licensed business.

Sec. 1-41. Eligibility for license.

- (a) Every applicant shall, prior to applying for a license, read and familiarize himself 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 chapter 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 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 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 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 alcoholic beverages issued by any governmental entity.
- (g) No 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 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 deputy 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 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 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) All applicants shall provide proof of liability insurance in an amount of \$100,000.00 and workers' compensation insurance, where applicable, effective for at least one year from the date of application.
- (l) No license for the sale of alcoholic beverages shall be granted to any potential licensee where in the opinion of the county 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. Sufficient parking shall be determined by the county 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.
- (m) Notwithstanding anything in this chapter to the contrary, the board's enactment of this chapter will not revoke or suspend any existing license of a licensee. Nor shall this

enactment prevent a licensee who as of the date of the enactment of this chapter holds a then-current license because their business or licensed premises may not qualify as a restaurant under this chapter. The "grandfather" clauses of this section shall remain valid until a change occurs to the current license applied for, the current licensee, or the current location of the licensed premises. Except as provided herein by this section, upon the board's enactment of this chapter, any license issued pursuant to this chapter shall comply with all parts of this chapter.

Sec. 1-42. 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.

Sec. 1-43. Procedure for consideration of application; temporary licenses.

- (a) Each application shall be reviewed by the County, and thereafter the County shall either grant or deny the application.
- (b) A temporary license for a full pouring license, a limited pouring license, package malt beverage license, and package wine license may be issued by the County for a period of up to 60 days, provided the County 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 at any time.
- (c) The fee for issuance of a temporary license shall be set by the Board of Commissioners.

Sec. 1-44. Publication of application notice.

After filing an alcoholic beverage license application with the County, the applicant shall cause to be published, in the form prescribed by the County, a notice of application in the Claxton Enterprise or such other newspaper that may at 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. The comment deadline shall be 30 days after the application filing date.

Sec. 1-45. Denial of application.

- (a) A license application may be denied by the County 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) Where the County denies a license application, the following procedures shall apply:
 - (1) The County shall notify the applicant of the denial in writing, personally or by certified mail 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 which must either be postmarked or actually received by the County within ten (10) days from date of delivery of the denial notification letter.
 - (2) If the County receives a written notice of appeal from the applicant which is either postmarked or actually received by the County within ten (10) days from

date of delivery of the denial notification letter, the County shall set a hearing date with the Evans County Board of Commissioners within thirty (30) days of receipt of the notice of appeal.

- (3) Upon the scheduling of an appeals hearing, the County 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 to the applicant at the address listed in the application.
- (4) Delivery of any notice originating from the County 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.

Sec. 1-46. 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 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 must be notified of the licensee's death within ten days of the death or the license shall automatically terminate on the 11th 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 must be notified of the change within ten days of the severance or the license shall automatically terminate on the 11th 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.

Sec. 1-47. Sale or disposition of licensed business; temporary license.

- (a) If any licensee withdraws from, sells, or otherwise transfers the licensee's interest in the licensed business, the licensee shall notify the County within 30 days of the change.
- (b) In the case of such a withdrawal, transfer, or sale, the County may issue a temporary license as provided in section 1-43 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.

Sec. 1-48. Notice.

Except as may otherwise be specifically provided in this chapter, any required notice may be delivered by hand or sent by certified mail, in which event delivery shall be deemed to take place on the third day following the date of deposit in the United States mail.

Sec. 1-49. 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 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 Evans County, Georgia. The lien shall be filed in the records of the Evans 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 Title 48 of the Official Code of Georgia. The lien shall have a duration of seven (7) years.

Secs. 1-50.

All renewal licenses shall be applied for and issued by December 15th of the year preceding the issuance of the renewal license. Any license issued after December 15th but before December 31st of the preceding year shall pay an additional \$500.00 fee. Any license not renewed by January 1st, shall be subject to and shall comply with the new application process.

Secs. 1-59 through 1-69. Reserved.

ARTICLE III. SUSPENSION OR REVOCATION OF LICENSE; HEARING

Sec. 1-70. Suspension or revocation of license.

- (a) A license may be suspended or revoked by the County for any violation of this chapter; or 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 alcoholic beverages, the County license/s shall thereupon be automatically revoked by operation of law. The County, upon notice of such revocation, shall take the necessary steps to see that signs are removed. The County 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.
 - (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. Following such action, the following procedures shall apply:
 - (i) The County shall notify the licensee of the suspension or revocation by certified mail to the licensee's registered agent at the last known address of record in the licensing records of the County. The notice shall include the following information:
 - a. The reason/s 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 which must either be postmarked or actually received by the County within ten (10)

days from date of delivery of the suspension/revocation notification letter.

- (2) If the County receives a written notice of appeal from the licensee which is either postmarked or actually received by the County within ten (10) days from date of delivery of the suspension/revocation notification letter, the County shall set a hearing date with the Evans County Board of Commissioners within thirty (30) days of receipt of the notice of appeal.
- (3) Upon the scheduling of an appeals hearing, the County 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.
- (4) Delivery of any notice originating from the County 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 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 affirmance of any suspension or revocation by the Evans County Board of Commissioners, the suspension or revocation shall take effect, and shall not thereafter be stayed.

Sec. 1-71. Evans County Board of Commissioners; hearings.

- (a) The board shall have the following duties:
 - (1) To hear deferred applications or appeals from administrative decisions by the County regarding license applications, license transfers, license renewals, change of ownership, or other matters affecting such applications, licenses, permits, or decisions by the County pursuant to this chapter;
 - (2) To hear deferred applications or appeals from administrative decisions by the County 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 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.
- (b) 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 hearings before the board.
- (c) Any applicant/licensee desiring to appeal to the Evans County Board of Commissioners 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.
- (d) 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.
- (t) 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 Evans County by filing a petition for writ of certiorari within thirty (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 thirty (30) days after the close of a hearing on any matter.

Secs. 1-72 through 1-89. - Reserved.

ARTICLE IV. LOCATION OF SALES

Sec. 1-90. Distance from churches, schools, etc.

- (a) No alcoholic beverage license, package wine license, or consumption on the premises license shall be issued for any place of business which is located within six hundred (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 six hundred (600) feet of a 1) a church, or 2) a private single-family or two-family dwelling.
- (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 business to a point at the front door of the main 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) Deleted.
- (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.

Sec. 1-91. 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 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 publically owned or operated airport within the County.

Sec. 1-92. 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 a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas.

Secs. 1-93 through 1-99. Reserved.

ARTICLE V. BUSINESS REGULATIONS

Sec. 1-100. 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.

Sec. 1-101. - Purchase and sales records.

- (a) Every licensee shall keep and preserve records of all alcoholic beverages purchased and sold or otherwise dispensed by the licensee. All 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.
- (b) No later than the 10th day of the following calendar month, all consumption on the premises licensees shall provide the County with their gross monthly sales receipts.
- (c) If the County deems it advisable to conduct an audit of the records of a licensee, he 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 license suspended or revoked.
- (d) At the request of the County, 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 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.

Sec. 1-102. 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 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 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.

(State law reference: 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. 1-103. 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.

Sec. 1-104. 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 a.m. Monday through Saturday. Such licensees shall not permit their places of business to be open except between the hours of 7:00 a.m. and 12:00 a.m., Monday through Saturday, except that where the primary business of a malt beverage 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 wine.
- (b) Consumption on the premises licensees shall sell alcoholic beverages only between the hours of 9:00 a.m. and 12:00 a.m., Monday through Saturday. Sunday sales shall not be permitted. The premises shall be vacated by 1:00 a.m., with the exception of a facility that provides overnight lodging.
- (c) Deleted.

Sec. 1-105. 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.

Sec. 1-106. 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 or an ancillary wine tasting permit.

Sec. 1-107. 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, the fire chief, and other authorized agents of the County.

Secs. 1-108 through 1-119. Reserved.

ARTICLE VI. EMPLOYMENT RESTRICTIONS AND HANDLING REQUIREMENTS

Sec. 1-120. Age requirements.

- (a) No consumption on the premises licensee, including nonprofit civic organizations and ancillary wine tasting permittees, 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.

Secs. 1-121 through 1-139. Reserved.

**ARTICLE VI. REQUIREMENTS FOR RETAIL CONSUMPTION ON THE
PREMISES LICENSES**

Sec. 1-140. Eligibility for license.

Except as provided in section 1-32, a consumption on the premises license may be granted only to the establishments described in this article and subject to the specified conditions.

Sec. 1-141. Hotel and hotel room service.

(a) In order to be eligible for a 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. 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 license; and
- (2) Has been authorized to provide in-room service by the state.

(d) 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 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.
- (e) 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.
- (f) Distilled spirits sold pursuant to this section shall not be sold in packages containing less than 50 milliliters each.
- (g) 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.

Sec. 1-142. Restaurant.

(a) In order to be eligible for a consumption on the premises 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 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 open.

(b) Brewpubs, as defined in section 1-2 and O.C.G.A. § 3-1-2(3), shall be allowed upon acquiring a consumption on the premises license.

Sec. 1-143. 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 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.

Sec. 1-144. Private clubs.

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

(1) Has been in existence at least one year prior to the filing of its application for a license;

(2) Has at least 50 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 establishments.

Sec. 1-145. Special events facility.

In order to be eligible for a consumption on the premises 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 Evans County.

Sec. 1-146. Physical requirements of premises.

All license 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 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.

Sec. 1-147. Security.

As a condition of all consumption on the premises licenses, the County 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.

Sec. 1-148. 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.

Sec. 1-149. Carry-out of alcoholic beverage unlawful.

Except as permitted pursuant to O.C.G.A. § 3-6-4, all alcoholic beverages sold or otherwise dispensed by consumption on the premises 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, 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. 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.

Sec. 1-150. 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 establishment" shall not include a private hotel room or other similar guest room or a private club.

Sec. 1-151. Happy hour discounts; other unlawful practices.

- (a) No consumption on the premises 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 four 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.

Secs. 1-152 through 1-169. Reserved.

ARTICLE VIII. EXCISE TAX

Sec. 1-170. 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 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 shall be responsible for collection of the taxes required by this article.

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

Sec. 1-171. 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.

(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 truces 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.

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

Sec. 1-172. 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) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer distributing to retailers at premises located within the County. Such taxes shall be paid on or before the 10th 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.

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

Sec. 1-173. 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.
- (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 mail. Service by mail 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 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 10th 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.

Sec. 1-174. 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 1-173.
- (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.

Sec. 1-175. 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.

Sec. 1-176. - 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 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.

Sec. 1-177. - Administration and enforcement of article.

- (a) The County or its 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.

Secs. 1-178 through 1-199. Reserved.

ARTICLE IX. - PENALTIES FOR VIOLATION

Sec. 1-200. General penalty.

Any person who shall do anything prohibited by this chapter, who engages in the sale or distribution of alcoholic beverages in a manner not authorized by this chapter, or who fails to do anything required by this chapter shall be punished for a misdemeanor as follows:

(a) 1st violation resulting in a conviction, guilty plea, nolo contendere plea: a fine of not less than \$300.00 nor more than \$1,000.00, and, where deemed appropriate by the court, a period of incarceration not to exceed 60 days.

(b) 2nd violation resulting in a conviction, guilty plea, nolo contendere plea: a fine not less than \$500.00 nor more than \$1,000.00, and, where deemed appropriate by the court, a period of incarceration not to exceed 60 days.

(c) 3rd violation and all subsequent violations resulting in a conviction, guilty plea, nolo contendere plea: a fine of \$1,000.00, and, where deemed appropriate by the court, a period of incarceration not to exceed 60 days.

No portion of the fine may be waived, stayed, deferred, withheld, suspended, substituted or otherwise excused or negated. Community service may be included in addition to any penalty, but not in lieu of the fine provided herein, and any such community service shall consist solely of picking up litter on public roadways. Any violator shall be responsible for all court costs as determined by the court. If such violation is continued, each day's violation shall be a separate offense.

Secs. 1-200 through 1-219. - Reserved.

With the adoption of this ordinance, any provision of or other existing ordinance to be found in conflict herewith shall be considered as repealed.

Adopted this 1 day of March, 2022.

Evans County Board of Commissioners

Chairman

County Clerk