

**STATE OF GEORGIA
COUNTY OF CHEROKEE**

ORDINANCE NO. 2023-O-005

AN ORDINANCE AMENDING CHAPTER 6 – ALCOHOLIC BEVERAGES OF THE CODE OF ORDINANCES, CHEROKEE COUNTY, GEORGIA, TO PROVIDE FOR REVISED DEFINITIONS, RETAIL LICENSURE FOR PACKAGE STORES SELLING DISTILLED SPIRITS, REQUIREMENTS AND STANDARDS FOR PACKAGE STORES SELLING DISTILLED SPIRITS, DISTANCE REQUIREMENTS; AND FOR OTHER PURPOSES.

WHEREAS, the Constitution of the State of Georgia, approved by the voters of the State in November of 1982, and effective July 1, 1983, provides in Article IX, Section II, Paragraph I thereof, that the governing authority of the County may adopt clearly reasonable ordinances, resolutions, and regulations; and

WHEREAS, O.C.G.A. § 36-1-20 authorizes counties to enact ordinances for protecting and preserving the public health, safety, and welfare of the population of the unincorporated areas of the County; and

WHEREAS, on November 8, 2022, a referendum was conducted in Cherokee County to establish the package sales of distilled spirits in unincorporated Cherokee County, with the question, “Shall the issuance of licenses for the package sale of distilled spirits be approved?”; and

WHEREAS, the package sale of distilled spirits referendum received approval from the voters of Cherokee County by 79.2%; and

WHEREAS, Chapter 6 – Alcoholic Beverages of the Code of Ordinances, Cherokee County, Georgia, provides for all regulations and standards governing the licensing, operations, and taxation of establishments in the business of manufacturing and the selling of alcoholic beverages, whether wholesale and retail, as well as the consumption of alcohol on the premises; and

WHEREAS, with the approval of the package sales of distilled spirits referendum by the voters of Cherokee County, Chapter 6 – Alcoholic Beverages of the Code of Ordinances, Cherokee County, Georgia, must be amended to provide for retail licenses for package stores selling distilled spirits; and

WHEREAS, the Board of Commissioners does hereby find that definitions must be revised and established to provide for package stores selling distilled spirits; and

WHEREAS, the Board of Commissioners does hereby find that distance, licensing, and operational requirements must be revised and established to provide for package stores selling distilled spirits; and

WHEREAS, the Board of Commissioners does hereby find the following revisions to Chapter 6 – Alcoholic Beverages of the Code of Ordinances, Cherokee County, Georgia, attached hereto as **Exhibit A**, to be a reasonable exercise of Cherokee County’s police power, and in the best interests of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT RESOLVED by the Cherokee County Board of Commissioners, and it is hereby so resolved by the authority of the same, that Chapter 6 – Alcoholic Beverages of the Code of Ordinances, Cherokee County, Georgia is hereby amended to provide retail licensure, requirements, and standards for package stores selling distilled spirits, fulfilling the mandate of the voters of Cherokee County, Georgia; and

NOW, THEREFORE, BE IT RESOLVED THAT this ordinance, upon adoption, is effective on September 1, 2023; and

SO RESOLVED, APPROVED, AND ADOPTED this 6th day of June, 2023.

By: 
HARRY B. JOHNSTON, Chairman

Attest: 
CHRISTY BLACK, County Clerk

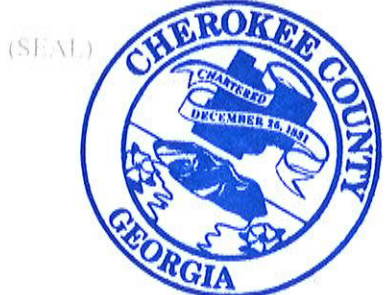


EXHIBIT A

Chapter 6 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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:

Adequate parking means one parking space for each 100 square feet of customer service area within the premises of an applicant.

Administrator means the county marshal or his designee.

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

Applicant means the person, partner, firm, or corporation, as owner, or other entity (individually or collectively) making the application for the alcohol license, whether compensated or not. The term "applicant" shall include a licensee agent.

Bar means a business open to the public which sells alcoholic beverages for consumption on the premises and which does not meet the definition of restaurant.

Building code means and includes all building, plumbing and electrical codes and any similar technical code of the county.

Business area means any street length between intersections where 50 percent or more is in use for business purposes.

Church means any permanent building which houses the main sanctuary in which persons regularly assemble for religious worship and which is publicly designated as a church, but shall not include a residence also used for religious purposes. The term "church" shall include spaces in commercial centers when that space is meant to be the permanent assembly space for religious worship, but shall not include the housing of a religious group in an

¹Editor's note(s)—Ord. No. 2004-O-009, adopted Nov. 16, 2004, repealed the former Ch. 6, §§ 6-1—6-73, and enacted a new Ch. 6 as set out herein. The former Art. X pertained to similar subject matter and derived from ordinances listed in the code comparative table.

Cross reference(s)—Buildings and building regulations, ch. 14; businesses, ch. 18; law enforcement, ch. 34; offenses and miscellaneous provisions, ch. 38; parks and recreation, ch. 42; taxation, ch. 54; zoning, ch. 70.

State law reference(s)—Use of proceeds of alcoholic beverage tax for prevention, education and treatment, Ga. Const. art. 3, sec. 9, par. 6; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; furnishing to, purchase of or possession by persons under 21 years of age, use of false identification, O.C.G.A. § 3-3-23; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under 21 years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

otherwise commercial center when the religious group is in the process of constructing a permanent facility at another location.

College means only those state, county, church or other colleges that teach the subjects commonly taught in the common colleges of this state and shall not include private [specialty](#) colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Conditional license shall mean the approval granted or issued by the county prior to the premises for the sale of alcoholic beverages being issued a certificate of occupancy.

County community center means county-owned events facilities which are made available for payment rental and use by the general public.

Distance means the measurement in horizontal lineal feet as defined in section 6-24.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. The terms distilled spirits, liquor, or spirituous liquor, when used in this chapter, shall all carry the same meaning.

Employee means any person that acts in the capacity of a server, waiter, waitress, cashier, or clerk at the business of an alcohol license holder wherein the person's job function requires that they engage in sales transactions involving alcohol. The definition of employee shall be broadly construed and shall include those individuals' operation within the establishment of a license holder where, due to the nature of the duties performed, a customer would reasonably believe the individual is an employee of the license holder, irrespective of whether there exists documentation or other evidence of an employee/employer relationship and further irrespective of whether the individual is paid or unpaid. For purposes of this chapter, the licensee shall always be deemed an employee of the permitted business.

Family means any person related to the holder of such license within the first degree of consanguinity or affinity as determined according to civil law.

Good moral character means the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.

- (1) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:
 - a. At the current time he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and
 - b. He is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.
- (2) The following criminal records shall not be used, examined or requested by the county in a determination of good moral character when used as a requirement to obtain a business license or business permit:
 - a. Records of an arrest not followed by a conviction.
 - b. Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
 - c. Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest and open manner.

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- d. Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

Indoor recreation establishment means an indoor facility that contains regulation-size courts or alleys where physical sporting activity takes place and equipment related to the activity is available for rent or sale.

License means the authorization by Cherokee County to engage in the sale or consumption on the premises of alcoholic beverages.

Licensee means a person, real or artificial, holding any class of license issued under the terms of this chapter. In the case of a partnership or corporation, the term includes both the partnership or the corporation and the individual designated by such legal entity to serve as its license representative.

Licensee agent means an individual person designated by a partnership, limited liability company or corporation to act as its representative/applicant and on its behalf on all matters related to the alcohol license. A licensee agent must have sufficient involvement with the partnership, [limited liability company](#), or corporation to have supervisory authority over the day-to-day operations of the licensed premises. For the purposes of this chapter, any reference to the term applicant or licensee also includes the licensee agent.

Lounge means a separate room connected with a part of and adjacent to a restaurant or with a hotel with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least 40.

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.

Outlet means the definite structure, whether a room, store, building, restaurant, in which activities permitted by this ordinance are conducted.

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

Package store means a store licensed as a retailer to sell alcoholic beverages in unbroken packages for off-premises consumption.

Park means any public lands owned or controlled by the [State](#), county, or any county of the [state](#), in and upon which play facilities, trails, or other recreational features are provided for the recreation and enjoyment of the general public.

Premises means the definite closed or partitioned establishment, whether room, shop or building, wherein alcoholic beverages are sold or consumed. The term "premises" shall also include any privately owned or leased courtyard or patio which is architecturally visibly defined, wherein alcoholic beverages are sold or consumed.

Private club means a corporation organized and existing under state laws, having at least 100 members regularly paying monthly, quarterly, semiannual or annual dues, organized and operated exclusively for pleasure, recreation and other non-profitable purposes; no part of the net earnings of which inures to the benefit of any shareholder or member, and owning, hiring or leasing a building or space therein for the reasonable use of its members with a suitable kitchen, dining room space and equipment; and maintaining and using a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guests; provided that no member, officer, agent or employee of the club is paid, or directly or indirectly receives in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club or its members or guests beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Registered agent means a natural person age 21 years or older and residing in Cherokee County who is designated by a licensed establishment to receive service of process on its behalf. Notice or demand required or permitted by law or under this chapter may be served upon the licensee, registered agent, or owner.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 60 people, having employed therein a sufficient number and kind of employees to prepare, cook, and serve non-prepackaged meals for its guests. At least two meals per day shall be served at least six days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted and sales of prepared, cooked, and non-prepackaged meals must be equal to or more than 60 percent of total sales.

Retail means retail sales packaged to go and not for consumption on the premises.

School means any state, county, church or other private school that teach the subjects commonly taught in the common schools of this state and shall include the adjacent open land or fenced areas used for school purposes but this shall not include any portion of a private school, where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Service area means that in the event a lounge, private club or restaurant is located adjacent to an indoor recreational establishment and within the same building or structure, the recreational area is defined as being within the service area of such lounge, private club or restaurant and the consumption of alcoholic beverages within the recreational area is permitted.

Wholesaler means any person, firm or corporation engaged in distribution or selling to retailers for the purpose of resale any alcoholic beverages.

Wine means any alcoholic beverage containing not 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, all sparkling wines, champagnes, 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. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition.

Zoning shall mean the zoning classifications as approved for the unincorporated areas of Cherokee County. (Ord. No. 2004-O-009, 11-16-04; Ord. No. 2010-O-002, § 1, 5-4-10)

Sec. 6-2. Purpose of chapter.

This chapter has been enacted for the purposes, among others, of:

- (1) Promoting the health, safety, and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages;
- (3) Protecting and preserving schools, churches, parks, homes, and other institutions;
- (4) Giving effect to existing land use and to preserve certain residential areas, with reasonable consideration being given, among others, to the character of the areas and their peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhoods and property values; and

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- (5) Protecting against the evils of concentration of the retail outlets for alcoholic beverages in one area or ownership or to prevent undesirable persons from engaging in or having any interest in alcoholic beverages.
 - (6) Guarding against monopoly and concentration of the retail sale of alcoholic beverages in one group or area.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-3. Compliance with chapter required.

No person shall sell or offer for sale in the county at wholesale, retail, or for consumption on the premises any alcoholic beverages without having first complied with the provisions of this chapter.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-4. Penalties; revocation of license.

- (a) Upon conviction in the magistrate court of any violation of any provision of this chapter, unless otherwise provided, the punishment shall be as follows:
 - (1) First offense, a minimum fine of \$500.00;
 - (2) Second offense, if within 12 months of the first offense, a minimum fine of \$750.00;
 - (3) Third offense, if within 12 months of the second offense, a minimum fine of \$1,000.00; or
 - (4) Otherwise punishment shall be as set by the magistrate court judge as allowed by the state law.
- (b) In addition to the penalties provided in subsection (a) of this section, a license issued pursuant to this chapter may be suspended, revoked or placed on probation by the Board of Commissioners for the following reasons:
 - (1) Failure to pay excise fees or any other fees or taxes required by the county.
 - (2) Disorderly conduct of the establishment.
 - (3) Acts of disturbance on the establishment.
 - (4) Violence on the establishment.
 - (5) Gambling on the establishment.
 - (6) Conviction of violating this chapter by any court with jurisdiction.
 - (7) Charges of or conviction of a felony by the licensee.
 - (8) Creation or maintenance of a nuisance on the establishment.
 - (9) Any false statement or material misrepresentation given in the application for the license.
 - (10) For any and other just cause.
- (c) If it comes to the attention of the Board of Commissioners or county marshal that the licensee has violated any provisions of this chapter, the following procedures shall apply:
 - (1) The county marshal or his designee shall issue a notice of objection to the Board of Commissioners, which shall include the address of the location and the specific allegations as to the violation of any provision of this chapter or any provision of this Code. The notice of objection shall also include the

recommended action to be taken by the Board of Commissioners, which may include probation, suspension, or revocation of the license, as well as conditions for maintenance or reinstatement of the license, including and not limited to mandatory responsible sales and server training, with an approved provider, for the licensee, managers, employees, and servers of the licensed establishment. Further, any license under this chapter may be temporarily suspended by the county marshal in his notice of objection for any reason outlined in subsection (b) of this section if it is determined that suspension is in the best interest of the health, safety, and welfare of the public. The county marshal shall then notify the licensee in writing by certified mail or by personal service that a notice of objection has been filed and of any applicable temporary suspension of the license. The notice to the licensee shall include a copy of the notice of objection, and the time, place, and date for a hearing before the Board of Commissioners on the matter. The hearing shall be within 30 days of the date of the notice to the licensee. Continuances and necessary investigations will be granted and conducted at the discretion of the Board of Commissioners.

- (2) At the hearing, the county and the licensee shall be afforded an opportunity to present evidence and examine witnesses. After this hearing, the Board of Commissioners shall issue a notice of decision at which time the Board of Commissioners will dismiss or affirm the objection and/or temporary suspension, and in case of affirmation, the Board of Commissioners may suspend, revoke or place on probation the license of the licensee.
 - (3) The decision of the Board of Commissioners shall be in writing and shall state the reasons for their decisions and shall be based upon the merits of the case.
 - (4) The decision of the Board of Commissioners shall be final but may be appealed to the appropriate court within 30 days of the date of the written decision.
 - (5) The decision of the Board of Commissioners shall be binding upon the retail party or holder of the license.
- (d) When the license of any establishment has been revoked, no further license shall be issued under this chapter to the same person, firm or corporation at that location for a period of 24 months from the date of revocation.
- (e) Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the county license to manufacture or deal in those products shall thereupon be automatically revoked without any action by the county.
- (f) All owners or officers of establishments licensed under this chapter shall be responsible for any violation of this chapter by an employee, agent, or representative of the licensed establishment, and the owners and officers may be subject to appropriate administrative action related to such violation, including and not limited to suspension and revocation of the license, in accordance with applicable laws, regulations, and ordinances.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 1, 4-21-09)

Sec. 6-5. License required.

- (a) No malt beverages, wines, distilled spirits or any other alcoholic beverage shall be stored, delivered, sold or manufactured in the county except under a license issued pursuant to this chapter and then only for the specific beverage and manner of sale provided in the license.
- (b) The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code and if other provisions of this Code conflict with this chapter then this chapter shall control.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-6. Types of licenses; number of licenses; renewal.

- (a) Licenses which may be issued under this chapter include:
- (1) *Manufacturing:*
 - a. Malt beverages.
 - b. Wine.
 - c. Distilled spirits.
 - (2) *Wholesale:*
 - a. Malt beverages.
 - b. Wine.
 - c. Distilled spirits.
 - (3) *Retail:*
 - a. Malt beverages.
 - b. Wine.
 - c. Ancillary wine sampling license.
 - d. Distilled spirits.
 - (4) *Consumption on the premises:*
 - a. Malt beverages.
 - b. Wine.
 - c. Distilled spirits.
 - (5) Any combination of the above at the same location, provided no retail or wholesale license shall hold any consumption on the premises license for the same location.
- (b) A person doing business at more than one place shall take out and pay for a separate license for each place of business.
- (c) Except as otherwise specifically provided in this title, all licenses issued pursuant to this title shall expire on December 31 of each year and application for renewal shall be made annually on or before November 1, in accordance with O.C.G.A. § 3-2-7.
- (d) No license may be renewed if the licensee could be denied a new license under this chapter, except as provided in section 6-25.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2007-O-001, § I, 6-19-07; Ord. No. 2009-O-002, § 2, 4-21-09)

Sec. 6-7. Application procedure.

The provisions of chapter 86, article III, pertaining to occupational license taxes, shall apply in addition to the following:

- (1) All applications for new licenses under this chapter shall be accompanied by a payment in cash or by certified check, for all the minimum fees and occupational taxes provided for in this Code for the classification into which the applicant falls.

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- (2) The county application shall include a photostatic or other copy of all the appropriate state applications and other application forms developed by the administrator.
 - (3) The application shall also contain a form of oath providing that the information disclosed in the application is true and correct, and providing further that the applicant will abide by, observe and conduct his business according to the rules and regulations prescribed by the county, the acts of the general assembly, known as the Georgia Alcoholic Beverage Code, as now or hereafter amended, and the rules and regulations of the state department of revenue in respect thereto. The oath shall be taken by the applicant and the agent in charge of the establishment if different from or additional to the applicant, and the oath shall be taken by the true owners.
 - (4) Any false statement, or material misrepresentation in any application under this chapter, shall be grounds for the revocation of any license granted under this article.
 - (5) At all new businesses where an alcoholic beverage license has not previously been issued, or where there is a change of ownership of the alcoholic beverage license, or where there is any change of licensee, and the licensee has not previously attended a responsible alcohol sales and service policy workshop for owners and managers, the licensee shall attend a workshop which has been approved by the Board of Commissioners. The licensee shall attend said workshop, and proof of completion must be provided, prior to the issuance of any alcoholic beverage license. Such workshop shall be attended by the licensee at the licensee's expense. If, at the time the application is considered by the marshal, the licensee has not provided evidence that the licensee has successfully completed the alcohol sales and service workshop with an approved provider, the application shall be denied. The provisions of this section shall also apply to renewal applications submitted by any existing licensee which has not attended an approved workshop. The workshop provision shall not be waived. Instructors, trainers or any persons associated or employed by the person or organization conducting the training referenced in this subsection shall not appear before any license review board or Board of Commissioners as a representative, attorney, advocate, or witness for any applicant.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 3, 4-21-09)

Sec. 6-8. Plans required.

All applicants for licenses under this chapter shall furnish plans and renderings of the proposed premises. The applicant shall comply with all building, health and similar county codes. Applicants shall obtain and file with their applications a certification of zoning compliance, certifying that the property where the applicant shall operate his business is zoned for the appropriate category as provided in this chapter.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-9. Qualifications of applicant.

No license shall be granted pursuant to this chapter where the application or the evidence shows any of the following conditions to exist:

- (1) The applicant is of bad moral character or has a bad reputation in the community or does not have sufficient mental capacity to conduct the business for which application is made.
- (2) The applicant has had any license issued under the police powers of any county or other governmental subdivision previously suspended or revoked.

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- (3) The applicant, as a previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business within a ten-year period immediately preceding the date of application.
 - (4) An applicant for a retail license is related to any distributor or wholesaler of alcoholic beverages or employees thereof within the first degree of consanguinity or affinity as computed according to civil law.
 - (5) An applicant, or a corporation or partnership of which the applicant is or was an officer, director, shareholder, general partner or managing agent, is delinquent in payment of any property tax or other tax or license fee payable to the county, the county or to the state.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-10. Limitations on who can hold licenses.

- (a) No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any other license under the terms of this chapter.
- (b) No person, related within the first degree of consanguinity or affinity under civil law to any wholesale licensee or employee thereof or any person with any interest therein, shall hold any other license or an interest in any other license issued under this chapter.
- (c) No elected or full-time appointed official of the county or any person related within the first degree of consanguinity or affinity under civil law to such an official of the county shall own any interest in any license issued under this chapter unless one of the following conditions is met:
 - (1) The interest was obtained prior to election or appointment to office;
 - (2) The interest is declared in writing at the time the application for the license is made and the elected or full-time appointed official shall not participate in official action or consideration of the license; or
 - (3) The interest obtained in an ongoing business holding a license is declared in writing at the time of the acquisition and filed with the county marshal.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-11. Prohibition against issuance to persons with criminal convictions.

- (a) No license under this chapter shall be issued, renewed or transferred to any person, partnership or corporation where any individual having an interest either as owner, partner, stockholder, directly or indirectly, beneficial or absolute, shall have been convicted within ten years immediately prior to the filing of the application of any felony or convicted within five years immediately prior to the filing of the application of any misdemeanor relating to any alcoholic beverage business or any state law, county or municipal ordinance violation relating to any alcoholic beverage business.
- (b) The term "conviction" shall include an adjudication of guilt, a plea of guilty or nolo contendere or the forfeiture of a bond in part or in whole when charged with a crime or the suspension or revocation of any alcoholic beverage license owned in whole or in part by persons listed in subsection (a) of this section.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-12. Residency requirements; registered agent.

- (a) For all licenses to be issued under this chapter, an individual applicant shall be a resident of the State of Georgia. Corporations, limited liability companies or partnerships applying for a license must be registered with the Georgia Secretary of State.
- (b) All applications for licenses under this chapter whether by an individual, corporation, partnership, or a limited liability company shall name in the application one or more residents of Cherokee County as the registered agent. The registered agent shall receive all communications, notices, service or process or other papers or documents, on behalf of the licensee in connection with any matter arising out of or connected with the issuance, holding, suspension, revocation or other action with respect to any county license.

The application shall give the Cherokee County mailing address of such registered agent, and the mailing to any registered agent at that address of any notice required to be given under this chapter or any other law shall be sufficient notice to the corporation.

- (c) Such registered agent shall be a representative of the licensee corporation and must be approved by the administrator. The administrator shall refuse to approve any registered agent who is not a bona fide resident of Cherokee County or who has been convicted, within ten years immediately prior to the filing of the application of any felony or convicted within five years immediately prior to the filing of the application of any misdemeanor relating to any alcoholic beverage business or any state law or county or municipal ordinance violation relating to any alcoholic beverage business. As used in this subsection, the term "conviction" shall have the same meaning as in section 6-11.
- (d) If any registered agent shall cease to be the registered agent of the licensee corporation or shall cease to be a resident of Cherokee County or in any manner ceases to meet the requirements of subsection (c) of this section, the licensee shall notify the administrator in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements in subsections (b) and (c) of this section and must be approved by the administrator.

The county shall charge a fee of \$100.00 for a change of the corporation's registered agent; however, if the licensee corporation fails to notify the county and nominate a new registered agent within the five-day period, then the county shall charge a fee of \$200.00 for a change of the corporation's registered agent and/or revoke the licensee's license. The application process includes submitting a revised application, fingerprinting of the ~~registered agent applicant~~, and criminal history investigation.

- (e) Residency Waiver. An applicant may request a waiver to the residency requirement for the registered agent. The decision to approve a waiver is at the sole discretion of the Board of Commissioners and the following criteria may be considered when making a decision:
 - (1) Whether the registered agent resides reasonably close to Cherokee County in a nearby or adjacent county;
 - (2) Whether the applicant sufficiently demonstrated accessibility as a representative of the corporation; and
 - (3) Whether there any extenuating circumstances that warrant approval of the waiver.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 4, 4-21-09)

Sec. 6-13. Police investigation; tax record search.

- (a) The administrator shall cause an inquiry to be made into the county records to determine if the applicant or other parties with an interest in an application for a license under this chapter has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the county. No license shall be issued or renewed until such debts are paid in full.
- (b) As a prerequisite to the issuance of any such permit or license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation, which shall search the files of the state crime information center for any instance of criminal activity during the two years immediately preceding the date of the application. The state bureau of investigation shall also submit the fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification of records. The federal record, if any, shall be obtained and returned to the governing authority submitting the fingerprints.
- (c) If the county marshal determines that the application is not in order, in view of the requirements of federal or state law or this Code and any ~~police department~~ [law enforcement](#) investigation, the ~~police department~~ [Sheriff's county marshal's Office](#) will issue a detailed report to the administrator regarding the reasons for the denial, and the administrator shall then notify the applicant of the reasons for not forwarding the application to the ~~county council~~ [Board of Commissioners](#) for consideration.
- (d) All applicants shall furnish all reasonable data, information and records requested of them by the administrator or ~~police department~~ [Sheriff's county marshal's Office](#) and failure to furnish such data, information, contracts, documents, financial statements and other records within 30 days of the request shall automatically serve to dismiss the application.
- (e) The county marshal shall require in addition to the licensee, fingerprinting and background investigation of any person having a 20 percent financial interest in the application.

The county marshal may require additional information from any sibling of any person with a financial interest, and the nominated registered agent of any corporate applicant. Should the applicant fail to produce such persons within 30 days of the request, the application may be denied.
- (f) Applicants by filing an application agree to produce for oral interrogation any person or persons requested by the county marshal and considered as being important in the ascertainment of the facts relative to such license. The failure to produce those persons within 30 days after being requested to do so may result in a denial of the application.
- (g) The county may require 45 days for processing any application for a license required under this chapter. For investigative purposes, the county marshal may extend the 45 days' processing period according to the licensee's compliance should he or she deem it necessary.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-14. Conditional License pending completion of building.

Where a building in which any person intends to operate under the provisions of this chapter is, at the time of the application for the license, not in existence or not yet completed, a conditional license may be issued for the location provided the plans for the proposed building show clearly a compliance with the other provisions of this chapter. No sales or consumption shall be allowed in the establishment until it has been completed in accordance with the plans and is in conformity with all of the other provisions of this Code and has been issued a certificate of occupancy. Any conditional license issued under this section shall be subject to the following conditions:

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- (a) A site plan must be submitted and must have an assigned address prior to submittal of the application for the conditional license;
 - (b) The license shall not become operational for purposes of selling alcohol until such time as the outlet receives a certificate of occupancy from Cherokee County;
 - (c) The applicant shall be required to submit a new survey, dated no more than 30 days prior to the receipt of the certificate of occupancy, confirming distance measurements to ensure that setbacks are met;
 - (d) Following receipt of a certificate of occupancy and approval of the new survey, the license will [automatically](#) convert from a conditional license into an approved license for the sale of alcohol [without further action of the County](#);
 - (e) ~~Conditional licenses may be eligible for renewal at the end of the calendar year only one time.~~ If more than six (6) months have elapsed since the issuance of a conditional license and condition (d) has not yet been met, a public hearing will be set before the Board of Commissioners to review whether the conditional license should be extended or deemed null and void.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-15. Time limit on opening business; continuity of business.

- (a) All licensees under this chapter must, within 90 days after the issuance of a county license [or upon the automatic conversion of a conditional license to a county license pursuant to Section 6-14 above](#), open for business. Failure to open for business shall constitute a forfeiture and cancellation of the issued licenses and no refund of license fees or occupational taxes shall be made. Any applicant unable to comply with the time limit of this section may make written request to the administrator for an extension of time not to exceed 90 days; and the administrator at his discretion may grant or deny the request.
- (b) Any license issued under this chapter shall automatically be null and void where the licensed business has not operated or ~~been open~~ [ceases to be open](#) to the public for [any](#) six consecutive months.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-16. Denial of license application.

- (a) The county marshal must take action to consider an application for a license required by this chapter within 45 days of the administrator receiving a complete application.
- (b) The county marshal may deny a county license under this chapter on any of the following grounds:
 - (1) Failure to meet state requirements for state license;
 - (2) Failure to pay required fees and taxes;
 - (3) Failure to provide valid information, documents and the like required by this chapter;
 - (4) False information in the application or attached documents;
 - (5) Improper residency of applicant, owner or registered agent;
 - (6) Failure to pass review by the county marshal;
 - (7) Failure to post and maintain proper signs and advertisements required in this chapter;
 - (8) Failure to meet distance, location exterior surface or building requirements;
 - (9) Prior convictions as provided in this chapter; or

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- (10) Failure to meet any other requirements in this chapter for a license of the class applied for.
- (c) All decisions denying a license shall be in writing, with the reasons for denial stated and shall be mailed or delivered to the applicant.
- (d) The applicant has 30 days from the date of written notice of the denial of a license application within which to petition for reconsideration by the Board of Commissioners. The applicant shall be scheduled for review and a public hearing at the next regularly scheduled meeting of the Board of Commissioners for which a timely legal advertisement may be run. The public hearing shall be advertised in the county legal organ at least once prior to the date of the hearing. The applicant will be granted an opportunity to present additional information, evidence and cross examine witnesses before the Board of Commissioners. In making its determination on whether to uphold or reverse the county marshal's denial, the Board of Commissioners shall look to the qualifications set forth in this chapter and consider the public interest, safety, and welfare. The Board of Commissioners shall have the sole discretion to uphold or reverse the county marshal's denial. Notice of the decision by the Board of Commissioners shall be made in writing to the applicant and set forth in reasonable detail the reasons for the decision and shall notify the applicant of his/her right to appeal to the Superior Court of Cherokee County, Georgia within 30 days of written notice of the decision.
- (e) An application which has been denied shall not be resubmitted for 12 months after the denial unless there is a substantial change therein which would affect the reason for denial originally.
- (Ord. No. 2004-O-009, 11-16-04)

Sec. 6-17. Additional standards for issuance, transfer of license.

- (a) In the issuance of licenses or the transfer or renewal of licenses required by this chapter, the county marshal may, in its discretion, issue or deny any application for a license, renewal or transfer of an existing store location based upon the following standards, in addition to standards previously set forth:
- (1) Where there is evidence that, even though there is compliance with the minimum distance to schools and churches, the type and number of schools or number of churches in the vicinity cause minors to frequent the immediate area.
 - (2) Where there is evidence that the location or type of structure could create difficulty in police supervision.
 - (3) Where 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 as required in the zoning ordinance. A licensee shall have sufficient parking on the premises so as to provide parking for his customers and so as to prevent parking on the streets or adjoining property.
 - (4) Where there is evidence that the licensee or his spouse is related to any distributor or wholesaler of malt beverages or employees thereof within the first degree of consanguinity or affinity as computed according to the civil law so that there might be special concessions granted the licensee to give him a competitive advantage over others not similarly privileged.
 - (5) For retail package license applicants, where there is evidence that the licensee applicant or his spouse is related in the first degree described therein to other licensees of malt beverages or wine in the county.
 - (6) Where there is evidence that alcoholic beverages have been sold by the applicant or at the establishment to intoxicated persons or to a minor.
 - (7) Where there is evidence that the conducting of the business creates a disturbance, congregation of intoxicated persons, congregation of minors, allows minors to purchase, drink or possess alcoholic

beverages on the premises, or causes the county marshal ~~sheriff~~ to answer complaints or provide extra surveillance of the premises. More than three minors without the supervision of a parent or under supervision of an adult authorized by a parent shall be prima facie evidence of a congregation of minors.

- (b) In addition to subsection (a) of this section and in determining whether or not any license applied for shall be granted, the following shall be considered in the public interest and welfare:
- (1) If the applicant is a previous holder of a license, the manner in which he conducted the business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - (2) The location for which the license is sought as to traffic congestion, general character of the neighborhood and the effect such an establishment would have on the adjacent and surrounding property values.
 - (3) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought.
 - (4) If applicant's spouse shall not be able to meet the qualifications of an applicant, particularly if it appears that the applicant's spouse or another person is using the applicant as a guise or dummy to obtain a license.
- (c) The applicant has 30 days from the date of written notice of the denial of a license application within which to petition for reconsideration by the Board of Commissioners. The applicant shall be scheduled for review and a public hearing at the next regularly scheduled meeting of the Board of Commissioners for which a timely legal advertisement may be run. The public hearing shall be advertised in the county legal organ at least once prior to the date of the hearing. The applicant will be granted an opportunity to present additional information, evidence and cross examine witnesses before the Board of Commissioners. In making its determination on whether to uphold or reverse the county marshal's denial, the Board of Commissioners shall look to the qualifications set forth in this chapter and consider the public interest, safety, and welfare. The Board of Commissioners shall have the sole discretion to uphold or reverse the county marshal's denial. Notice of the decision by the Board of Commissioners shall be made in writing to the applicant and set forth in reasonable detail the reasons for the decision and shall notify the applicant of his/her right to appeal to the Superior Court of Cherokee County, Georgia within 30 days of written notice of the decision.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 5, 4-21-09)

Sec. 6-18. Inspections.

Any establishment holding a license issued under this chapter shall at all times, during the period allowable by law for operation of the business, be open to inspection by any officer of the police department ~~Sheriff's county marshal Office~~ or any license inspector of the county or to any person designated by the county marshal. In addition, if the premises are being used after hours by employees or the owners or their agents, the premises may be inspected at this time by the designated persons in this section.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-19. Open containers prohibited.

- (a) No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises, upon which the place of business is conducted and licensed under this chapter, whether the bottle

or other container so opened or consumed was bought or obtained at that place of business or elsewhere unless the premises is licensed for consumption on the premises under this chapter.

- (b) No establishment licensed under this chapter to sell alcoholic beverages shall allow a person to leave those premises with alcoholic beverages in an open cup, bottle, can or other open container.
- (c) The provisions of this section shall not apply to county-sanctioned events.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-20. Hours and days of operation.

- (a) *Sales by consumption on premises licensees.* Except as provided for in subsection (d) below, no licensee under this chapter or person employed by a licensee shall sell, offer for sale, transfer or offer to transfer to others any distilled spirits, malt beverages and/or wine for consumption on the premises between the hours of 2:00 a.m. on Sunday and 6:00 a.m. the following Monday morning and between the hours of 2:00 a.m. and 6:00 a.m. on the other days of the week; and it shall be unlawful for any person to purchase, receive or offer to receive from a licensee or person employed by a licensee any distilled spirits, malt beverages and/or wine for consumption on the premises between the hours of 2:00 a.m. on Sunday and 6:00 a.m. the following Monday morning and between the hours of 2:00 a.m. and 6:00 a.m. on the other days of the week.
- (b) *Malt beverages and wine package sales.* No licensee under this chapter or person employed by a licensee shall sell, offer for sale, transfer or offer to transfer to others any packaged malt beverages or wine between the hours of 12:00 a.m. and 12:30 p.m. on Sunday, and between the hours of 11:30 p.m. on Sunday and 6:00 a.m. on the following Monday morning, and between the hours of 2:00 a.m. and 6:00 a.m. on the other days of the week; and no person shall purchase, receive or offer to receive from a licensee or person employed by a licensee any malt beverages or wine between the hours of 12:00 a.m. and 12:30 p.m. on Sunday, and between the hours of 11:30 p.m. on Sunday and 6:00 a.m. on the following Monday morning, and between the hours of 2:00 a.m. and 6:00 a.m. on the other days of the week.
- (c) *Sales on election days.* Pursuant to O.C.G.A. § 3-3-20(b), the sale by wholesale and retail of alcoholic beverages (distilled spirits, wine and malt beverages), shall be lawful during the polling hours of any election; however, nothing in this subsection shall authorize the sale of alcoholic beverages within 500 feet of a polling place during such time as the polls are open.
- (d) *Sunday sales.* A Sunday sales permit is required for the sale of alcoholic beverages on Sundays. The following conditions are applicable to such sales:
 - (1) The establishment must hold a valid county alcoholic beverage pouring license or retail package sales license as applicable to the application for the Sunday sales permit.
 - (2) Alcoholic beverages may be sold and served for consumption on the premises on Sundays from 11:00 a.m. until 2:00 a.m. the following Monday in any licensed establishment which derives at least 60 percent of its total gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served, and in any licensed establishment which derives at least 60 percent of its total annual gross income from the rental of rooms for overnight lodging.
 - (3) Packaged malt beverages and wine may be sold between the hours of 12:30 p.m. and 11:30 p.m. on Sunday in an establishment licensed for retail package sales of malt beverages and wine.
 - (4) Applicants for Sunday sales permits shall complete an application form furnished by the county marshal, supplying such information as may be requested. Prior to issuance of a Sunday sales permit for sales by the drink for consumption on the premises, the applicant must make available records for determining whether the applicant meets the sales requirements of subsection (d)(2) of this section.

The permit may be denied or revoked for failure to conform or failure to produce satisfactory evidence of conforming as contained in the chapter.

- (5) Annual Sunday sales permit renewals shall be made in the same manner and during the same time periods as other alcoholic beverage license renewals. All holders and applicants of an alcoholic beverage license and Sunday sales permit must make available records for audit purposes upon the request of the county administrator or his agent. The books, records, inventory, stock and facilities of any alcoholic beverage holder or applicant shall be open for inspection at any time by agents of the county marshal's department.
- (6) Sunday sales permits are not transferable.
- (7) The fee for issuance of the Sunday sales permit for establishments licensed to sell by the drink and Sunday sales permits for establishments licensed for retail sales of packaged malt beverages and wine may be established and/or changed from time to time by the Board of Commissioners, and a schedule of fees shall be available in the county marshal's office.
- (8) The Sunday sales permit shall be subject to the revocation procedures of section 6-4, and shall be automatically revoked if the alcoholic beverage license is revoked.
- (9) When any application for a Sunday sales permit has been denied for a location, no application for a Sunday sales permit may be made for the same location for a period of 12 months from the date of filing of the application which was denied.
- (10) No bars as defined in this chapter shall be allowed.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2007-O-006, §§ 1, 2, 10-2-07; Ord. No. 2009-O-002, § 6, 4-21-09; Ord. No. 2011-O-009, §§ 1, 2, 12-6-11; Ord. No. 2018-O-006, § 1, 8-21-18)

Sec. 6-21. Certain places and hours where drinking is prohibited.

- (a) Notwithstanding any other provisions governing the hours of operation of a licensed establishment, no person, firm or corporation owning or operating a place of business licensed under this chapter shall permit any person to drink any distilled spirits, wine, beer or other alcoholic beverage upon the business premises between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.
- (b) No person shall possess, consume, or transport an open container containing any distilled spirits, wine, beer or other alcoholic beverage while upon the streets, sidewalks, or public places of the county, or upon or within any vehicle upon the premises of any business establishment holding a license under this chapter, or in any adjacent parking area of any business establishment holding a license under this chapter. The provision of this subsection pertaining to public places only shall not apply to special events that have been approved in advance and in writing by the marshal's office according to the procedures set forth under section 6-26 of this chapter, such as motorcycle "bike nights," car shows, and similar events which may take place in the parking area of a business establishment holding a license under this chapter.
- (c) No person shall drink any distilled spirits, wine, beer or other alcoholic beverage upon any county property, within any county-owned park or building, or within the boundaries of any other county-owned facility; with the exception of alcoholic beverages purchased from a vendor licensed to sell and dispense alcoholic beverages at approved scheduled functions at the Cherokee County Conference Center. This provision must be read in conjunction with the employee drug and alcohol policies and procedures set forth in the Cherokee County Personnel Policy Manual and Employee Handbook, as such policies and procedures now exist or may be amended in the future. This provision shall not apply to events sponsored by the county.
- (d) [In addition to the enforcement of other applicable State laws,](#) violations of this section shall be subject to the issuance of a citation by a certified peace officer with jurisdiction over the venue, returnable to the

magistrate court of the county. Any persons found in violation of this section shall be subject to a fine not to exceed \$1,000.00 and/or imprisonment of not more than 60 days.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 7, 4-21-09; Ord. No. 2010-O-002, § 2, 5-4-10; Ord. No. 2011-003, § 1, 2-1-11; Ord. No. 2015-O-001, § 1, 6-16-15)

Sec. 6-22. Drive-in, curb service .

- (a) A retailer is permitted to load purchased goods in a customer's vehicle when the sale has previously taken place inside the premises.
- (b) Subject to the requirements of state law, retailers may offer "online curbside pickup"-type services for sales of alcoholic beverages.
 - (1) Purchased goods must be delivered to the customer's vehicle and the vehicle must be located within a clearly designated pickup area located within a paved parking area adjacent to the premises.
 - (2) If the premises is located in a shopping center or other single property owned or leased by more than one business, at the discretion of the Georgia Department of Revenue, the pickup area may be located within a paved parking area that is a part of or adjacent to such shopping center or single property, as long as the pickup area is owned or leased by the retailer or the retailer's landlord and is under the supervision and control of the retailer.
- (c) Alcoholic beverages sold as part of "online curbside pickup" services must be pulled from the inventory located at the licensed location of the retailer providing the "online curbside pickup" services and may not be pulled from the inventory of another retailer or licensed location.
- (d) Retailers shall require any customer to register with the retailer before permitting the customer to order alcoholic beverages for "online curbside pickup."
- (e) Any employee delivering alcoholic beverages to a vehicle for 'online curbside pickup' must confirm the individual receiving the alcoholic beverages is at least 21 years of age.
- (f) Drive-in service windows at premises licensed under this chapter are prohibited.
- (g) "Online curbside pickup" shall not be offered by any retailer licensed to sell for consumption on the premises.

Sec. 6-23. Offenses involving minors.

- (a) No person under 21 years of age shall buy or allow to be bought for him any alcoholic beverage from any place where these beverages are kept.
- (b) No person in charge of, or employed in, any place of business where alcoholic beverages are kept, shall permit any person under 21 years of age to buy or allow to be bought for any person under 21 years of age any alcoholic beverages in or from the place of business or to frequent or loiter about the premises unless accompanied by a parent or legal guardian.
- (c) No person shall furnish or serve any person under 21 years of age with any alcoholic beverage. A valid driver's license may be reasonably accepted by the person hereunder as sufficient evidence of age.
- (d) No person under 21 years of age shall falsely represent his age, in any manner whatever, for the purpose of illegally obtaining any alcoholic beverages.
- (e) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage. However, the provisions of this section shall not prohibit persons

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under 18 years of age who are employed in supermarkets, convenience stores or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

- (f) No person who is under 21 years of age shall have in his possession, or under his control, at any place whatever in the county, any alcoholic beverage.
- (g) In addition to the enforcement of other applicable State laws, violation of any provision of this section shall constitute an offense under this chapter and shall be punishable in the magistrate court; provided, violation of this section by persons who have not yet reached the age of 17 shall be handled as provided by the juvenile court code of the state.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-24. Measurement of distances.

- (a) Unless otherwise provided by law or this ordinance, all measurements, to determine distances, required by this chapter, for the issuance of county beverage licenses, shall be measured by the most direct route of travel on the ground as follows:
 - (1) In a straight line from the front door of the structure from which beverage alcohol is sold or offered for sale;
 - (2) To the front door of the building of a church, government-owned- alcohol treatment center, or Package Store selling distilled spirits; ~~Retail location, or a Package store selling distilled spirits;~~ or
 - (3) To the nearest property line of the real property being used ~~for as~~ school grounds or educational purposescollege campus;
 - (4) To the front door of a residential structure.
 - (4) All renewal applications shall use the measurements required in the initial application and license.
 - (5) Applicants for Package Stores selling distilled spirits are required to provide a survey stamped and signed by a registered surveyor to verify compliance with distances. All other applicants may be required to provide a survey at the discretion of the county marshal.
- (b) The table below lists the distance in feet which various types of alcoholic beverage sales establishments must meet from an existing regulated land use.

Distance of Type Beverage Sales From Existing Land Use In Feet	School	Church	Day-Care Center <u>Government-owned Alcohol Treatment Center</u>	Hospital, Nursing Home	Residential	Package Store selling distilled spirits
Consumption on premises restaurant – <u>beer and wine only</u>	300 <u>600</u>	300	600 <u>300</u>	600	600	N/A
Consumption on premises <u>lounge beer, wine, and distilled spirits</u>	600	300	600 <u>300</u>	1,000	600	N/A
Convenience store beer and wine	300	300	300	300	300	N/A

Major grocery store beer and wine	300	300	300	300	300	N/A
Package Store selling distilled spirits	600	300 600	600 300	600	600	5,280 (1 mi)

- (c) The distance requirements set forth in the table pertaining to distances from Residential land uses shall not apply when the licensee's establishment is: (1) part of an approved mixed-use or master planned development that includes the particular Residential land use in conjunction with Commercial, Office, or Industrial uses (which phrase "master planned development" includes, but is not limited to, planned development in the TND district); or (2) the licensee's establishment is part of the particular residential development and/or exists to privately serve such residential development.
- (d) The distance requirements set forth in the table pertaining to distances from Residential land uses may be waived, varied, or modified at the discretion of the Board of Commissioners upon good cause being shown in consideration of surrounding land use.
- (e) The one (1) mile distance between Package Stores selling distilled spirits is required. This distance requirement may be waived, varied, or modified at the discretion of the Board of Commissioners. The following criteria may be contemplated when considering a modification of the distance requirement between Package Stores selling distilled spirits:
- (1) Whether the applicant meets all other requirements of the ordinance;
 - (2) The applicant's consideration and search for other properties that would meet the distance requirement;
 - (3) Whether the applicant adjusted the site plan and building placement to maximize the distance of the front door from the nearest front door of a package store selling distilled spirits;
 - (4) Whether the package store selling distilled spirits, that is within one mile of another packaged store selling distilled spirits, is located in another jurisdiction and/or is smaller in size than the proposed packaged store;
 - (5) Whether the population density, expected market served, and anticipated growth in the immediate area sufficient to support a new packaged store selling distilled spirits within one mile of an existing packaged store selling distilled spirits;
 - (6) Additional factors as raised by the applicant, staff or Board of Commissioners that might support the approval of the request.

[See also O.C.G.A § 3-3-21.](#)

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2007-O-006, § 3, 10-2-07; Ord. No. 2009-O-002, § 8, 4-21-09)

Sec. 6-25. Existing licensed business; compliance.

- (a) To prevent an unconstitutional taking of property, all licensees for alcoholic beverages within the county in compliance with county ordinance requirements involving residency, distance, location, parking and type of building structure in effect at the time of first receiving the license and continuing to be in compliance therewith shall be exempt from the requirements of this chapter involving residency, distance, location, parking and type of building structure. Renewals of such licenses shall also be deemed in compliance under this section to the extent provided in this subsection.

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- (b) Transfers of business ownership at the same location shall be deemed in compliance under this section with regard to the county Code requirements involving distance, location, parking and type of building structure, provided that such business complied with such requirements at the time a license was first issued for such business and further provided that such business has continuously been in compliance with such requirements. These transfers may be approved by the administrator, provided the transferee meets all of the license requirements for a new license.
 - (c) Business transfers to new locations and new licenses must comply with all requirements of this chapter and must be approved by the Board of Commissioners.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-26. Temporary permit for special event in parking lot of licensed establishment.

- (a) The licensee or owner of a business establishment holding a license under this chapter allowing consumption of alcohol on the premises may be issued a special event permit to conduct a special event in the parking lot of the licensed establishment, under the following terms and conditions:
 - (1) Applications for special event permits must be in writing on forms provided by the marshal and must be received with the applicable fee, as established by the Board of Commissioners, at least 30 days prior to the date of the scheduled special event. Application forms are available in the marshal's office.
 - (2) Special events must take place entirely within the private parking lot of the licensed establishment.
 - (3) Special events shall comply with all applicable provisions of state and local law pertaining to the sale and distribution of alcoholic beverages and all zoning and land use regulations.
 - (4) The applicant must obtain a permit from the county building department for any tent, canopy, awning, or other structure installed or erected for the event, which covers an area larger than 120 square feet.
 - (5) All signage advertising the event must be approved in writing by the county planning and zoning department.
 - (6) The presence, location, or concentration of persons, animals, structures, vehicles, displays, or other items incident to the conduct of the event shall not interrupt the safe and orderly movement of pedestrians and vehicles entering and exiting the property.
 - (7) The presence, location, or concentration of persons, animals, structures, vehicles, displays, or other items incident to the conduct of the event shall not interfere with access to the event area or contiguous areas by law enforcement, fire, ambulance, or other emergency vehicles.
 - (8) The marshal or his designee may deny or immediately revoke any special event permit if it is determined that the special event violates any provision of state or local law or if it is determined that the sale, distribution, or consumption of alcoholic beverages at the event may endanger the health, safety, or welfare of the public.
 - (9) The establishment shall provide an adequate security detail for the event to ensure proper crowd control and to avoid a breach of the public peace.
- (b) No licensed establishment shall be permitted to host more than three special events under this chapter in any calendar year.

(Ord. No. 2010-O-002, § 3, 5-4-10)

Sec. 6-27. Temporary pouring license for special events by nonprofit organizations.

- (a) A temporary pouring license may be issued to any person, firm or corporation, for a period not to exceed six days in any one year, for an approved special event conducted by or for the benefit of a certified nonprofit or civic organization. The person, firm or corporation must make application on forms provided by the marshal's office and pay the fee as established by the Board of Commissioners. The applicant shall be required to comply with all of the general ordinances and licensing and regulations applicable to an establishment licensed for consumption on the premises, with the exception that the full-service kitchen requirement shall not apply.
- (b) The special event must meet the following criteria before the issuance of a license to sell alcoholic beverages:
 - (1) The special event must be associated with and benefit the cause of a charitable or civic organization; and
 - (2) The location and premises at which the special event is to take place must be approved by the Board of Commissioners, upon recommendation from the marshal or his designee.
- (c) Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event but shall be at least 21 years of age.
- (d) The marshal or his designee may immediately revoke any temporary license for a special event if continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition precedent to the issuance of a temporary special event license, the licensee shall indemnify, in writing, and hold Cherokee County and all its departments, agencies, officials, officers, and employees forever harmless from claims, demands, or causes of action that may arise from activities associated with the special event.
- (f) The marshal shall issue the temporary special event license to the applicant upon compliance with the terms hereof and upon approval by the sheriff, Board of Commissioners, and planning department, as required herein.
- (g) It shall be unlawful for any person, entity, or organization to sell, dispense, or distribute alcoholic beverages at a special event for a nonprofit or civic organization, except in accordance with this section.

(Ord. No. 2010-O-002, § 4, 5-4-10)

Secs. 6-28. Home delivery of alcohol.

- (a) For all purposes of this section, a "packaged goods retailer" shall have the same meaning as provided in O.C.G.A. § 3-3-10.
- (b) Subject to any authorizations and requirements of state statutes and regulations, packaged goods retailers may engage in home delivery of alcohol with a home delivery license as follows:
 - (1) Holders of a retail license for malt beverages shall be permitted to sell malt beverages by the package for delivery;
 - (2) Holders of a retail license for wine shall be permitted to sell wine by the package for delivery;
 - (3) Retail package stores who are also packaged goods retailers holding a retail license for distilled spirits shall be permitted to sell distilled spirits by the package for delivery;

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- (4) Holders of a consumption on the premises license for malt beverages shall be permitted to sell malt beverages by the package for delivery;
 - (5) Holders of a consumption on the premises license for wine shall be permitted to sell wine by the package for delivery.
 - (c) The fee for issuance of a home delivery license may be established and/or changed from time to time by the Board of Commissioners and a schedule of fees shall be available in the Development Service Center.
 - (d) The delivery address shall be located within the unincorporated county.
 - (e) A package goods retailer may deliver to an individual for personal use, but not for resale.

6-29.—6-60. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGE TAX AND REGULATION²

DIVISION 1. GENERALLY

Secs. 6-61—6-80. Reserved.

DIVISION 2. DISTILLED SPIRITS

Sec. 6-81. License for package stores, fees.

- (a) In addition to the requirements of this chapter, a license for the retail sale of package distilled spirits upon the terms and conditions provided in this article shall be granted by the board of commissioners and evidenced by a written approval executed by the majority of the members of the board of commissioners. Upon the compliance with the foregoing provision and at the direction of the board of commissioners, the county manager or his/her designee shall issue a license. Notwithstanding any other provisions to the contrary, the standards set forth in this division shall govern the requirements for Package Stores selling distilled spirits.
- (b) No owner shall hold more than one approved license.
- (c) Licenses are nontransferable.
- (d) A license is issued only once the building housing the package store has received a certificate of occupancy (C.O.). The county may issue a conditional license pending the completion of building construction and pursuant to the provisions of obtaining a conditional license under this ordinance, however, the license is not valid until a C.O. is issued. See also Section 6-14.

²Cross reference(s)—Taxation, ch. 86.

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- (e) Once a license is issued or upon the automatic conversion of a conditional license to a county license pursuant to Section 6-14 above, the package store must be operating and open to the general public within ~~twelve (12) months~~ninety (90) days from the issue date or the license is void. With project delays or demonstrating extenuating circumstances, licensees may request extensions of time from the Board of Commissioners, however, the decision to grant an extension is at the sole discretion of the Board of Commissioners.
 - (f) The administrative process for acceptance of applications shall be determined by the ~~issuing a distilled spirits retail license shall be determined by the~~ Board of Commissioners by its adoption of an administrative policy that may be amended from time to time.

Sec. 6-82. Both retail sale of package malt beverages and wine and package distilled spirits.

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

Sec. 6-83. Distilled spirits retail districts, location requirements

- (a) *Distilled Spirits Retail Districts.* Six (6) distilled spirits retail districts are hereby created, as identified on Exhibit "A" and kept on file with the Community Development Agency and the County Clerk. Only one package store selling distilled spirits is allowed in each distilled spirits retail district, or on a property within one (1) mile of the distilled spirits retail district boundary. Therefore only six (6) licenses are available. The Board of Commissioners may amend or discontinue a distilled spirits retail district in their sole discretion.
- (b) *Zoning.* The retail sale of distilled spirits by the package is only allowed with a Special Use Permit (SUP) in the General Commercial (GC) District, the Traditional Neighborhood Development (TND) District, as well as on properties within existing PUD developments that have been designated for commercial use. See The 1992 Zoning Ordinance of Cherokee County, Table 7.2.
- (c) *Roadway access.* Any outlet selling distilled spirits must be on a property with frontage on an arterial or major collector roadway.
- (d) *Distance.* A package store selling distilled spirits shall not be located closer than one (1) mile or 5,280 feet to another package store selling distilled spirits, as measured in accordance with Section 6-24.
- (e) *Additional Distilled Spirits Retail Districts.* The Board of Commissioners created the distilled spirits retail districts based on commercial center nodes and character areas established by the Comprehensive Plan that support GC District uses.

At the time of adoption of the distilled spirits retail districts, the most recent decennial United State Census was conducted in 2020, establishing the Cherokee County population at 266,620. At the same time, the cities in the county were found to have entitled fourteen (14) package stores selling distilled spirits. Along with the six (6) licenses provided by the county through this ordinance, twenty (20) package stores selling distilled spirits are anticipated to be operating countywide. Upon the issuance of all licenses, one package store selling distilled spirits per 13,331 residents is provided.

At the sole discretion of the Board of Commissioners, a new distilled spirits retail district may be created considering some or all of these criteria, in addition to other information provided at the time:

- (1) Whether, based on the latest U.S. Census population estimates or the most recent decennial U.S. Census, an increase in population warrant consideration of a new distilled spirits retail district;

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- (2) Whether the population density increased in an area of the county that warrants consideration of a new distilled spirits retail district;
 - (3) Whether any changing market factors or indicators encourage the creation of a new distilled spirits retail district;
 - (4) Whether the development or redevelopment of an area encourage the creation of a new distilled spirits retail district;
 - (5) Whether the creation of a new distilled spirits retail district benefits the health, safety, and welfare of the citizens of Cherokee County;
 - ~~(6)~~ (6) Whether any ongoing or anticipated changing conditions or circumstances that warrant the creation of a new distilled spirits retail district;

Sec. 6-84. Building Requirements

- (a) Package stores selling distilled spirits must operate as sole tenants in freestanding buildings of at least 5,000 square feet in size.
- (b) Freestanding package stores selling distilled spirits must be located on property that is a minimum of one-half acre in size with a minimum of 100 feet of frontage on an arterial or major collector street.
- (c) Building Design:
 - i. Exterior façade material shall have no less than 90% of the non-glass area faced with natural colored brick stone or precast stone that simulates traditional types of masonry found in Cherokee County. Acceptable accent materials ~~to~~ are limited to wood, cementitious material, architectural metal or stucco. Concrete block is strictly prohibited. Finishes shall be muted, neutral colors such as white, cream, tan, brown, grey, black, dark red, navy and dark green.
 - ii. All facades of the building that are visible from the right-of-way shall have clear, vision glass windows that cover at least 15% of each façade. These windows must remain free of window signs or other obstructions with a clear view to the inside of the store, with the exception of the posting of ~~besides~~ an open sign and ~~posted~~ hours of operations. See also Section 6-89.
 - iii. Window areas shall not extend down to the floor line. A kneewall of not less than 2 feet in height shall be required at all window locations.
 - iv. All openings, including doors & windows shall be vertical or square in proportion. Storefront systems may be used within punched openings that are taller vertically than wide.
 - v. Window openings wider than 4 feet or taller than 6ft must have intermediate true muntins. "Snap-in" or between glass muntins are prohibited.
 - vi. "Owner shall provide a sufficient, interior inventory area separate from the patron use area. Building plans shall designate a sufficient interior inventory area commensurate with the size of the building, demonstrated on the building plans provided."
- (d) Signage:
 - i. Wall signage shall be channel-type letters with internal or backlit illumination.
 - ii. All wall signs shall be muted, neutral colors such as white, cream, tan, brown, grey, black, dark red, navy and dark green. Bright or vibrant colors are prohibited.
 - iii. All other sign requirements can be found in Article 11 – Signs and Outdoor Advertising of the 1992 Cherokee County Zoning Ordinance.

(e) Security cameras required:

i. A continuous digital video recording system is required as specified by the Sheriff's Department Marshal's Office. This system shall be dedicated to each register area and at each entrance and exit with cameras and lens of a type, number, and location as approved by the Sheriff's Department Marshal's Office. Such system must be capable of producing a retrievable and identifiable image on electronic media such as CD, DVD, flash drive or other electronic media acceptable to the Sheriff's Department Marshal's Office that can be made a permanent record and that can be enlarged through projection or other means. The video recording system is required to display the time and date on the video recording.

ii. Security cameras shall be maintained in proper working order at all times and shall be in operation at all hours in which such establishment is open for business. The camera shall be subject to periodic inspection by the Sheriff's Department Marshal's Office along with the person on duty at the time of the inspection and in the event the primary system becomes inoperable, the licensee must have the video system repaired or have availability of a backup camera system within a ten-day period of time. In addition, in the event the camera becomes inoperable, the licensee must immediately notify the Sheriff's Department Marshal's Office. If a crime occurs or an employee believes a crime has occurred, the Sheriff's Department Marshal's Office shall be contacted immediately, and the film retrieved by a designated law enforcement officer.

iii. It shall be the responsibility of the licensee or licensee's representative to adequately and properly train any and all employees to determine if the video system is working correctly each day at the beginning and end of their shift, and said employees shall be given instructions as to what steps are to be taken if the system is not working correctly, to specifically including without limitation, the identity of and contact information for the person to whom an any operational issues are to be reported. If there is an alleged felony committed against the owner or any employee which occurs on the premises, a person who can operate the camera system must be available within thirty (30) minutes one (1) hour of law enforcement's arrival on the scene following the alleged crime so that camera footage can be shown and/or provided to law enforcement.

iv. The video recording system shall be operational at the time of alcohol license issuance.

(f) Product deliveries shall be made at the rear of the store building and all loading areas, dumpsters, recycling bins, and compactors shall be screened from view at ground level.

(g) Packaged retail store selling distilled spirits shall have no outdoor storage, including the storage of shopping carts.

(h) Packaged retail store selling distilled spirits shall have no drive-through windows.

(i) Package stores with a license to sell distilled spirits shall only be located in outlets devoted exclusively to the sale of distilled spirits, malt beverages, or wine. A distilled spirits packaged goods license retail license for Package stores selling distilled spirits shall be prohibited in outlets that sell groceries, food, gasoline, and other such commodities.

Sec. 6-85. License, administrative, and investigative requirements; licensing process; fees

(a) Please refer to article I, section(s) 6-5 et seq for license, administrative and investigative requirements and the administrative process adopted by the Board of Commissioners with respect to the acceptance of applications.

(b) Licensing process. The licensing process is as follows:

i. Step 1. An Applicant shall first submit an application for an alcohol license, meeting the requirements of Section 6-5 et seq. and the administrative process adopted by the Board of Commissioners.

ii. Step 2. The alcohol license application and accompanying documentation will be reviewed by the Administrator and county staff for completeness and accuracy.

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- iii. Step 3. Once the alcohol license application is determined complete and does not contain any deficiencies indicating a violation of this ordinance, except for zoning compliance, the applicant will receive a Preliminary Certificate of Compliance (hereinafter referred to as a "Finalist") that will entitle the Finalist to proceed to the next step. If an alcohol license application is found noncompliant, the applicant will be notified in writing of the deficiencies and the application is void. An application that is deemed to be void may be resubmitted if time allows before the applicable deadline for accepting applications as established by the administrative process adopted by the Board of Commissioners. Neither the Administrator or county staff have any obligation to review any application in a particular timeframe to ensure that there is an opportunity for a second submittal of a void application prior to the deadline for acceptance of applications. Each applicant is expected to manage the timeline of the application process and ensure the completeness of the application submitted.
- iv. Step 4. If more than one application receives a Preliminary Certificate of Compliance for the same distilled spirits retail district, each Finalist Preliminary Certificate of Compliance will be assigned a number by the Administrator for purposes of being placed into a lottery. The administrator and/or county staff shall present the Finalists to the Board of Commissioners at the first available regularly scheduled meeting after the compliance review has been completed by the Administrator and county staff for purposes of the Board of Commissioners calling for an advertisement to be placed in the legal organ of the County to provide the public with a thirty-day notice of the meeting at which the lottery selection will occur. Within ~~sixty (60)~~thirty (30) days thereafter ~~with advance public notice given~~being published in the legal organ of the County, a lottery will be conducted by an independent third party selected by the Board of Commissioners. The lottery will occur at a duly advertised public meeting under the supervision of the Administrator and the county attorney. The ~~number of the Preliminary Certificate of Compliance Finalist that is selected during the lottery for each district may proceed to Step 5 (the "Successful Finalist"); all other Preliminary Certificates of Compliance Finalists shall be ranked in the order in which they are drawn in the lottery following the selection of the Successful Finalist and shall remain on an eligibility roster pending the Successful Finalist's completion of the process and securing of the retail distilled spirit license.~~are void.
- v. Step 5. Once the ~~Preliminary Certificate of Compliance~~Successful Finalist has been chosen in the lottery ~~is issued to the applicant, the applicant~~Successful Finalist has ninety (90) days to apply for a Special Use Permit (SUP) in accordance with the 1992 Zoning Ordinance of Cherokee County. The failure to apply for a SUP will result in the ~~termination of the application of the Preliminary Certificate of Compliance;~~Successful Finalist being void, in which case, the next ranked Finalist will emerge as the Successful Finalist and will proceed to Step 5, and so on until a Successful Finalist fulfills the requirements of each Step.
- vi. Step 6. The ~~applicant~~Successful Finalist must receive a SUP within 180 days from submitting a SUP application, unless the Board of Commissioners determines that additional time is necessary, otherwise the ~~Preliminary Certificate of Compliance~~application of the Successful Finalist is void, in which case, the next ranked Finalist will emerge as the Successful Finalist and will proceed through the process starting at Step 5 and so on until a Successful Finalist fulfills the requirements of each Step;
- vii. Step 7. If the SUP is approved by the Board of Commissioners, the Successful Finalist ~~applicant~~will be issued a conditional license. If the SUP is denied by the Board of Commissioners the ~~Preliminary Certificate of Compliance~~application of the Successful Finalist is void, in which case the next ranked Finalist will emerge as the Successful Finalist and proceed through the process starting at Step 5 and so on until a Successful Finalist fulfills the requirements of each Step;
- viii. Step 8. Once the conditional license is issued, the ~~applicant~~Successful Applicant has two (2) years to complete the construction of a package store selling distilled spirits with a Certificate of Occupancy issued or the conditional license is void. Upon request, an applicant may request a time extension from the Board of Commissioners. Upon the issuance of a conditional license to the Successful Applicant, the eligibility roster of any remaining Finalists will be terminated and a new application process will be commenced if the Successful Applicant fails to obtain a Certificate of Occupancy and secure the retail license.

ix. Step 9. Once the certificate of occupancy is issued, the conditional license shall be converted to the retail distilled spirits alcohol license immediately and without any further action by the County. Thereafter, the package store selling distilled spirits has ninety (90) days to open to the general public or the license is void.

(c) Licensing and processing fees are set from time to time by the Board of Commissioners and must be paid in order to receive and/or maintain the retail distilled spirits alcohol license. Please refer to article I, section(s) 6-5 et seq for license, administrative and investigative requirements. Licensing and processing fees are set from time to time by the Board of Commissioners.

Sec. 6-86. Additional application and fee.

In addition to the license application requirements of this chapter in article I, a processing fee is required in addition to other fees and taxes required in this chapter and shall be deposited with the application to cover the expense of investigation and processing of the application and the fee shall be nonrefundable.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-87. Limitation on number of licenses to be granted to applicant, family corporation.

- (a) No application for a license to sell distilled spirits at retail shall be granted where the person applying for the license or any person who would have an interest therein or members of such person's family or any corporation in which the person owns an interest already holds any interest in two or more licenses to sell distilled spirits by the package at retail within the state. The term "family," as used in this section, shall mean any spouse, brother, sister, child or parent of the applicant or any other person who would have an interest in the license under this division.
- (b) As used in this section, an interest in a license shall be deemed to exist if the person involved is the outright owner of the license; a co-owner of the license; a partner in a partnership which owns all or any part of a license; or a stockholder in any corporation organized for pecuniary gain which owns all or any part of a license. Notwithstanding any of the other provisions of this section, no one person shall be deemed to have more than one interest in any one license.
- (c) All applications for a license under this division, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interest in retail stores that sell distilled spirits. This shall include the names and addresses of all persons interested in the ownership of the business of selling distilled spirits at retail, together with any interest each person or any member of his family has in any other retail store selling distilled spirits and any other similar information called for by the ~~police department~~county marshal or administrator.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-88. Consumption prohibited.

It shall be unlawful for any person to consume any alcoholic beverage on a premises licensed for the sale of package distilled spirits. For the purpose of this section, the term "premises" shall include the parking area immediately adjoining the premises licensed for the sale of package distilled spirits and available for the use of the customers of the licensed premises, whether or not the same are owned or leased by the licensed holder. It shall be unlawful for any licensee to permit the consumption of alcoholic beverages on said premises or to sell unsealed (broken) package distilled spirits.

PART II - CODE OF ORDINANCES
Chapter 6 - ALCOHOLIC BEVERAGES
ARTICLE II. - ALCOHOLIC BEVERAGE TAX AND REGULATION
DIVISION 2. DISTILLED SPIRITS

Sec. 6-89. Window obstruction.

All glass surfaces forming the exterior walls of the premises shall remain unobstructed and shall provide a clear line of sight into the interior of the premises that is licensed to sell package distilled spirits and no signs, window coverings, or other material shall be placed on or within ten feet of any exterior glass surfaces, except as follows:

- (1) One "open" sign which includes business hours of operation, and which may be illuminated, not to exceed four and one-half square feet in area: and
- (2) The sign permitted in subsection (1) of this section and any additional signs on the property and premises shall also comply with all applicable provisions of Article 11 – Signs and Outdoor Advertising of the 1992 Zoning Ordinance of Cherokee County.

Sec. 6-90. Hours of operation

See Section 6-20

Sec. 6-91. Drive-in, curb service

See Section 6-22

Secs. 6-92—6-100. Reserved.

DIVISION 3. ON-PREMISES CONSUMPTION

Sec. 6-101. Additional application, fee, structure requirements.

In addition to the application and license requirements of this chapter in article I, the following shall be required for licenses under this division:

- (1) Upon filing of the application, the county shall require the applicant to deposit a processing fee of \$300.00 to cover the expense of investigation and processing of the application and that fee is not refundable.
- (2) No license under this division shall be issued to any applicant who does not meet the requirements of a restaurant, lounge or private club.
- (3) The dining area or service area of any business licensed under this division must be a minimum of 1,000 square feet.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-102. Manager's permit.

- (a) Every person licensed under this chapter for the retail sale of distilled spirits, malt beverages or wine for consumption on the premises shall employ one or more persons as manager for the licensed establishment. At least one manager shall be at the licensee's premises during all times that alcoholic beverages are being consumed thereon, and such manager shall be in charge of the premises and responsible for the actions of the employees and customers of the licensed establishment. Each such manager shall obtain a manager's permit as provided in this section, and this permit shall be valid for a period of 12 months from the date of issuance.
- (b) Each person wishing to obtain a manager's permit must make application on a form provided by the county marshal, or their designee, within three days of the date of employment. Upon receiving the completed application, the county marshal shall arrange to have the applicant photographed and fingerprinted and to place these records on file. The county marshal shall be authorized to issue a manager's permit after verifying the facts in the application.
- (c) Licensees and managers under this section shall keep a copy of the permit on file at all times in the establishment and shall make these permits available for inspection during operating hours.
- (d) Any person who has been convicted of a violation of any law or ordinance governing the sale of alcoholic beverages or sale or possession of illegal drugs in the past five years shall be ineligible to receive a manager's permit.
- (e) If any manager of the licensee shall cease to be an employee of the licensee or in any manner ceases to meet the requirements of this section, the licensee shall notify the administrator of such event and shall name a new manager within three days after such event occurs. Such new manager shall meet all the requirements of this Code for managers. The county shall charge a fee of \$100.00 for a change of the corporation's manager; however, if the licensee corporation fails to notify the county and name a new manager within such three-day period, then the county shall charge a fee of \$200.00 for a change of the corporation's manager and/or revoke the licensee's license.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2016-O-005, exh. A, 8-2-16)

Sec. 6-103. Reserved.

Editor's note(s)—Ord. No. 2009-O-002, § 9, adopted Apr. 21, 2009, deleted § 6-103. Former § 6-103 pertained to happy hour promotions and derived from Ord. No. 2004-O-009, adopted Nov. 16, 2004.

Sec. 6-104. Servers limited to employees.

Drinks shall be served only by employees of the establishments licensed for on-premises consumption. It shall be the duty of the licensee keep on file a list of the names, driver's license numbers, addresses and telephone numbers of all employees who are involved with the sale and/or handling of alcoholic beverages. The list shall be open to inspection upon request by the county marshal.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-105. Lewd dancing prohibited.

No licensee under this division shall permit professional belly dancers, strip dancing, exotic dancing or any exhibitions of any like kind by whatever name called in connection with the operation of a restaurant, lounge or private club.

(Ord. No. 2004-O-009, 11-16-04)

Secs. 6-106—6-130. Reserved.

Editor's note(s)—Ord. No. 2011-001, § 1, adopted Jan. 18, 2011, repealed § 6-106 which pertained to dangerous weapons prohibited and derived from Ord. No. 2004-O-009, adopted Nov. 16, 2004.

DIVISION 4. ALCOHOLIC BEVERAGE EXCISE TAXES

Sec. 6-131. Penalties and revocation.

- (a) Any licensee who fails to pay the taxes imposed in this division by the county, or fails to pay any amount of such tax required to be collected and paid to the county, within the time required shall pay a penalty of ten percent per month of the tax or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof.
- (b) The amount of the determination, exclusive of penalties, shall bear interest at a rate of one percent per month. Interest shall be assessed for each month, or fraction thereof, from the day of the month that the amount or any portion thereof should have been paid until the date of payment.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-132. Malt beverages.

There is levied an excise tax on the sale of malt beverages within 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 sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons; and
- (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.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-133. Wine.

There is levied an excise tax on the sale or use of wine by the package an excise tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-134. Distilled spirits—Retail package.

There is levied an excise tax on the sale of distilled spirits by the package, excluding the sale of fermented beverages, of \$0.22 per liter and a proportionate tax upon any fractional part thereof.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-135. Same—Consumption.

There is levied an excise tax on the sale of distilled spirits by the drink in the amount of three percent of the charge to the public for the beverage. This tax does not apply to the sale of fermented beverages.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-136. Payment of tax; records and reports; penalty.

- (a) All taxes, except those levied in section 6-135, shall be imposed on the wholesale dealer, computable and payable monthly.

Each wholesale dealer or distributor selling, shipping or delivering alcoholic beverages to any retail dealer in the incorporated areas of the county, whether delivered to the dealer's place of business for resale, shall, as a condition to the privilege of carrying on such business in the county:

- (1) Keep true and correct records of all sales, shipments and deliveries of such alcoholic beverages to each retail dealer; and such records shall be preserved for a period of one year and shall be made available on request for inspection by any duly authorized representative of the county.
 - (2) Collect from each retail dealer at the time of delivery of the alcoholic beverages the amount of tax due under the terms of this division and hold the same in trust for the county until such amount is remitted to the county as next provided.
 - (3) On or before the 20th of each calendar month make a verified and comprehensive report to the county marshal which shall correctly show all sales and deliveries of alcoholic beverages made to or for retail dealers in the county for the month immediately preceding the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount collected under the terms of this chapter, including copies of all sales invoices to each retail dealer, and such other information as may be called for by the Board of Commissioners. The report shall be accompanied by remittance to the county marshal of all taxes collected or due as shown on the report.
- (b) Failure of the wholesale dealer or distributor to remit the taxes required in this division will result in a penalty of ten percent of the tax due in addition to the tax due.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-137. Distilled spirits by the drink.

- (a) The tax imposed on retail consumption dealers by section 6-135 shall be payable as provided in this section.
- (b) Every licensee shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit or deferred payment, the payment of the tax to the licensee may be deferred in a like manner; however, the licensee shall be liable therefore at the time and to the extent that such credits are incurred.
- (c) Every licensee or its agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink sold within its licensed premises. Such licensee or agent shall furnish such information as may be requested by the county marshal to facilitate the collection of this tax.
- (d) All taxes collected by any licensee or agent under this division shall be due and payable to the county on or before the 20th day of every month next succeeding each respective calendar month, as set forth in this division.

(Supp. No. 30)

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- (e) On or before the 20th day of the month, a return for the preceding calendar month shall be filed with the county marshal in such form as the county marshal may prescribe by every licensee liable for the payment of tax under this division. The return shall be accompanied by remittance to the county marshal of all taxes collected or due as shown on the return.
 - (f) All returns shall show the gross receipts from the sale of alcoholic beverages by the drink; amount of tax collected or authorized due for the related period, and such other information as may be required by the county marshal.

(Ord. No. 2004-O-009, 11-16-04; Ord. No. 2009-O-002, § 10, 4-21-09)

Sec. 6-138. Requirements of wholesalers generally.

All wholesalers shall comply with this chapter before they can sell or deliver any alcoholic beverages to any establishment in the county. Deliveries shall be made in a conveyance owned and operated by a wholesaler licensed as set out in this division, and shall be subject to inspection by duly authorized authorities of the county at all times when deliveries are made.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-139. Failure to collect taxes at delivery; failure to report or remit.

- (a) It shall be unlawful for any wholesale dealer or distributor, person, firm or corporation to deliver any alcoholic beverages to any retail dealer within the incorporated areas of the county without collecting the taxes provided for in this division at the time of delivery.
- (b) If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the county council shall notify the party in writing, and if the reports are not made and the taxes remitted within five days from the date of the notice, the Board of Commissioners may withdraw from the wholesale dealer or distributor the privilege of doing business in the county by notifying the state revenue commissioner of the failure and by notifying the retail dealer that further acceptance of deliveries from the wholesaler, until the taxes are paid, may subject the retail dealer to penalty for violation of section 6-140.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-140. Unpaid taxes, sales are violation.

It shall be a violation of this chapter for any person, firm or corporation to sell at retail within the incorporated areas of the county any alcoholic beverages on which the taxes provided for in this division have not been paid.

(Ord. No. 2004-O-009, 11-16-04)

Sec. 6-141. Suspension, revocation or prohibition of retailer's license.

A violation of this division or other sections of this chapter shall authorize the Board of Commissioners to suspend, revoke or place on probation, with or without conditions, the license of any retail party or holder in accordance with the procedures and standards set forth in section 6-4.

(Ord. No. 2004-O-009, 11-16-04)

Secs. 6-142—6-149. Reserved.

DIVISION 5. ANCILLARY WINE SAMPLING LICENSE

Sec. 6-150. Conditions of issuance.

- (a) Upon a proper request made in writing on an application furnished by the marshal and payment of a nonrefundable filing fee of \$250.00, and following investigation and approval by the marshal; the board may issue an ancillary wine sampling license to the holder of a valid and current retail package wine license, to conduct wine sampling on the licensee's retail premises, for an initial period of one year, on the terms and conditions set forth in this article.
- (b) The annual renewal fee for an ancillary wine sampling license shall be \$100.00, which amount is in addition to any other licensing fees or taxes otherwise required to be paid by the licensee under the Alcoholic Beverage Ordinance.

Sec. 6-151. Wine sampling.

- (a) Not more than two times per week for a period not to exceed five consecutive hours, the holder of an ancillary wine sampling license may conduct wine samplings for groups.
- (b) Wine sampling shall be conducted either: (1) at a wine counter area constituting no more than ten percent of the entire retail floor area of the premises. The wine counter area shall be cordoned off or otherwise demarcated and separated from the retail sales floor in such a manner that it shall have one means of ingress and egress for customers participating in the wine sampling; or (2) in a sit-down classroom setting that is separated from the retail sales floor when an educational program is presented in conjunction with the sampling.
- (c) Customers shall not remove open containers of wine from the designated wine sampling area.
- (d) Samples of wine shall not exceed one ounce per serving, and no individual under 21 years of age shall be permitted to consume any sample. No individual customer shall consume more than eight ounces of wine in any two-hour period.
- (e) Wine bottles used during the wine sampling shall be opened only by the licensee or an employee of the licensee who is not under 21 years of age. Samples shall be poured only by the licensee or an employee of the licensee who is not under 21 years of age.
- (f) No opened or unsealed bottles of wine shall be removed from the licensed premises.
- (g) The holder of an ancillary wine sampling license shall not charge a fee to participate in the wine sampling program nor for individual samples provided during a wine sampling.
- (h) No wine sampling may be conducted on the premises of any place of business licensed to sell distilled spirits or malt beverages in the unbroken package or container at retail.
- (i) A wine sampling may only be conducted in connection with an instructional or educational promotion.
- (j) All wines secured for a wine sampling must be obtained through a wholesale dealer possessing a valid current license to distribute wine in Cherokee County.
- (k) All wine samplings must comply with all laws and regulations otherwise pertaining to the sale and distribution of beverage alcohol in Georgia and Cherokee County.

(Ord. No. 2007-O-001, § II, 6-19-07)

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