

- SUPPLEMENT HISTORY TABLE  
Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS  
ARTICLE II. - ALCOHOL LICENSES

DIVISION 1. GENERALY

**ARTICLE II. ALCOHOL LICENSES**

DIVISION 1. - GENERALY

DIVISION 2. - LICENSES

DIVISION 3. - QUALIFICATIONS FOR LICENSE HOLDERS

DIVISION 4. - BUILDING AND LOCATION REQUIREMENTS

DIVISION 5. - REQUIRED REPORTS AND NOTICES

DIVISION 6. - REGULATIONS FOR OPERATION OF BUSINESS

DIVISION 7. - REVOCATION OR SUSPENSION OF LICENSE

DIVISION 8. - TAXES

DIVISION 9. - MISCELLANEOUS PROVISIONS

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***DIVISION 1. GENERALY***

[Sec. 44-31. Title.](#)

[Sec. 44-32. Purpose.](#)

[Sec. 44-33. Privilege.](#)

[Sec. 44-34. Definitions.](#)

[Secs. 44-35—44-60. Reserved.](#)

**Sec. 44-31. Title.**

This article shall be known as the "Alcohol License Ordinance."

**Sec. 44-32. Purpose.**

The purpose of this article is to provide procedures, rules and regulations governing the issuance of licenses for the sale of packaged malt beverages and wine; for the sale of alcoholic beverages for consumption on the premises of restaurants and private clubs; for operation of brewpubs and farm winery tasting rooms; for general regulation of the sale of alcoholic beverages; and to provide for penalties for violations of this ordinance (hereinafter referred to collectively as "alcoholic beverages" unless the context

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 1. GENERALY

clearly requires otherwise). This article is adopted pursuant to the authority of Title 3 of the Georgia Code and is imposed for the public health, safety and welfare, to properly regulate manufacture, distribution and sale of alcoholic beverages.

**Sec. 44-33. Privilege.**

Licenses related to the manufacture, distribution and sale, both retail package and consumption on the premises, of alcoholic beverages in the unincorporated area of the county may be issued by the Commissioner of Bartow County pursuant to the rules and regulations set forth in this article. The holding of any such license or licenses is declared to be a privilege and not a right, and such privilege shall not be exercised except in accordance with the licensing, regulatory, and revenue requirements of this article and Title 3 of the Official Code of Georgia.

**Sec. 44-34. Definitions.**

Unless expressly defined below, all terms used in this article shall have that meaning ascribed to them by the Official Code of Georgia, and particularly O.C.G.A. § 3-1-2, as that statute may be from time to time amended. As used in this article, the term:

*Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

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

*Alcoholic beverage caterer* means any retail dealer licensed pursuant to this chapter who provides alcohol at authorized events or functions, special events, or special events facilities.

*Brewpub* means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36, for retail consumption on the premises and solely in draft form. Pursuant to O.C.G.A. § 3-5-36, brewpubs can also obtain licenses to sell to wholesalers, to consume commercially produced malt beverages, wine and distilled spirits on the premises and to have retail package sales of craft beer and growlers on the premises. See Sec. 44-159.

*Brown bagging* means possession of an open glass bottle, can or other container containing an alcoholic beverage or consumption of an alcoholic beverage on the premises (1) of any business in the county and (2) occurs at a location different from where said alcoholic beverage was purchased.

*Building official* means the building official of Bartow County, or that official's designee.

*Business license office* means the Bartow County Business License Office.

*Charitable organization* means an organization exempt from federal taxes under 42 U.S.C. Section 501(c)(3) or an any charitable, benevolent, philanthropic, patriotic, or charitable purpose for religion, health, education, social welfare, arts and humanities, environment, civic, or public interest.

*Commissioner* means commissioner of Bartow County or his successors in office being the governing authority of Bartow County.

*County* means Bartow County, Georgia.

*Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than twenty-four (24) percent alcohol by volume.

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 1. GENERALY

*Election day* means that period of time beginning with the opening of the polls and ending with the closing of the polls. As used in this paragraph, the term "election" is defined as any statewide primary election and the statewide general election and any run-off held for such primary or general election. Said term also includes "county elections."

*Farm winery* means a domestic winery that is licensed as a farm winery by the state.

*Festival permit* means a one to five day permit for the sale of alcohol for consumption on the premises.

*Financial or ownership interest* means any involvement financially including loaning money, and any ownership interest in the business seeking the license, or a majority ownership interest in any entity that has an ownership interest in the business.

*Fire chief* means the Bartow County Fire Chief or that official's designee.

*Fortified wine* means any alcoholic beverage containing not more than twenty-four (24) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes, but is not limited to, brandy meeting the alcohol percentage limit.

*Growler* means a glass bottle not to exceed two liters (or not to exceed 68 ounces) and not less than one liter that is filled by a licensee or employee of a brewery or brewpub with beer that has been produced on the premises.

*Interest* means a financial or ownership interest, including any direct or indirect entitlement to the profits or responsibility for the losses of the business, holding any shares, being a member, partner or having any other ownership interest.

*License official* means that department or official designated by the commissioner to administer the provisions of this article.

*Malt beverage* means beer and any alcoholic beverage obtained by any 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 or strong beer. The term does not include Sake, known as Japanese rice wine, but the term shall include, for purposes of this article, "hard cider" meaning an alcoholic beverage obtained by the fermentation of the juice of apples, containing not more than six percent alcohol by volume, including, but not limited to flavored or carbonated cider.

*Nonprofit private club* means a corporation organized and existing under the laws of the State of Georgia or a fraternal or veterans organization associated with a part of a recognized national fraternal or veterans organization which is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and which immediately prior to the application for a license hereunder has:

- (A) At least 100 members regularly paying dues; and
- (B) Tax exempt status under the provisions of 501(a) of the U.S. Internal Revenue Code; and
- (C) Owns or leases a building or space for the reasonable use of its members; and
- (D) No members or officers, agents or employees of the club receiving compensation directly or indirectly in the form of commissions or other compensation based on the amount of profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club; and
- (E) No part of the net earnings inuring to the benefit of any shareholder or member; and

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 1. GENERALY

(F) Been in continuous operation for at least one year prior to the application for a license hereunder.

*Premises* means the space or area owned, leased or controlled by the licensee and used by him for the purpose of operating under the license. It shall be limited to one location for each license and there shall be a separate license for each premises outlet.

*Principal place of business* means the primary office or location of a business, where such business is licensed and from where it operates.

*Resident* means a person whose primary residence is within the territorial limits of the county.

*Responsible resident* means a person who resides in the county and has been named as the responsible resident pursuant to O.C.G.A. § 3-3-2 for a business whose owner does not reside in the county. Such person shall be responsible for any matter relating to the license and shall be subject to penalties and enforcement actions for violations of this article.

*Restaurant.* See Section 44-148.

*Retail package* means sales of alcoholic beverages or wine in unbroken packages at retail only to consumers and not for resale, and not for consumption on the premises.

*Sheriff* means the sheriff of Bartow County or the sheriff's designee.

*Special event permit* means a one or two day permit for the sale of alcohol for consumption on the premises issued only to a nonprofit charitable organization as defined by section 501(c)(3) of the Internal Revenue Code.

*Tasting room* means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for retail sale of such wine as provided by law. Samples of wine can be given complimentary or for a fee.

*Veteran's organization* means a veterans group duly certified by their national organization.

*Wholesaler or wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

*Wine* means any alcoholic beverage containing not more than twenty-four (24) 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 the definition of wine contained in this article.

**Secs. 44-35—44-60. Reserved.**

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 2. LICENSES

***DIVISION 2. LICENSES***

[Sec. 44-61. General.](#)

[Sec. 44-62. Classification.](#)

[Sec. 44-63. License fees.](#)

[Sec. 44-64. General application requirements and procedures.](#)

[Sec. 44-65. Retail package or consumption on the premises licenses applications.](#)

[Sec. 44-66. Wholesale license applications.](#)

[Sec. 44-67. Manufacturing license application.](#)

[Sec. 44-68. Special event license applications.](#)

[Sec. 44-69 Festival license applications.](#)

[Sec. 44-70 Alcoholic beverage caterers](#)

[Sec. 44-71. License approval procedures.](#)

[Sec. 44-72. Effective dates of licenses.](#)

[Sec. 44-73. Renewal of licenses.](#)

[Sec. 44-74. Transfer of licenses; discontinuance; change of responsible resident or owner.](#)

[Secs. 44-75—44-100. Reserved.](#)

**Sec. 44-61. General.**

- (a) No person shall engage in the business of manufacturing, wholesaling, retailing or otherwise providing alcoholic beverages of any kind in the unincorporated area of the county without first obtaining a license therefore under this article. The state laws and regulations relating to the sale and distribution of alcoholic beverages in this state are incorporated into and made a part of this article as if fully set out herein. Any violation of such state law or regulations shall be grounds for suspension or revocation of any license issued under this article.
- (b) Each licensee shall keep a copy of this article in the licensed premises and shall instruct any person employed by the licensee with respect to the terms of this article, and it is the responsibility of the licensee that his agents and employees be familiar with all of the terms of this article. The licensee is responsible for any acts of his agents or employees in violation of this article.
- (c) Each person holding a license issued pursuant to this article shall display the license prominently at all times on the premises for which the license is issued.
- (d) A wholesaler licensed by another county whose principal place of business is in another county, and whose sole activity in Bartow County is delivery of alcoholic beverages to a business that is licensed under this article, shall not be required to obtain a license. However, such wholesaler shall be required per state law to pay excise tax and shall be required to register.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

**Sec. 44-62. Classification.**

Only the following classes of licenses shall be authorized:

- (1) Retail package.
  - a. Malt beverage only.
  - b. Wine only.
  - c. Combination malt beverage and wine.
- (2) Consumption on the premises.
  - a. Malt beverage and wine.
  - b. Malt beverage, wine and distilled spirits.
  - c. Farm winery tasting room. (see Sec. 44-153)
- (3) Wholesale.
- (4) Manufacturing.
- (5) Special event.
- (6) Festival.
- (7) Brewpub (with various endorsements).

**Sec. 44-63. License fees.**

- (a) *Retail package.* The applicant for a retail package license shall pay to the business license office at the time of application the following sums (depending on type of license) as an annual license fee for operation for one calendar year at one location where the product will be sold.
  - (1) Malt beverage only \$500.00
  - (2) Wine only \$400.00
  - (3) Combination \$900.00
- (b) *Consumption on the premises.* The applicant for a consumption on the premises license shall pay to the business license office at the time of application the following sums (depending on type of license) as an annual license fee for operation for one calendar year at one location where the product will be sold.
  - (1) Malt beverage and wine \$900.00
  - (2) Malt beverage, wine and distilled spirits \$1,500.00
  - (3) Farm winery tasting room \$500.00
- (c) *Wholesale.* Any wholesale dealer in malt beverages or wine, licensed by the State of Georgia, or the agent of such wholesale dealer, whose principal place of business is to be located in the county, may be granted a license upon payment of \$500.00 annually for malt beverages, and/or \$500.00 annually for wine. Distributors whose principal place of business is a location other than the unincorporated county shall pay a registration fee of \$100.00 as authorized by O.C.G.A. § 3-5-43 (or such fee as may be authorized by any future amendment or revision thereto). Delivery to unlicensed businesses,

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

persons or entities shall be prohibited. Wholesalers making deliveries only shall be required to pay excise tax under this article and state law.

- (d) *Manufacturing.* The applicant for a manufacturing license shall pay to the business license office at the time of application the sum of \$3,000.00 as an annual license fee for operation for one calendar year at one location where the product will be manufactured. All appropriate and pertinent parts of this article shall be applicable to any applicant for or holder of a manufacturing license to sell and/or distribute malt beverages and/or wine under this article.
- (e) *Special event.* The applicant for a special event license shall not be charged a license fee for the sale for consumption on the premises only for one or two calendar days at one location where the special event will take place.
- (f) *Festival.* The applicant for a festival license shall pay the business license office at the time of application the sum of \$100.00 per day of the festival. Separate festivals shall require separate licenses.
- (g) *Brewpub.* A brewpub is a combination of a manufacturing facility, an eating establishment for consumption on the premises of the beer produced on the premises as well as commercially produced malt beverages, and potentially a retail package outlet for the craft beer produced. Some brewpubs also desire to sell their beer to wholesalers for distribution to other retailers. Brewpubs may also be authorized to sell wine and distilled spirits for consumption on the premises. Differing licenses and fees are required depending on what capability is required. The applicant for a brewpub license shall pay to the business license office at the time of application the following sums (depending on type of license) as an annual license fee for operation for one calendar year at one location where the product will be sold.
  - (1) Manufacturing plus consumption on the premises for malt beverages \$900.00.
  - (2) Consumption on the premises for wine and distilled spirits endorsement, additional \$500.
  - (2) Sales to wholesalers endorsement; additional \$200.00.
  - (3) Retail package sales of beer and/or growlers endorsement on premises; additional \$500.00.
- (h) *Alcoholic beverage caterers.* The applicant for a caterer's license shall pay the business license office at the time of application the sum of \$100.00 per day of the festival. Separate festivals shall require separate licenses.
- (i) No refund shall be made to license holders whose license is suspended or revoked. Annual license fees shall not be pro-rated for applicants whose businesses operate for less than one calendar year.

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

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

- (1) All applications for licenses under this article shall be made by the applicant to the business license office in writing under oath and verified on forms furnished by the business license office, and all requested information thereon shall be provided. Any misstatement or concealment of fact in the application shall be grounds for denial or revocation of the license issued and shall make the applicant liable to prosecution for perjury under the laws of the state. An application containing false information or false statements may result in disapproval, revocation, suspension or failure to renew the license applied for.
- (2) Pursuant to O.C.G.A. § 3-3-2, the applicant for a license shall be a resident of the county as a prerequisite of issuance of a license. However, if the applicant is not a resident of the county,

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

the applicant shall designate a resident of the county who shall be responsible for any matter relating to the license (referred to herein as the "responsible resident"). Corporations, LLCs, partnerships and other business entities that are applying for a license shall designate an individual shareholder, member or partner as the applicant, and if said person is not a resident of the county, shall also designate a responsible resident. The requirement of designating a responsible resident shall not apply to wholesale delivery-only licenses for businesses whose principal place of business is in another county and who are licensed by that county. Pursuant to O.C.G.A. § 3-3-2, the responsible resident shall be responsible for any matter relating to the license, including being chargeable for violations of this article. The owner and responsible resident, by submitting an application, shall be deemed to have agreed to this responsibility and to have waived any defenses or objections to such actions.

- (3) In accordance with O.C.G.A. § 3-3-2(c), each applicant for a license shall furnish a complete set of fingerprints, which shall be forwarded to the Georgia Bureau of Investigation, which shall search the files of the Georgia Crime Information Center for any instances of criminal activity during the two years immediately preceding the date of such application. In the event of a non-resident applicant, the responsible resident shall likewise submit fingerprints. Fingerprints are only required to be submitted for an initial application, not any renewal, unless the applicant or responsible resident has changed. The Georgia Bureau of Investigation shall also submit such fingerprints to the Federal Bureau of Investigation under the rules established by the United States Department of Justice for processing and identification records. The federal record, if any, shall be obtained and returned to the county. Applicants shall appear at the Bartow County Sheriff's Office at 104 Zena Drive, Cartersville, at such times as are specified by that office for fingerprinting, and shall pay such fee as the sheriff requires for the service. The sheriff shall provide the prints to the GBI. The business license office may, at its discretion, also approve other fingerprinting agencies.
- (4) The following identification items shall be presented to the business license office by the applicant and responsible resident prior to an application or renewal being filed for all licenses issued pursuant to this article.
  - a. Naturalization documents or valid passport or birth certificate;
  - b. Valid driver's license or valid state identification card; or
  - c. Social Security card or work visa.
- (5) Upon completion of the application, the applicant must submit the application to the business license office for review. After review, if the submitted application is determined to be in proper order, the application will be presented to the commissioner for consideration.
- (6) Applications must be submitted not less than 20 days before such application is to be considered by the commissioner. The publisher's affidavit may be submitted later, but must be submitted prior to the hearing at which such application is to be considered by the commissioner.
- (7) Each application for a license (except an application for a special event license) under this article shall be accompanied by a certified check or money order for the full amount of the license fee, plus an investigative fee in the amount of \$100.00 (\$50.00 for renewal of licenses where no changes have occurred) to defray investigative and administrative costs. Should the applicant be denied a license or should the applicant withdraw the application prior to its being submitted to the commissioner, no part of the fee is refundable.
- (8) It shall be unlawful for any person to file an application for a license, or permit his name to be used in such application, where the application contains a nominal applicant for the purpose of avoiding the provisions of this article restricting applicants to persons of good character and

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

without criminal records, or restricting economic interests in retail package stores, or for elusive purposes. It shall be unlawful for any person to permit his name to be used in an application for a license where such person will not be the de facto owner of the license. It shall be unlawful for any person to file an application for license containing his name as applicant when such person is not the de facto applicant. It shall be unlawful for any person to file, or permit to be filed, an application for a license wherein a sham applicant is named.

- (9) The applicant shall disclose whether the applicant, responsible resident or any person with any interest in the application or the business has made application previously for any alcoholic beverage license and the disposition of such application.
- (10) The applicant shall disclose whether the applicant, responsible resident, or any persons with any interest in the application or the business has ever been convicted under a federal, state or local statute, law, ordinance or regulation relating to 1) theft, conversion or fraud; 2) drugs or alcohol; 3) taxes or 4) alcoholic beverage license. The applicant shall be required to authorize a criminal background check through the Georgia Crime Information Center (GCIC) to confirm such assertions.
- (11) The applicant shall disclose whether a previous alcohol license issued to the applicant, responsible resident or any person with any interest in the application or the business has been revoked by any state or political subdivision thereof or by the federal government and the date and reason for said revocation.
- (12) The applicant shall be required to provide certification of compliance with all applicable regulations of the following: a) tax commissioner, including demonstrating no delinquent taxes owed; b) zoning department; 3) building inspections department; 4) engineering department and 5) health department. The applicant shall be required to provide such other information as is requested by the business license official.
- (13) If the applicant for a festival license applies for subsequent festival licenses, a resubmission of fingerprints shall not be required.

**Sec. 44-65. Retail package or consumption on the premises licenses applications.**

- (a) The application shall require the applicant to provide, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form.
- (b) The applicant for an alcoholic beverage license shall attach to his application evidence of ownership of the business premises or a copy of the current lease for the premises upon which the license is to be effective.
- (c) Each application for a license shall be accompanied by a scale drawing showing the nearest church, school or college or shall have attached thereto an affidavit of a registered land surveyor that the proposed location of the licensed premises complies with the distance requirements of this article and any state or federal law.

**Sec. 44-66. Wholesale license applications.**

- (a) Any wholesaler in malt beverages or wine licensed by the state or the agent of such wholesale dealer may be granted a operate a wholesale business in the county. Any wholesaler whose principal place of business is located in another county (and who is licensed in that county), and who

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

desires only to deliver into the county shall not be required to obtain a license. Such deliveries shall be made only to businesses licensed under this article.

- (b) All appropriate and pertinent parts of this article shall be applicable to any applicant for or holder of a wholesale license or wholesale delivery license.
- (c) The application shall require the applicant to provide, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form.

**Sec. 44-67. Manufacturing license application.**

- (a) Any manufacture of malt beverages or wine licensed by the state may be granted a license to manufacture such beverages in the county upon application for such license to the business license office.
- (b) All appropriate and pertinent parts of this article shall be applicable to any applicant or holder of a manufacturing license to sell and/or distribute malt beverages and/or wine under this article.
- (c) The application shall require the applicant to provide, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form.

**Sec. 44-68. Special event license applications.**

- (a) Special event licenses are available for charitable groups and non-profit private clubs to authorize temporary sale of alcoholic beverages for consumption on the premises of the event. If the license is granted the event shall be subject to all relevant provisions of this article relating to the sale of malt beverages, wine and distilled spirits.
- (b) Special event licenses shall be held by individuals, who shall be responsible for the license and compliance with this article. If the special event is associated with a group or organization, that entity shall be disclosed on the application.
- (c) Special event licenses shall be valid only for the duration of the special event, not to exceed two days in duration. All other relevant provisions of this article, including hours of operation, shall be applicable. Special event premises may be outdoors, but access to the alcohol must be restricted or supervised so that minors may not obtain it.
- (d) The application for a special event license shall require the applicant to provide, at a minimum, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form.
- (e) The applicant shall provide a list of any churches, schools or colleges within 500 yards of the proposed special event site.

**Sec. 44-69. Festival licenses**

- (a) Festival licenses are available to authorize temporary sale of alcoholic beverages for consumption on the premises of the event. Package sales are not permitted. Festival licenses are intended to permit alcohol sales at temporary, typically outdoor, festival events. One license shall be required or each separate legal entity selling alcohol. For example, if one vendor is selling alcohol at multiple locations, only one license is required. If multiple vendors are selling, then all must have a festival

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

license. If the license is granted the event shall be subject to all relevant provisions of this article relating to the sale of alcoholic beverages.

- (b) Festival licenses shall be held by individuals, who shall be responsible for the license and compliance with this article. If the festival is associated with a group or organization, that entity shall be disclosed on the application. The property owner of the property where the festival is to occur shall also be disclosed.
- (c) Festival licenses shall be valid only for the duration of the festival, not to exceed five days in duration. All other relevant provisions of this article, including hours of operation, shall be applicable. Festival premises may be outdoors, but access to the alcohol must be restricted or supervised so that minors may not obtain it.
- (d) The application for a festival license shall require the applicant to provide, at a minimum, the information requested on the application form, including, but not limited to, name, address, business name and address, interested persons in the business, and other information as listed on said form.
- (e) The applicant shall provide an approved "special event permit" from the Bartow County Zoning Administrator if the festival is to occur on an A-1 zoned property.
- (f) The applicant shall provide a list of any churches, schools or colleges within 500 yards of the proposed festival site (measured from the property boundary line).
- (g) Sec. 44-163 shall not apply to festival licenses.

**Sec. 44-70. Alcoholic beverage caterers permit.**

- (a) Permit requirements for resident caterers.
  - (1) Any caterer who possesses a valid license from the county to sell or otherwise dispense malt beverages, wine or distilled spirits by the drink at a fixed location within the unincorporated area may apply for an off-premises permit that permits sales at authorized catered event or function.
  - (2) Each off-premises catering license, authorized herein, shall be valid only for the event for which the permit is issued. The fee for each permit shall be set at \$25.
  - (3) It shall be unlawful for any person to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained a permit as provided herein.
- (b) Permit requirements for nonresident caterers.
  - (1) A nonresident alcoholic beverage caterer who already holds a license for sale of alcohol shall submit an application for an off-premises event permit to the business license office. The fee for each such permit shall be \$50.00 as authorized by O.C.G.A. § 3-11-3 (or such fee as may be authorized by any future amendment or revision thereto).
  - (2) An application for an event permit shall include the name of the caterer, the date, address, time, and name of the event and the quantity and type of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or functions.
  - (3) The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function.
  - (4) It shall be unlawful for a licensed alcoholic beverage caterer to distribute, sell, or otherwise dispense alcoholic beverages off-premises except as authorized by the event permit.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

- (c) Limitation on license. A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or otherwise dispense only malt beverages at the authorized catered event or function.
- (d) Tax on sales by resident caterers. Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in this chapter.
- (e) Tax on drinks served by nonresident caterers. Excise taxes are imposed upon the total of individual alcoholic beverage drinks served by a nonresident caterer in the amounts set forth in this chapter and shall be paid within 30 days after the conclusion of the catered event or function.

**Sec. 44-69. License approval procedures.**

- (a) After filing an application with the business license office, the applicant for a license (except an applicant for a special event license or festival license) shall cause to be published, in the form prescribed by the commissioner, a "notice of application" in the newspaper and on the day in which sheriff's advertisements appear, two consecutive weeks immediately prior to the date of the meeting at which the application is to be presented and considered by the commissioner. The notice shall contain the name of the person applying for the license and the relevant corporation or other entity, if applicable; the location of the proposed premises; and the date, time and place at which said application will be considered. An affidavit of the publisher or his authorized agent certifying that the advertisement has been published as required by this article shall be submitted to the business license office before such application will be considered.
- (b) Applications for a license shall have a background check and investigation conducted by the sheriff. The sheriff shall attach a written report of the investigation to the application and return the same to the license official prior to the meeting at which the application is to be considered.
- (c) Upon request of the business license office, applications for a license may be reviewed and investigated by the sheriff, building official, engineering department, zoning department, and fire chief. Those officials shall review the premises for compliance with all relevant ordinances and applicable safety regulations, and shall provide a written report to the license official. The license official may also conduct an investigation.
- (d) Upon receiving a completed application from the business license office, along with any reports from the officials conducting investigations, the commissioner shall, at the meeting of the commissioner, as advertised in said notice (or if no advertisement is required, at the commissioner's next regular meeting), review such application for alcoholic beverages licenses and shall approve or deny said application. The public may be heard on any application, and may present any relevant evidence at the hearing. The applicant shall have the right to present evidence and cross-examine any opponents. The applicant shall have the right to have counsel and have the hearing transcribed.
- (e) The commissioner shall make the decision based on the standards listed in article VI. No prohibited person, as defined in that article, may be licensed. The commissioner may table the application should additional information be required by the commissioner before acting upon said application or should the meeting of the commissioner be continued or rescheduled for any reason. If the application is tabled, or the meeting continued or rescheduled, the application shall be considered at such time and place as announced by the commissioner.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

**Sec. 44-72. Effective dates of licenses.**

Initial licenses granted are effective as of the date and time of approval and expire at midnight on December 31 of the year of grant. Renewals approved in December of the preceding year are effective as of 12:01 a.m. on January 1 and expire at midnight on December 31. Late renewals approved after January 1 of the renewal year are effective as of the date and time of approval and expire at midnight on December 31. Any sales during a lapsed license period (i.e. before a late renewal) shall be a violation of this article.

**Sec. 44-73. Renewal of licenses.**

- (a) A licensee who desires to renew his license for a subsequent calendar year must file a renewal application with the business license office between November 1 and November 15 of the preceding year. All relevant information requested on the renewal application must be provided, including updated criminal background records checks and tax payment information. Payment by certified funds of license fees for renewal shall be made at the time of application and, upon approval of the renewal application by the commissioner, the license will be issued. Applications for renewal of an existing license shall be acted on by the commissioner at the next regularly scheduled meeting of the commissioner following the filing of the renewal application, unless additional time is required by the commissioner to obtain additional information pertaining to said application.
- (b) Applications submitted after November 15 are subject to an additional \$100.00 late fee, and may not be able to be processed in time for the December commissioner's meeting, resulting in the license expiring on December 31 and there being a period of license lapse before the January commissioner's meeting. Applications submitted after December 1 are subject to an additional \$200.00 late fee, and almost certainly will not be heard until the January commissioner's meeting.
- (c) If the license official, sheriff, building official, zoning department, engineering department, or fire chief reports any activity which constitutes probable cause for not renewing a license, renewal shall not be made and the matter shall be referred to the commissioner for consideration. The commissioner shall afford the licensee a public hearing where the licensee may be represented by counsel, present evidence and cross-examines witnesses. The hearing shall be recorded and may be transcribed at the cost to the applicant. In passing upon the application for renewal, the commissioner shall be guided by the standards listed in article VI for initial application. The commissioner's decision shall be issued in writing no later than three days after the hearing, and shall be sent to the applicant certified mail.
- (d) Failure to comply with mandatory provisions of this article, including but not limited to failure to submit required reports under section 44-163, shall be grounds for non-renewal of the license.

**Sec. 44-74. Transfer of licenses; discontinuance; change of responsible resident or owner.**

- (a) No license may be transferred from one person to another without approval of the commissioner pursuant to written application. Said transfers shall be considered in accordance with the same procedures set forth in this article for new applications, except as otherwise specifically provided in this subsection.
- (b) If the applicant or responsible resident ceases to be associated with such business, the business owner (or corporation, LLC, partnership, etc), within five days of such event, shall notify the business license office of said fact. Said owner shall, within 30 days of such event, submit an application for

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 2. LICENSES**

the transfer of the license to a new individual and/or responsible resident. Said application shall consist of completed portions of the application for an alcoholic beverage license which pertains to the new applicant along with a copy of the notice of change of interest required by the Georgia State Revenue Commissioner and a certified check in the nonrefundable amount of \$100.00, to defray investigative and administrative costs. In addition, the applicant shall cause to be published a notice of such change as provided in subsection 44-71(a). Said application shall be considered in accordance with the procedures set forth in this article for new applications, except as otherwise specifically provided in this subsection.

- (c) Upon the death of any license holder, his personal representative or heirs may continue to operate under the original license for the balance of the calendar year without payment of any fee, provided those persons requesting to continue said business are otherwise qualified as license holders.
- (d) Any licensee desiring to discontinue business at one location and commence business at another location must make a new application and pay all applicable fees.
- (e) Upon a change in ownership of the licensed business, the new owner shall comply with all provisions of this article prior to commencing business, including the payment of all applicable fees.

Failure to comply with this section shall result in the lapse of the alcoholic beverage license.

**Secs. 44-73—44-100. Reserved.**

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 3. QUALIFICATIONS FOR LICENSE HOLDERS**

***DIVISION 3. QUALIFICATIONS FOR LICENSE HOLDERS***

[Sec. 44-101. General qualification requirements.](#)

[Sec. 44-102. Standards for issuance.](#)

[Sec. 44-103. Prohibited persons.](#)

[Secs. 44-104—44-125. Reserved.](#)

**Sec. 44-101. General qualification requirements.**

The following qualification requirements shall apply to all license applicants.

- (1) All applicants for license and all responsible residents shall be at least 21 years of age.
- (2) All owners who are residents of the county shall make application for a license in their own name. Where the owner is a corporation, partnership, association, or nonresident, the application shall be made in the name of an owner of the entity (shareholder, member, partner, etc.). If the applicant owner is not a resident of the county, a responsible resident shall also be named. All other owners, shareholders, members or partners shall be disclosed in the application, along with their interest in the entity.
- (3) Where an application for a license is submitted for a nonprofit private club, special charitable event or a veterans organization, the application shall be made in the name of the highest elected officer and/or the manager of said club or organization.
- (4) Applications for a license to sell alcoholic beverages (except special event licenses) shall be accompanied by a certification from the tax commissioner of Bartow County or his deputy that all ad valorem taxes owing to the county against any real and personal property pertaining to the business for which such application is made have been paid. Also said certification shall state that there are no delinquent taxes owing to the county against the applicants, owner and any party with a financial or ownership interest in the business for which such application is made. The county shall provide forms to the applicant for said certification.

**Sec. 44-102. Standards for issuance.**

The commissioner, in making a determination on an initial application for a license, shall be guided by the following factors as to whether or not to grant a license under this article. The following standards are meant to comply with the requirements of O.C.G.A. § 3-3-2, in providing ascertainable standards for licensing decisions:

- (1) Whether the applicant, responsible resident, or other owner of the business listed in the application has held any other licenses issued by any other jurisdiction that have been revoked, and the cause of such revocation.
- (2) Whether the applicant, responsible resident, or other owner of the business listed in the application holds or has held any other licenses for the sale of alcohol issued by the county, and the history of violations of this article under such licenses.
- (3) Whether the applicant, responsible resident, or other owner of the business listed in the application have a criminal records involving violation of any federal, state or local laws relating

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 3. QUALIFICATIONS FOR LICENSE HOLDERS**

to drugs or alcohol, or theft, fraud or conversion; or any history of violations of this or other local government regulations of alcohol; or any record of nonpayment of federal, state, or county taxes.

- (4) Whether the use is consistent with the immediately adjacent properties and the general character of the neighborhood, including whether the adjacent neighborhood is predominantly residential, industrial, or business/commercial.
- (5) Whether the proposed use is consistent with the traffic patterns and congestion in the area, including whether it would cause an increase in negative traffic effects and hazards.
- (6) Whether the proposed use would have a negative effect on adjacent and surrounding property values.
- (7) Whether the number of other licenses granted for similar business in the trading area of the place for which the license is sought would result in this license having a negative effect on the character of the area or the public health, safety and welfare.
- (8) Whether the location or type of structure is likely to create difficulty in law enforcement, or is designed or configured such that it would create any safety hazards or fire hazards, or other threats to life or property.
- (9) Whether the building or establishment where licensee will operate has a history or reputation with regard to prostitution or other sex offenses, fighting, shooting, stabbing or other violence, gambling, illegal dealing in alcoholic beverages or drugs, and other violations of the law.
- (10) Whether any license for sale of alcoholic beverages previously issued for the location has been revoked for cause by the commissioner.
- (11) Whether the character of the area of the proposed use is such that would cause minors to frequent the immediate areas, or cause minors to congregate in the vicinity of the proposed location.
- (12) Whether the reports of the license official, sheriff, the building inspector, zoning department, engineering department, and/or the fire chief contain any evidence of violations of law, regulation, or ordinance, or otherwise failure to comply with all applicable laws, regulations or ordinances, or otherwise indicate that grant of the license would be a serious threat to public health and safety.
- (13) Whether the application is complete and in compliance with all provisions of this article (including the building and location requirements of article VII).
- (14) Whether the application is in compliance with all other relevant ordinances of Bartow County.
- (15) For special event licenses, whether the event is for charitable or community purposes and whether the affiliated entity is a charitable organization or non-profit private club, or whether the special event is unrelated to those purposes and organizations, or conducted purely for business or commercial purposes.

**Sec. 44-103. Prohibited persons.**

No license shall be issued by the commissioner when the applicant or responsible resident is found to be one or more of the following:

- (1) A person who has been convicted under a federal, state or local statute, law, ordinance or regulation relating to i) theft, conversion or fraud; ii) drugs or alcohol; iii) taxes or iv) alcoholic beverage licenses.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 3. QUALIFICATIONS FOR LICENSE HOLDERS**

- (2) A person whose license under this article has been revoked for cause or who has had a license under this article revoked for cause.
- (3) A person whose license under any other state, county or municipal alcoholic beverage ordinance has been revoked within the last five years preceding the application.
- (4) A person who is under the age of 21 years.
- (5) A person who is an official or employee of the county.

**Secs. 44-104—44-125. Reserved.**

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 4. BUILDING AND LOCATION REQUIREMENTS

***DIVISION 4. BUILDING AND LOCATION REQUIREMENTS***

[Sec. 44-126. General building and location requirements.](#)

[Sec. 44-127. Distance setbacks from other uses.](#)

[Sec. 44-128. Outdoor sales.](#)

[Secs. 44-129—44-140. Reserved.](#)

**Sec. 44-126. General building and location requirements.**

- (a) No license shall issue for a location at which the operation of such a licensed business would violate the zoning rules and regulations of the county.
- (b) No license shall issue for a location where it would violate state or local law, rules, regulations or article.
- (c) No license shall issue for any location in which the licensed premises contains a drive-in window for the sale of alcoholic beverages.
- (d) The licensed premises shall be subject to inspection by authorized personnel of the county at all times.

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

- (a) Pursuant to state law, no premises selling wine or malt beverage shall be located within 500 feet of any church building, school building, school grounds or college campus. This subparagraph shall not apply at any location for which a license has been issued prior to July 1, 1981, nor to the renewal of such license. Nor shall this subparagraph apply at any location for which a new license is applied for if the sale of wine and beer was lawful at such location at any time during the 12 months immediately preceding such application. In the event a school or church subsequently locates within 500 feet of a licensed premises, this provision shall not be applicable under such circumstances and such an event would not cause a license holder to be in violation of this provision or prohibit the renewal or transfer of the license. Nothing in this subparagraph shall prohibit a grocery store licensed for the retail sale of only wine and malt beverages for consumption off the premises from selling wine or malt beverages within 500 feet of any college campus. As used in this subparagraph, the term "grocery store" means a retail establishment which has at least 85 percent of its total retail floor space reserved for the sale of food and other nonalcoholic items, conducts all of its sales inside the building containing its retail floor space, contains at least 20,000 square feet of heated space.
- (b) Pursuant to state law, no premises selling distilled spirits may be located within 500 feet of any church building or 200 yards of any school building, educational building, school grounds or college campus, or within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
- (c) As used in this subsection, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in subsection (b) of Georgia Code Section 20-2-690.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 4. BUILDING AND LOCATION REQUIREMENTS**

- (d) Distances for purposes of this section shall be measured by the most direct route of travel on the ground. Said distance shall be measured from the front door of the structure from which alcoholic beverages are sold or offered for sale; in a straight line to the nearest public sidewalk, walkway, street, road or highway; along such public sidewalk, walkway, street, road or highway by the nearest route; to the nearest portion of the school building, school grounds, college campus, or church building. A church shall mean any building of any commonly recognized religion, denomination or sect regularly used for worship or religious instruction including cemeteries when contiguous to and part of the church grounds.

**Sec. 44-128. Outdoor sales; outside consumption.**

- (a) It shall be unlawful for any person to sell alcoholic beverages on the streets or sidewalks, or elsewhere, outside of the building, premises, or place of business licensed for such sale, except for festivals and special events specifically licensed for outside sales. Businesses with licenses to dispense alcoholic beverages by the drink for consumption on the premises may serve such beverages only within the confines of the licensed building structure; provided, however, that any business with such license which has an outside patio area on private property or on privately-leased public property that is actually and permanently attached to the main building may serve alcoholic beverages in the patio area. The patio area must be surrounded by a fence or wall at least three feet high to separate it from non-licensed locations; the fence need not be opaque. No bar, whether permanent or temporary, may be set up in such outside patio area. Sale or dispensing of alcoholic beverages to persons through windows, doors, or other openings to sidewalks, parking lots, or to any other area outside the licensed premises, except for patios described above, is prohibited.
- (b) It shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the unincorporated area of the County.

**Secs. 44-129—44-140. Reserved.**

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 5. REQUIRED REPORTS AND NOTICES**

***DIVISION 5. REQUIRED REPORTS AND NOTICES***

[Sec. 44-141. Required reports and notices.](#)

[Secs. 44-142—44-145. Reserved.](#)

**Sec. 44-141. Required reports and notices.**

The following report and notice requirements shall apply to all license holders.

- (1) The licensee must report to the commissioner, within five days, any change in any interests in the licensee's business including but not limited to:
  - a. Any change in the division of ownership of the licensed business;
  - b. Any change in the ownership of any lease or building or land used in such business;
  - c. Any change in the ownership of stock or any corporation that has an interest in the licensed business except for the sale of stock over the counter or through a recognized stock exchange.
- (2) The commissioner shall notify the licensee within ten days of the receipt of said information required by subsection (1) of any objections to the changes reported. Upon receipt of the objections, if any, from the commissioner, the licensee shall have 30 days to satisfy said objections. Failure to report said changes or to satisfy said objections may result in the suspension or revocation of all licenses held by said licensee.
- (3) The report reflecting the change in interest shall be on a form provided by the commissioner and shall be an amendment to the licensee's permanent license application which shall remain on file with the business license office. The report shall be under oath and verified.
- (4) Any licensee under this article who removes his residence from the county, or otherwise becomes a "prohibited person" as defined in section 44-103, shall, within five days of the event, make the fact known to the business license office and shall surrender his license upon demand by the business license office in such case.
- (5) The licensee shall report promptly to the sheriff's department any violation of law, regulation, resolution, ordinance or breach of the peace, disturbance, or altercation occurring on the premises.
- (6) The licensee shall report to the business license office within one business day any violation of this article or any other law, regulation or local ordinance relating to regulation of alcoholic beverages occurring on the premises.
- (7) The licensee shall report to the business license office within three business days any conviction, revocation or suspension of any other license for alcoholic beverages held by the licensee.

**Secs. 44-142—44-160. Reserved.**

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS

***DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS***

[Sec. 44-146. Eligibility for license.](#)

[Sec. 44-147. Hotel and hotel room service.](#)

[Sec. 44-148. Restaurants.](#)

[Sec. 44-149. Lounges.](#)

[Sec. 44-150. Reserved.](#)

[Sec. 44-151. Private clubs.](#)

[Sec. 44-152. Special events facility.](#)

[Sec. 44-153. Farm winery tasting room.](#)

[Sec. 44-154. Physical requirements of premises.](#)

[Sec. 44-155. Purchase of alcoholic beverages by licensee.](#)

[Sec. 44-156. Package sales prohibited.](#)

[Sec. 44-157. Ancillary wine tasting license.](#)

[Sec. 44-158. Growlers.](#)

[Sec. 44-158. Ancillary growler malt beverage tasting license.](#)

[Sec. 44-160. Brewpubs.](#)

[Sec. 44-161. Hours of operation.](#)

[Sec. 44-162. Minors.](#)

[Sec. 44-163. Gross sales requirements; Reporting requirements.](#)

[Sec. 44-164. Election day.](#)

[Sec. 44-165. Miscellaneous regulations.](#)

[Sec. 44-166. Prohibited products.](#)

[Secs. 44-167—44-190. Reserved.](#)

**Sec. 44-146. Eligibility for license.**

- (a) A consumption on the premises license may be granted only to the establishments described in this article and subject to the specified conditions.
- (b) Full-service kitchen as used in this division shall mean a kitchen with a three- compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and county fire department.

**Sec. 44-147. Hotel and hotel room service.**

- (a) In order to be eligible for a consumption on the premises license, a hotel must:

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (1) Be used and held out to the public as a place where food is served and consumed and sleeping accommodations are offered to guests for adequate pay;
  - (2) Contain 50 or more rooms used for the sleeping accommodations of guests; and
  - (3) Contain one or more public dining rooms, with adequate and sanitary full-service kitchen facilities.
- (b) A hotel may consist of a single building or may consist of two or more buildings located on the same premises and used in connection with the hotel operation.
- (c) A facility which is styled as a motel, motor lodge, inn, or other similar appellation may be licensed as a hotel if it meets the requirements of this section.
- (d) A hotel may grant permission for the operation of a lounge, restaurant, or supper club on its premises; such an operation may be granted a consumption on the premises license if it meets the other applicable requirements of this article.
- (e) Notwithstanding any other provisions of this article to the contrary, any hotel (as the term "hotel" is commonly used and without regard to the requirements of this section), inn, or other establishment which offers overnight accommodations to the public for hire, may provide in-room service of alcoholic beverages if such establishment:
- (1) Holds a valid county package license or a valid county consumption on the premises license or both; and
  - (2) Has been authorized to provide in-room service by the state revenue commissioner.
- (f) For purposes of this section, "in-room service" consists of:
- (1) The delivery of alcoholic beverages in unbroken packages by an employee of the hotel to a registered guest's room when such alcoholic beverages have been ordered by the guest and when the guest shall be billed for the cost of such alcoholic beverages at the time of delivery and when the sale of such alcoholic beverages is completed at the time of delivery; and
  - (2) The provision of a cabinet or other facility located in a hotel's guest room which contains alcoholic beverages and which is provided upon request of the guest and which is accessible by lock and key only to the guest and for which the sale of alcoholic beverages contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (g) Except as otherwise provided in this section, in-room service of alcoholic beverages shall be subject to all restrictions and limitations in this article relative to the sale of alcoholic beverages. In-room service sales shall be authorized only on such days and only during such hours as the sale of alcoholic beverages is otherwise authorized.
- (h) Distilled spirits sold pursuant to this section shall not be sold in packages containing less than 50 milliliters each.
- (i) All alcoholic beverages sold pursuant to this section shall be purchased from a licensed wholesale dealer and shall be subject to all taxes imposed under this chapter, including the excise tax on the retail sale by the drink of alcoholic beverages containing distilled spirits.

**Sec. 44-148. Restaurants.**

- (a) In order to be eligible for a consumption on the premises license, a restaurant must:

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (1) Be used and held out to the public as a place where meals are regularly served to the public for adequate pay;
- (2) Contain one or more public dining rooms, with adequate and sanitary full-service kitchen facilities and staff to prepare, cook, and serve suitable food for its guests;
- (3) Serve at least one meal per day at least three days per week, with the exception of holidays, vacations, and periods of redecoration; and
- (4) Have at least 50 percent of its total sales be the sale of food and nonalcoholic beverages consumed on the premises, exclusive of sales from vending machines, if it permits Sunday alcohol sales; if it does not permit Sunday alcohol sales, a restaurant must have at least 45 percent of its total sales be the sale of food and nonalcoholic beverages consumed on the premises, exclusive of sales from vending machines. For this purpose, if a restaurant makes a minimum charge or cover charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale.

**Sec. 44-149. Lounges.**

- (a) A lounge is a separate room that has a seating capacity at tables of at least 50 persons and which is:
  - (1) Connected with, a part of, and adjacent to a restaurant; or
  - (2) Located in a hotel containing at least 80 rooms.
- (b) A lounge which is in a separate building from, or which is not connected or adjacent to, another licensed facility shall be considered a separate establishment from such other licensed facility and shall not be permitted.
- (c) A lounge in a hotel shall require its own consumption on the premises license. A lounge in a hotel shall not have a minimum food service requirement, unless it permits Sunday alcohol sales, in which case it shall be required to meet the 50 percent food sale requirement as set forth in Sec. 44-148(4), as required by state law for Sunday sales.
- (d) A lounge connected to a restaurant shall not require its own consumption on the premises license. A lounge connected to a restaurant shall be counted as one entity for licensing purposes, and the entire establishment shall be required to meet the requirements of Sec. 44-148(4).

**Sec. 44-150. Reserved.**

**Sec. 44-151. Private clubs.**

- (a) In order to be eligible for a consumption on the premises license, a private club must be a nonprofit association which is organized under the laws of the state and which:
  - (1) Has been in existence at least one year prior to the filing of its application for a license;
  - (2) Has at least 75 regular dues-paying members;
  - (3) Is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes;

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (4) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
  - a. Has suitable kitchen and dining room space and equipment;
  - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
  - c. Has no member, officer, agent, or employee directly or indirectly receiving in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed salary.
- (b) For purposes of subsection (a)(4)c of this section, a "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages. Tips or gratuities added to the bills under club regulations shall not be considered profits from the sale of alcoholic beverages.
- (c) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.
- (d) Veterans' organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the state income tax law shall not be required to operate a food establishment serving prepared food; provided, however, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments.

**Sec. 44-152. Special events facility.**

In order to be eligible for a consumption on the premises license, a special events facility must:

- (1) Be available to public or private groups of persons;
- (2) For monetary consideration on a rental, fee, percentage, or similar basis, be used primarily for special occasions, including but not limited to, receptions, meetings, banquets, conventions, parties, catered events, or similar gatherings; and
- (3) Be open to or attended by invited or selected guests or paying patrons.

**Sec. 44-153. Farm winery tasting room.**

- (a) There is hereby created a license for the business of operating a Georgia farm winery tasting room in conformance with the laws of the state and the county. Under this section, the licensee shall be authorized to carry on the business of operating a farm winery tasting room in the licensed premises.
- (b) Farm wineries may obtain a license for sale of wines produced on any winery in this county at tasting rooms located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the winery. Farm wineries may also make sales of distilled spirits, malt beverages, and wines not produced by a farm winery for consumption in its tasting rooms and at facilities located on the premises of the winery or on property located contiguous to the winery and owned by the winery or by an affiliate of the

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

winery, provided that any alcoholic beverages sold pursuant to this paragraph shall be purchased by the winery from a licensed wholesaler at wholesale prices.

- (c) Farm winery tasting rooms may be authorized on premises other than the premises where the farm wine is produced if the Commissioner approves an application to designate the requested location as a special entertainment district pursuant to O.C.G.A. § 3-6-21.2. Under this subsection, the farm winery must own an active farm winery whose products must be for sale at the off-site farm winery tasting room. The Commissioner shall hold a public hearing prior to granting such designation and shall be empowered to impose conditions on the license.
- (d) The farm winery tasting room created by this section is limited to farm wineries licensed by the state and allows the licensee to deal in its farm winery products pursuant to state law. No license is created by this section authorizing any other person to deal in any other alcoholic beverage.

**Sec. 44-154. Physical requirements of premises.**

All lounge and restaurant areas, including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well-illuminated so that they may be viewed by those inside the premises. The sale or dispensing of alcoholic beverages in any back room or side room that is not open to the general public is prohibited, except that this prohibition shall not apply with respect to:

- (1) Private parties which have been scheduled in advance;
- (2) Sales to hotel guests in their hotel rooms;
- (3) Private clubs; or
- (4) Special events facilities.

**Sec. 44-155. Purchase of alcoholic beverages by licensee.**

Licensees under this chapter shall purchase distilled spirits in sizes of three-fourths (0.750) of a liter or larger, except for single-serve bottles, unless a particular brand is not packaged in these size containers, in which case the licensee may purchase such brand in the next smallest size to such size containers.

**Sec. 44-156. Package sales prohibited.**

Except as may be otherwise specifically provided hereafter, it shall be unlawful for any distilled spirits and/or malt beverages to be sold by the package from premises licensed for consumption on the premises. Wine and/or growlers may, however, be sold by the package from premises licensed for consumption on the premises, provided that package wine and/or malt beverage licenses are also obtained.

**Sec. 44-157. Ancillary wine tasting license.**

- (a) The holder of a wine package license, with or without a package malt beverage license, shall be eligible for an ancillary wine tasting license to provide samples of wine offered for sale to customers under the conditions set forth in this section.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (b) Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- (c) Wine tasting for customers shall only be conducted at a wine counter area constituting no more than ten percent of the entire floor area of the premises.
- (d) Wine sampling for customers shall be limited to no more than one time per day for a period of not to exceed two consecutive hours. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period.
- (e) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (f) No open containers of wine shall be removed from the licensed premises.
- (g) Not more than two times per week for a period of not to exceed two consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (h) Holders of an ancillary wine tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- (i) Wine sampling and tasting is only permitted within the enclosed portion of the premises.
- (j) The annual fee for an ancillary wine tasting license shall be \$100.

**Sec. 44-158. Growlers.**

- (a) The sale of growlers is authorized in establishments authorized to sell malt beverages and wine by the package.
- (b) The filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or this section.
- (c) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.
- (d) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.
- (e) Each growler must be securely sealed and removed from the premises in its original sealed condition.
- (f) Consumption on the premises is strictly prohibited; however, samples of beers available for sale in a growler may be made available, but shall not exceed one ounce nor shall any one individual be offered more than three samples within a calendar day.

**Sec. 44-159. Ancillary growler malt beverage tasting license.**

- (a) The holder of a package malt beverage license, with or without a package wine license, shall be eligible for an ancillary growler malt beverage tasting license to provide samples of growler malt beverages offered for sale to customers under the conditions set forth in this section.
- (b) Growler malt beverage sampling shall be on limited occasions when a customer requests a sample of a growler malt beverage offered for sale within the premises, or in conjunction with growler malt beverage education classes and sampling designed to promote growler malt beverage appreciation and education.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (c) Growler malt beverage tasting for customers shall only be conducted at a counter area constituting no more than ten percent of the entire floor area of the premises.
- (d) Growler malt beverage sampling for customers shall be limited to no more than one time per day per customer. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period.
- (e) Only the licensee or an employee shall open, handle, and serve, and samples shall only be poured by the licensee and/or an employee.
- (f) No open growler containers shall be removed from the licensed premises.
- (g) Not more than two times per week for a period of not to exceed two consecutive hours, the holder of an ancillary growler malt beverage tasting license may conduct educational classes and sampling for class participants. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (h) Holders of an ancillary growler malt beverage tasting license shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- (i) Growler malt beverage sampling and tasting is only permitted within the designated interior portion of the premises.
- (j) The annual fee for an ancillary growler malt beverage tasting license shall be \$100.

**Sec. 44-160. Brewpubs.**

- (a) A brewpub license authorizes the holder of such license to:
  - (1) Manufacture on the licensed premises not more than 10,000 barrels of beer in a calendar year solely for retail sale on the premises;
  - (2) Operate an eating establishment that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this title, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler for consumption on the premises only; and, provided, further, that in addition to draft beer manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers; and
  - (3) Notwithstanding any other provision of this paragraph, sell up to a maximum of 5,000 barrels annually of such beer to licensed wholesale dealers for distribution to retailers and retail consumption dealers;
- (b) Possession of a brewpub license shall not prevent the holder of such license from obtaining a retail package license endorsement for the same premises. A brewpub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises unless such retail package endorsement is obtained.
- (c) A brewpub licensee shall not offer or permit any free sampling of beer by its customers on the premises of a brewpub. The eating establishment must satisfy the regulations applicable to a restaurant as set forth in Sec. 44-148.
- (d) A brewpub licensee shall:
  - (1) Pay all local excise taxes applicable to individuals licensed by this state as manufacturers, retailers, and, where applicable, wholesalers under this article.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

- (2) Measure beer manufactured on the premises and otherwise comply with applicable regulations respecting excise and enforcement tax determination of such beer as required by this title.
- (e) Every brewpub located within the unincorporated county shall file a monthly report with the county, no later than the 20th day of each month, on such forms as the county may prescribe, setting forth all malt beverages produced during such preceding calendar month, to include the beginning and ending inventories. Such report shall also indicate the total production of malt beverages during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty set forth herein.

**Sec. 44-161. Hours of operation.**

- (a) The hours of sale of alcoholic beverages each day shall be between 6:00 a.m. and 12:00 midnight Mondays through Saturdays. On Sundays the hours of sale shall be between 12:30 p.m. and 11:30 p.m. Establishments may remain open up to one hour beyond the hours permitted for sales of alcoholic beverages.
- (b) In the event that a licensed business is open for less than the hours stated in the preceding paragraph, the sales of alcoholic beverages shall be restricted to those regular store hours. However, in no event shall sales be made during hours other than described in the preceding paragraph.

**Sec. 44-162. Minors.**

License holders may not allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages. This shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries, or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises. Persons aged 18 or more may dispense, serve, sell, take orders or handle any alcoholic beverages as a part of employment in a licensed establishment.

**Sec. 44-163. Gross sales requirements; Reporting requirements.**

- (a) Alcoholic licenses be revoked if required gross sales percentages of alcoholic to non-alcoholic items are not met for three consecutive months.
- (b) On or before the 20th day of each month, each retail and consumption licensee shall furnish to the business license office an affidavit under oath, showing the gross sales of groceries and food products (excluding sales of alcoholic beverages), and the combined gross sales of alcoholic beverages, groceries and other food products for the preceding month. This affidavit shall be on a form furnished by the business license office. The licensee shall attach a copy of the Georgia Sales and Use Report for the same period to his affidavit.
- (c) Copies of summaries of sales and State Form ATT-122 shall be furnished to the business license office no later than the 20th day of each month by wholesale dealers selling alcoholic beverages to licensees. The report shall apply to deliveries made during the previous month. Copies of these reports shall be submitted with the excise tax described in Division 8.
- (d) These reports shall be confidential.
- (e) *Late fees/suspension and revocation.* Failure to submit an affidavit, sales form or other report required by this section within the time specified will result in late fees as follows: 1) \$50.00 after two

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

consecutive months; 2) \$100.00 after five consecutive months; 3) six consecutive months shall be grounds for suspension and/or revocation of the license. Upon the submittal of the appropriate affidavit, report or form required under this division, along with the payment of any and all applicable fees and/or fines, said license may be re-instated. Said fees apply per late affidavit.

**Sec. 44-164. Election day.**

Alcoholic beverages may be sold on any election day, subject to all other provisions of this chapter; provided however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established on election days.

**Sec. 44-165. Miscellaneous regulations.**

The following miscellaneous regulations shall apply to all license holders.

- (1) License holders shall not sell alcoholic beverages to any person who is in an intoxicated condition.
- (2) License holders shall not permit any disorderly conduct or breach of the peace on the licensed premises.
- (3) License holders shall not sell, offer for sale, possess or permit the consumption on the licensed premises of any kind of alcoholic beverage for which a license holder is not authorized to sell under his license. The license holder shall not allow "brown bagging" on the licensed premises.
- (4) Alcoholic beverages shall not be sold or offered for sale through vending machines on the licensed premises.
- (5) Deliveries of alcoholic beverages shall only be made to licensed premises and shall be made only by a conveyance owned and operated by a duly licensed wholesaler or delivery-only wholesaler.
- (6) No retail license holder shall accept delivery of alcoholic beverages from any wholesaler unless the wholesaler has fully complied with the Georgia laws regulating and taxing the sale of such beverages at wholesale.
- (7) No retail or consumption license holder shall deliver alcoholic beverages at any location other than the licensed premises.
- (8) All licensees shall store all alcoholic beverages in their possession only on the premises for which the license was issued.
- (9) License holders of retail package licenses shall require that the alcoholic beverages purchased be placed in an opaque container before being removed from the store; provided, however, that this subparagraph shall not apply to the purchase of a 12-pack or larger container.
- (10) Every license holder shall have available on the licensed premises a copy of this article and shall be responsible for compliance with said article by all persons on the premises.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 6. REGULATIONS FOR OPERATION OF BUSINESS**

**Sec. 44-166. Prohibited products.**

No license holder under this chapter shall sell, offer for sale, display, lend, rent, lease, give, exchange, keep in stock, possess with intent to sell, or otherwise distribute to any person, at any place of business licensed hereunder any of the following products:

- (1) Any "drug paraphernalia" or "drug related object" as defined by OCGA § 16-13-32(a)(1), as amended:
- (2) Any "drug paraphernalia" or "drug related object" which are further defined as including, but not limited to, objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana or a controlled substance in the human body. For the purposes of this article, the following objects are found to be drug related objects, regardless of the purpose for which the object is marketed:
  - a. Metal, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
  - b. Water pipes; carburetion tubes and devices; smoking and carburetion masks.
  - c. Roach clips; meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
  - d. Miniature cocaine spoons and cocaine vials.
  - e. Chamber pipes; carburetor pipes; electric pipes; air-driven pipes.
  - f. Chillums; bongs; ice pipes or chillers.
  - g. Digital or postal scales.
- (3) "Controlled substance" is defined for purposes of this chapter, as that definition stated in OCGA § 16-13-21, as amended.

**Secs. 44-167—44-190. Reserved.**

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 7. REVOCATION OR SUSPENSION OF LICENSE**

***DIVISION 7. REVOCATION OR SUSPENSION OF LICENSE***

[Sec. 44-191. Grounds for revocation or suspension.](#)

[Sec. 44-192. Hearings.](#)

[Sec. 44-193. Penalties.](#)

[Sec. 44-194. Automatic revocation of license.](#)

[Secs. 44-195—44-210. Reserved.](#)

**Sec. 44-191. Grounds for revocation or suspension.**

The following shall be grounds for the suspension or revocation of an alcoholic beverage license. The existence of such grounds shall be determined by the commissioner based upon the preponderance of evidence, following a hearing, to wit:

- (1) Violation by the licensee of any state or federal law or regulation relating to the use and sale of drugs or alcoholic beverages, or violation by the licensee or any employee of this article; or
- (2) The failure of the licensee or his employees to report promptly to the sheriff's department any violation of law, regulation, resolution, ordinance or breach of the peace, disturbance, or altercation occurring on the premises; or
- (3) Any conduct on the part of the licensee or his employees contrary to the public welfare, safety, health and morals; or
- (4) Operating or conducting the licensed business in a manner contrary to the public welfare, safety, health or morals or in such a manner as to constitute a nuisance; or
- (5) The violation by a license holder of any state or federal law or regulation, municipal or county resolution or ordinance pertaining to alcoholic beverages, specifically including any violation of any provision of this article, including failure to pay any fee or tax due under this article; or
- (6) The violation by the licensee of the Georgia Controlled Substances Act; or
- (7) The violation by the licensee of any federal, state or local law prohibiting the sale of pornographic materials; or
- (8) Failure of the licensee to furnish to the business license office any report required by this article or any reasonable reports requested in writing by the business license office; or
- (9) Allowing a person to work in the licensed business who has had an alcoholic beverage license revoked by any jurisdiction for violation of its laws or rules within a period of five years immediately preceding the filing of an application for a license, or the renewal thereof, under this article; or
- (10) Allowing a person to work in the licensed business who has violated the provisions of this article or any law of the United States or any state law pertaining to the sale of alcoholic beverages within the past five years from the date of filing an application for a license, or the renewal thereof, under this article; or

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 7. REVOCATION OR SUSPENSION OF LICENSE**

- (11) Permitting a person to work in the licensed business who has violated any state or federal law or regulation, municipal or county resolution or ordinance pertaining to alcoholic beverages, specifically including any provision of this article; or,
- (12) Sales by the licensee or any employee of alcoholic beverages to a minor; or,
- (13) Submitting an application containing false information or false statements; or
- (14) Any activity on the premises by the licensee or any employee involving marketing or selling drug paraphernalia, drug related objects, or otherwise violating section 44-166 of this article;
- (15) Any crimes against the person (battery, assault, theft, etc) committed against any customer of the business by the license holder or any employee of the business, on the premises; or
- (16) Failure to submit affidavits, sales forms or reports required by section 44-163 or to pay any late fees assessed in section 44-163

**Sec. 44-192. Hearings.**

- (a) A license holder shall be entitled to a hearing before the County Commissioner concerning any alleged violation that could lead to revocation or suspension of the license.
- (b) Upon the report of any violation of this article, the license official shall give notice to the license holder in writing to show cause before the commissioner why the license should not be revoked or suspended.
- (c) A written notice from the license official shall specify the nature of the violation and the time and place for the hearing, which shall not be less than three business days nor more than 14 business days from the date of service of the notice. Service shall be deemed completed three business days after mailing to the licensee's address listed on the application.
- (d) The commissioner shall have the power to suspend any license under this article for a period of time not to exceed 17 business days pending the hearing on the question of whether or not the license shall be further suspended or revoked for cause.
- (e) At the hearing, the licensee shall have the opportunity to show cause why the license should not be suspended or revoked.
- (f) Hearings shall be conducted consistent with rules applied in administrative proceedings which shall ensure that each party may present evidence, cross-examine witnesses, and be represented by legal counsel. All testimony shall be sworn. The hearing shall be recorded and transcription may be provided at cost to the applicant.
- (g) The commissioner shall hear all relevant evidence as to the alleged violation of the article.
- (h) The hearing need not be at a regular meeting of the commissioner, but may be at such time and place as shall be fixed in the notice.
- (i) Within three business days from the date of the hearing, the commissioner shall render a decision in writing and furnish a copy of the decision to the licensee via certified mail. A decision of the commissioner shall be effective immediately.

**Sec. 44-193. Penalties.**

- (a) The commissioner, after a hearing and finding of any license holder to be in violation of any provision of this article, may take one or more of the following actions depending on the severity of the

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 7. REVOCATION OR SUSPENSION OF LICENSE**

violation: revocation of license; suspension of license for a period of time; fine the license holder; place the license holder on suspension; warn the license holder; take no action.

- (b) If a fine is imposed, the fine may be up to \$1,000.00 for a first offence, and up to \$3,000.00 for subsequent offenses. Suspensions may be up to 180 days. Probation may be for up to three years. Probation means that any further violation of this article during the probation period shall result in revocation of the license.
- (c) Whenever a fine is imposed by the commissioner, and such fine is not paid within 30 days from the date the fine is imposed, the license shall automatically lapse and be invalid pending payment of the fine and reapplication, along with all reapplication fees.
- (d) All penalties assessed against a license holder may also or instead be assessed against the responsible resident.

**Sec. 44-194. Automatic revocation of license.**

A license shall be automatically revoked by operation of law if:

- (1) The licensee's state alcoholic beverage license is revoked.
- (2) Operation of the licensed activity is not commenced within nine (9) months after the license is issued;
- (3) Operation of the licensed activity is commenced and then voluntarily suspended for a period of thirty (30) days or more;
- (4) The licensed business fails to properly account for and pay any excise tax levied under this chapter.

**Secs. 44-195—44-210. Reserved.**

- SUPPLEMENT HISTORY TABLE

Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE II. - ALCOHOL LICENSES

DIVISION 8. TAXES

***DIVISION 8. TAXES***

[Sec. 44-211. Distilled Spirits Excise tax.](#)

[Sec. 44-212. Malt Beverage Excise tax.](#)

[Sec. 44-213. Wine Excise tax.](#)

[Sec. 44-214. Additional provisions; penalties.](#)

[Sec. 44-215. Exemptions.](#)

[Secs. 44-216—44-230. Reserved.](#)

**Sec. 44-211. Distilled spirits excise tax.**

- (a) There is hereby an excise tax computed at the rate of three (3) percent of the charge to the public on sales of distilled spirits by the drink made pursuant to license under this article. This tax shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage. Such tax shall be paid to the governing authority by the licensee on all distilled spirits sold to customers by the drink in the unincorporated county on or before the tenth day of the month following such sales. It shall be unlawful for any licensee to fail to pay such excise tax. Licensees collecting the excise tax authorized in this subsection shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deduction from state tax under O.C.G.A. Title 48, Ch. 8 [ §§ 48-8-1 et seq.].

**Sec. 44-212. Malt beverage excise taxes.**

- (a) Except as provided in subsection (b), there is hereby levied and imposed upon each wholesale dealer selling malt beverages within the unincorporated county, an excise tax in the amount of \$0.4166 (\$0.004166) cents per ounce of malt beverages sold by such wholesale dealer within the unincorporated county.
- (b) Malt beverages sold in or from a barrel or bulk container, and commonly known as tap or draft beer, shall not be subject to the excise tax provided in subsection (a); but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the unincorporated county an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15½) gallons sold by such wholesale dealer within the unincorporated county, and at a like rate for fractional parts thereof.
- (c) The excise taxes provided for in this section shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale, within the unincorporated county.
- (d) Failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license issued by the county to the wholesale dealer.

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 8. TAXES**

(e) Malt beverages which contain less than one-half of 1 percent alcohol by volume shall not be subject to any tax levied under this ordinance.

**Sec. 44-213. Wine excise tax.**

- (a) In addition to the annual retail wine license fee required, there is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter on all wine sold, displayed, or stored in the unincorporated county. Such tax shall be prorated on miniatures, half-pints, fifths, half-gallons, and other quantities, so that each bottle shall be taxed on the basis of twenty-two cents (\$0.22) per liter.
- (b) The tax shall be paid to the county by each wholesale distributor on all wine sold to retailers in the unincorporated county as follows: Each wholesale distributor selling, shipping or in any way delivering wine to any such retailer shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.
- (c) Each wholesale distributor shall furnish to the unincorporated county a summary of all purchase invoices for wine sold to each retailer in the unincorporated county on or before the tenth of each month following such purchases. The invoices shall show the amount of excise tax paid.

**Sec. 44-214. Additional provisions; penalties.**

- (a) The excise taxes provided for in this section shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling alcoholic beverages at retail or wholesale, within the unincorporated limits of the county.
- (b) Failure to make a timely remittance of the taxes imposed in this section shall render a wholesale dealer liable for a penalty equal to 25 percent of the total amount due during the first 30-day period following the date such remittance was due and a further penalty of one percent of the total amount due for each successive 30-day period or any portion thereof, during which such remittance is not filed. The filing of a false or fraudulent report required by state law shall render the wholesale dealer making such report liable for a penalty equal to 50 percent of the amount of the remittance which would be required under an accurate and truthful report.
- (c) Failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the business license issued by the county to the wholesale dealer.
- (d) The county shall have the right to audit, and to require production of records from, each wholesaler supplying retailers in the unincorporated county and each retailer so supplied.

**Sec. 44-215. Exemptions.**

The taxes imposed by this provision shall not be levied with respect to any sales of wine or beer that are exempt from taxation by federal or state law.

**Secs. 44-216—44-230. Reserved.**

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 9. MISCELLANEOUS PROVISIONS**

***DIVISION 9. MISCELLANEOUS PROVISIONS***

[Sec. 44-231. General miscellaneous provisions.](#)

[Sec. 44-232. Violations.](#)

[Sec. 44-233. Remedies.](#)

[Sec. 44-234. Severability.](#)

**Sec. 44-231. General miscellaneous provisions.**

- (a) No person shall knowingly and intentionally act as agent to purchase or acquire any alcoholic beverage for or on behalf of a person who is under the minimum age to purchase alcoholic beverages, as defined by Georgia Law, except for medical purposes upon the written prescription of a duly licensed physician under the laws of the State of Georgia.
- (b) It shall be unlawful for any person who is under the minimum age to purchase alcoholic beverages, as provided by Georgia Law, to falsely misrepresent his or her age in any manner whatsoever in violation of this article or any other applicable laws.
- (c) It shall be unlawful for any person who is under the minimum age to purchase alcoholic beverages, as provided by Georgia law, to purchase, drink or possess any alcoholic beverage as defined herein in the unincorporated area of Bartow County.
- (d) It shall not be considered a violation of this article for a person who is under the minimum age to purchase alcoholic beverages, as provided by Georgia law, to purchase or possess any alcoholic beverage if such person is at the time bona fide acting for and on behalf of law enforcement agencies conducting investigations of license holders and/or their employees.
- (e) Any forms, not otherwise provided, required by this article shall be printed by Bartow County and furnished to applicants and license holders.
- (f) A copy of Article II of Chapter 44 of the Code of Bartow County shall be furnished to each license holder by the county.
- (g) The use of the singular tense includes the plural tense and the plural tense includes the singular tense. The use of any gender includes all genders.

**Sec. 44-232. Violations.**

In addition to penalties faced by the license holder including revocation and suspension (see division 7), any firm, person or corporation who shall do anything prohibited by this article as the same exists or as it may hereafter be amended or which shall fail to do anything required by this article as the same exists or as it may hereafter be amended shall be guilty of a misdemeanor, amenable to the process of the Magistrate Court of Bartow County and, upon conviction, shall be punished by a fine not to exceed \$1,000.00 or by confinement in the county jail not to exceed 60 days, or both, in the discretion of the court. In lieu of, or in addition to, any fine or incarceration, community service may be ordered by the court as punishment for a violation of this article. Said community service shall be not less than 20 hours but not more than 250 hours, which must be performed within one year from the date of conviction for a violation of this article. Any person placed on community service, or otherwise placed on probation, for a

**- SUPPLEMENT HISTORY TABLE**

**Chapter 44 - LICENSE, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS**

**ARTICLE II. - ALCOHOL LICENSES**

**DIVISION 9. MISCELLANEOUS PROVISIONS**

violation of this ordinance shall pay such supervisory fees as may be authorized by law. A responsible resident is also subject to any enforcement action for violations by the business.

**Sec. 44-233. Remedies.**

In the event any provision of this article has been violated or is being violated, in addition to, or in lieu of, any other remedies under this article, the county, through the county attorney or other designated attorney, may institute injunction, mandamus, or other appropriate action or proceeding to prevent or abate such violation, or to otherwise enforce the purposes and provisions of this article. Such action may seek the fees and fines available under this article, and the county shall be entitled to its attorney's fees in the event the action succeeds in obtaining relief. Any violation of this article is declared to be a nuisance. In addition to any other relief provided by this article, the county attorney or other designated attorney may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this section. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

**Sec. 44-234. Severability.**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. It is the intent that any provision declared unconstitutional shall be severed from the ordinance, and the remainder of the ordinance remain in effect.