

CHAPTER 5.60. DISTILLED SPIRITS

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5.60.010. License issuance.

Wholesale and consumption on the premises licenses for the sale of distilled spirits outside municipalities in Hall County will be issued by the board of commissioners of the county pursuant to the rules and regulations set forth in the following sections of this chapter. The holding of any of said licenses is declared to be a privilege and not a right.

(Res. of 9-14-06, § 1)

5.60.020. Definitions.

As used in this chapter, the term:

- A. *Hall County, Georgia* as used herein shall be construed to mean the unincorporated area of Hall County, Georgia; wherever the term "county" is used herein, it shall be construed to mean the unincorporated area of Hall County, Georgia.
- B. *Alcoholic beverage* means and includes all alcohol, distilled spirits, beer, malt beverages, wine, or fortified wine.
- C. *Brown bagging* means possession of an open glass bottle, can, or other container containing an alcoholic beverage or consumption of an alcoholic beverage on premises:
1. For which a county business license has been issued; and
 2. [Which] occurs at a location different from where said alcoholic beverage was purchased.
- D. *Director* means the Business License Director for Hall County.
- E. *Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including but not limited to, all fortified wines.
- F. *Food caterer* means any person who prepares food for consumption off the premises.
- G. *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 section, the term "election" is defined as any statewide primary election and the statewide general election and any runoff held for such primary or general election. The term also includes "local elections."
- H. *Licensed alcoholic beverage caterer* means any licensed consumption on the premises business that has been licensed pursuant to the regulations of this chapter for sales off the premises of alcoholic beverages for catered functions.
- I. *Malt beverage* means 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 and strong beer. The term does not include sake, known as Japanese rice wine.
- J. *Nonprofit private club* means a corporation organized and existing under the laws of the state or a fraternal or veterans' organization associated with and 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:
1. Has at least 100 members regularly paying dues; and
 2. Has tax exempt status under the provisions of section 501(a) of the U.S. Internal Revenue Code; and
 3. Owns or leases a building or space for the reasonable use of its members; and
 4. Has no members or officers, agent 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 distilled spirits 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
 5. Has no part of the net earnings inuring to the benefit of any shareholder or member; and
 6. Has been in continuous operation for at least one year prior to the application for a license hereunder.
- K. *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, except in the case of a licensee where:
1. A golf course is located adjacent to and contiguous with a restaurant, premises shall include the playing area of the golf course.
 2. Where a SportsCar, SCCA (Sports Car Association of America), ACO (Automobile Club De L'Quest) CART (Championship Auto Racing Teams), or NASCAR (National Association for Stock Car Auto Racing) sanctioned motor sport road race track facility is located adjacent to and contiguous with a restaurant.
 3. In these exceptions the premises shall include the permanent concession points, grandstands and other event viewing areas; provided however, that alcoholic beverages may only be served at permanent concession points on the premises operated by the main licensed location and approved in advance by the county business license director or such other official as may be designated by the board of commissioners.

L. *Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and an interior seating capacity of at least 50 people, with at least two meals per day being served for not less than five days a week, for at least nine months each calendar year, and the serving of such meals being the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto.

M. *Retail package* means sales of distilled spirits packaged to go and not for consumption on the premises sales.

N. *Veterans' organization* means a veterans group duly certified by their national organization and with a membership of not less than 25 persons.

O. *Wine* means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this chapter.

P. *Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic or political subdivision, whether public, private or quasi-public.

(Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 1)

5.60.030. License required.

No person shall engage in the business of wholesaling, retailing or otherwise providing distilled spirits of any kind in the unincorporated area of the county without first obtaining a license therefor under this chapter.

(Res. of 9-14-06, § 1)

5.60.040. License classifications.

Only the following classes of licenses shall be authorized:

A. Distilled spirits:

1. Consumption on the premises;
2. Wholesale;
3. Consumption off the premises catering; and
4. Event permit.

(Res. of 4-23-09(2), § 2)

Editor's note: Res. of 4-23-09(2), § 2, deleted the former § 5.60.040, and enacted a new § 5.60.040 as set out herein. The former § 5.60.040 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

5.60.050. License fees.

A. The applicant for a consumption on the premises license for the sale of distilled spirits shall pay to the business license director at the time of application the sum of \$2,500.00 as an annual license fee for operation for one year at one location or one business where the product will be sold. The first or initial license may be issued on a quarterly basis if application is made after January 1 of the current annual license term with the license fee being prorated by the quarter (one quarter fee minimum with one-half or more of the quarter to be counted as a full quarter). Thereafter the total annual fee shall be due at the time the application is submitted notwithstanding the date of renewal.

B. Any wholesale dealer in distilled spirits licensed by the state or the agent of such wholesale dealer will be granted a license upon payment of \$100.00; the distribution to be made outside the municipalities in the county. All appropriate and pertinent parts of this chapter shall be applicable to any applicant for or holder of a wholesale license to sell and/or distribute distilled spirits under this chapter.

C. Each application for license under this chapter shall be accompanied by a certified check for the full amount of the license fee. Should the applicant be denied a license or should the applicant(s) withdraw the application prior to its being submitted to the commission, the license fee shall be refunded; however \$150.00 for investigation and application processing shall be retained.

D. Alcohol licensed locations/license holders who have their alcoholic beverage license suspended for a period of time shall pay to the business license director a reinstatement fee of \$350.00 before the suspended license may be reissued.

E. The above license fees shall not be prorated for applicants whose businesses operate for less than one year. No refund shall be made to license holders who have their licenses revoked or suspended by the county commission.

F. License fees for permanent concession points for the sale of alcoholic beverages as set forth under the definition of "premises" in Section 5.60.020, paragraph I., shall be as follows:

1. An annual inspection fee of \$100.00 for one to four concession locations;
2. An annual inspection fee of \$200.00 for five to ten concession locations; and
3. An annual inspection fee of \$300.00 for more than ten concession locations shall be charged to offset the cost of concession site inspections.
4. Licensing fees for concession points shall not be prorated and shall be due and payable at the same time the alcoholic beverage license is renewed each year.
5. Alcohol concession permits will be issued for each concession point as a supplementary license to the main licensed location.
6. Any new concession locations added during the licensing year shall be charged an initial inspection fee of \$50.00, and then the new concession location shall be added to the annual renewal fee the following year.
7. Fees set forth in section 5.60.050, paragraph E, subparagraphs 1.--3. shall be waived if such fees have already been paid in connection with a Hall County Malt Beverage and Wine Consumption on the Premises License.

(Res. of 5-14-2009(1), § 1(Exh. C))

Editor's note: Res. of May, 14, 2009, § 1(Exh. C), deleted § 5.60.050, and enacted a new § 5.60.050 as set out herein. The former § 5.60.050 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

5.60.060. License application.

A. All applications for licenses to sell distilled spirits shall be made in person by the applicant to the business license director in writing on forms made available by the Business License Director. The application shall contain, but is not restricted to, the following information:

1. Name;
2. Age;
3. Address;
4. Length of residency of the applicant;
5. Name of business;
6. Location of business;
7. Current, valid Hall County Business License for proposed alcohol licensed location;
8. Description of the premises or place of business where the license is to be effective;
9. Statement as to whether the applicant or any person with any interest in the applicant has made application previously for any alcoholic beverage license and the disposition of such application;
10. Whether the applicant or any person with any interest in the application has ever been convicted of a crime other than traffic violations;
11. Whether a previous license issued to the applicant or any person with any interest in the application has been revoked by any state or subdivision thereof or by the federal government, and the reason for said revocation;
12. Whether any other person is interested directly or indirectly in the profits or losses of the proposed business;

13. Each applicant for a distilled spirits 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; and

14. Only after meeting all requirements for licensing by the applicant shall the application be submitted to the commission for approval. Current license holders applying for additional locations shall be exempt from this provision.

B. Every application for a license shall be accompanied by a scale drawing showing the nearest church, funeral chapel, school or college or shall have attached thereto an affidavit of a registered surveyor that the proposed location of the licensed premises complies with the distance requirements of this chapter and any state or federal law.

C. If the applicant for a distilled spirits consumption on the premises license currently maintains a valid beer and/or wine license issued in Hall County, the license can be issued by the business license director without the applicant having to appear before the county commission.

(Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 4)

5.60.065. Application for sales off premises for catered functions.

A. Licensed distilled spirits consumption on the premises locations eligible for off premise catering licenses shall meet the following requirements:

1. Any licensed alcoholic beverage locations that possess a valid license from Hall County or other jurisdictions which authorizes the licensee to sell distilled spirits by the drink for consumption on the premises may be issued an off-premise catering license which authorizes such licensed alcoholic beverage caterer to sell distilled spirits by the drink off the premises and in connection with an authorized catered function within the unincorporated area of Hall County.

2. Any licensed alcoholic beverage locations that possess a valid license from Hall County or other jurisdictions which authorizes the licensee to sell distilled spirits by the drink for consumption on the premises shall make application for an off-premise catering license as provided in paragraph F of section 5.60.050, and shall pay to the Hall County an annual license fee for operation for one calendar year.

B. Event permits will be issued for all catered functions located within Hall County. In order to distribute or sell distilled spirits for consumption off the premises at an authorized catered function, a licensed alcoholic beverage caterer shall be required to:

1. Possess a valid current distilled spirits consumption off the premises catering license from Hall County which authorizes the licensee to sell distilled spirits by the drink.

2. Provide satisfactory reports to the director on forms provided by the department stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by the director; and maintain original local event permits and documents required by the department in the vehicle transporting the alcoholic beverages to the catered function at all times.

(Res. of 4-23-09(2), § 5)

5.60.070. License approval procedures.

A. After filing an application with the director, the applicant for a license shall publish a notice of the application in a local newspaper in the county at least four times within two weeks prior to the regular county commissioner meeting at which the application is to be presented and considered. The notice shall contain the name of the person applying for the license and the name of the person for whom the application is submitted, if different, and the location of the proposed premises. An affidavit of the publisher or his authorized agent certifying that the advertisement has been published shall accompany each application.

B. After filing an application with the director, the applicant for a license shall place a sign in the establishment where alcoholic beverages are to be sold. This sign shall remain on the premises from the date of the initial filing of the application with the director, and shall remain until the application has been approved or denied. The sign shall be visible from the street or thoroughfare on which the establishment where alcoholic beverages are to be sold. The sign shall contain the words "NOTICE: ALCOHOLIC BEVERAGE LICENSE APPLIED FOR." The words shall appear in bold type and be clearly visible from the street or thoroughfare on which the establishment where alcoholic beverages are to be sold is located,

and be located at the main entrance to the establishment. Letters on this sign shall be not less than four inches in height. The day, month, and year the license was applied for and dates and place of the hearings shall also appear on said sign.

C. The application may be reviewed and considered by the county commission at the next regularly scheduled county commission meeting following the necessary publication of the application. The county commission shall not act upon or vote upon the application until the second regularly scheduled county commission meeting following the publishing of the application.

D. Applications for new alcoholic beverage licenses may be approved for locations currently under construction, or for locations where new construction will begin within 30 days of commission approval, providing said construction must be completed, certificates of occupancy be issued, and the business license and alcoholic beverage license issued, in accordance with regulations contained in this Code, within 12 months of the date of approval by the Hall County Commission. Extensions may be requested and granted by the licensing director for extenuating circumstances only. Any and all applicable fees or renewals fees due or normally associated with the license during this 12-month period will be due and payable as set forth in this Code. Locations not meeting the requirements or time restrictions of this paragraph will be required to apply for a new license after the expiration of 12 months from the date of initial approval by the commission.

(Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 6)

5.60.080. License renewal and transfer.

A. A licensee who desires to renew his license for a subsequent calendar year must file a renewal application with the director on or before November 15 of the preceding year. Payment of license fees for renewal shall be made at the time of application, and, upon approval of the renewal application by the director, the license will be issued. Applications for renewal shall be treated as applications for new licenses but need not be advertised and/or resurveyed unless requested by the director. Any renewals submitted after the due date of November 15, shall be considered delinquent and assessed a penalty in the amount of ten percent of the fees due. Interest on delinquent fees shall be assessed at one percent for each month or fraction thereof of delinquency.

B. No license may be transferred from one person to another or from one managing agent to another without the approval of the director pursuant to written application.

C. Upon change of a license holder or owner (unless the owner is a corporation and stock is traded publicly or listed on a major stock exchange) the license shall be transferred and will remain in effect for no longer than 45 days or until the transfer is granted or refused under this chapter, whichever shall occur first. Payment of the transfer fee of \$150.00, if made within five days of the transfer, or \$300.00 if more than five days after the transfer, shall be due at the time of application. The license shall cease to be in effect after 45 days or the business is closed. A time extension for the transfer may be granted by the director due to extenuating circumstances.

D. 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 year without payment of any fee, provided those persons are otherwise qualified as license holders. Otherwise, the license may be transferred to a qualified transferee within 30 days after the condition of the estate of the deceased licensee will permit. In such case, the transferee shall pay a transfer fee of \$150.00.

E. Any licensee desiring to discontinue business at one location and commence business at another location must make a completely new application for the new location.

F. No refund of renewal fees shall be made once the renewal application is submitted approved and license is issued.

(Res. of 9-14-06, § 1)

5.60.090. Qualifications of license holders.

A. All applicants for a license shall be at least 21 years of age.

B. All sole proprietor owners who are permanent residents of the State of Georgia shall make application for a license in their own name. Where the owner is a corporation, partnership, or other association, the application shall be made in the name of an officer, partner, or associate who owns a substantial interest in the business. In the event that there is no qualifying officer, partner, or associate who is a permanent

resident of the State of Georgia, the application shall be made in the name of an agent of the business who is a permanent resident of the State of Georgia. In such cases the application shall show that the license is for the use of the owner who shall be named in the application.

C. For the purpose of this chapter, unless otherwise indicated, applicant means the corporation, partnership, sole proprietorship, or other organization, and the managing agent.

1. Every managing agent applicant for a Hall County Distilled Spirits license shall be at least 21 years of age, a U.S. citizen or an alien lawfully admitted for permanent residency, and a resident of the State of Georgia, and shall make application on forms furnished by the business license office and in connection therewith shall, under oath, answer all questions, supply all information, and furnish all certificates, affidavits, and other supporting data as required thereby.

2. Where the application is made on behalf of a corporation, the license shall be issued jointly to the corporation and an officer or agent who meets the requirements as set forth in section 5.60.090. The officer or agent named as the applicant shall be an individual who does in fact have regular managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed fulltime by the corporation. Said individual shall be known as the "managing agent."

3. Where the application is made on behalf of a partnership, the license shall be issued jointly to the partnership and either the managing general partner thereof, or an individual who meets the requirements set forth in section 5.60.090 does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the partnership. Said individual shall be known as the "managing agent."

4. Where the application is made on behalf of a sole proprietorship, the license shall be issued jointly to the sole proprietorship and an individual who meets the requirements set forth in section 5.60.090 who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the proprietor. Said individual shall be known as the "managing agent." The "managing agent" may be the sole proprietor, if he/she otherwise qualifies under this section.

5. Where the application is made on behalf of any other type organization, the license shall be issued jointly to the organization and an individual who meets the requirements set forth in section 5.60.090 who does in fact have management authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, who is employed full time by the organization. Said individual shall be known as the "managing agent." In the case of a non-profit private club, the managing agent may be an officer of the organization in lieu of a full-time employee if the individual is otherwise qualified under section 5.60.090.

6. A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.

7. The written application for the license shall be a permanent record which the licensee must maintain current as required by this chapter. Failure to maintain a current application shall be grounds for revocation of the license.

8. In the event the "managing agent" changes, or ceases to meet requirements as set forth in paragraphs (1), (2), (3), (4), (5) of this section, the licensee shall notify the business license director within five days of the change. A fee of \$150.00 will be charged for the processing of an application for the change of the "managing agent," or if after five days a fee of \$300.00, and such applicant must be approved by the director.

D. Registered agent.

1. All applications for licenses under this chapter shall nominate and name in the application one or more residents of Hall County, Georgia, as the registered agent and representative of the applicant to receive all communications, notices, services or process or other papers or documents, on behalf of the applicant in connection with any matter arising out of or connected with the issuance, holding, suspension, revocation or other action with respect to any county license. If the managing agent is a permanent resident of Hall County, Georgia, then he/she may serve as the registered agent. The applicant shall furnish a notarized affidavit from such registered agent, and the mailing to any registered agent at that address of any notice required to be given under this chapter or any other law shall be sufficient notice to the applicant/licensee.

2. A registered agent must be a U. S. Citizen or a legal alien of at least 21 years of age.
 3. Such registered agent shall be a permanent resident of Hall County, Georgia, and must be approved by the business license director. The business license director shall refuse to approve any registered agent who is not a bona fide resident of Hall County, Georgia, or who has been convicted, within the five years preceding his nomination, of any felony of any kind or any misdemeanor relating to an alcoholic beverage violation or any state law, or county or municipal ordinance violation relating to alcoholic beverages.
 4. If any registered agent shall cease to be a resident of the county or in any manner ceases to meet the requirements of paragraph 3 of this section, the licensee shall notify the business license director in writing of such event and shall nominate a new registered agent within five days after such event occurs. Such new registered agent shall meet the requirements in paragraphs (1), (2), and (3) of this section and must be approved by the business license director. The county shall charge a fee of \$50.00 for a change of the licensee's registered agent; provided, however, that if the licensee fails to notify the county and nominate a new registered agent within said five-day period, then the county shall charge a fee of 100.00 for a change of the licensee's registered agent and/or revoke the licensee's license.
 5. No license may be transferred from one registered agent to another without the approval of the director pursuant to written application.
 6. Upon change of a registered agent the license shall be transferred and will remain in effect for no longer than 45 days or until the transfer is granted or refused under this chapter, whichever shall occur first. The license shall cease to be in effect after 45 days or the business is closed. A time extension for the transfer may be granted by the director due to extenuating circumstances.
 - E. Where an application for a license is submitted for a nonprofit private club or veterans' organization, the application shall be made in the name of the highest elected officer and/or the manager of the club or organization.
 - F. When contrary to the public interest and welfare, no license shall be issued by the county commission to an applicant under the following circumstances:
 1. The applicant's business experience, financial standing, trade associations, personal associations, arrest record or reputation in any community in which he has resided indicates he is not likely to operate the business for which he is seeking a license in conformance with federal, state or local laws, rules, regulations, or resolutions;
 2. The applicant has been convicted of or pled guilty to any federal, state or local law classified as a felony involving moral turpitude;
 3. The applicant has been convicted of or pled guilty to any federal, state or local law classified as a felony not involving moral turpitude within ten years immediately preceding the filing of the application for the license;
 4. The applicant was convicted of or pled guilty to any federal, state or local law classified as a misdemeanor, including, but not limited to, laws involving alcoholic beverages, distilled spirits, drugs, pornography, gambling, or tax law violations, if such conviction or plea tends to indicate that the applicant will not operate the business for which he is seeking a license in conformance with federal, state or local laws, rules, regulations, or resolutions; for at least five years from the date of conviction.
 5. The applicant is an official or employee of the county;
 6. The applicant is a person, firm, partnership, association, or corporation where any manager, partner, officer, or director thereof has been convicted of or pled guilty to any felony or lesser offense involving moral turpitude.
 7. An application which is for an applicant with any of the above convictions shall be automatically denied by the director.
- (Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 7)

5.60.095. Lake Lanier Olympic Venue at Clarks Bridge Park licensing.

- A. The sale of distilled spirits for consumption on the premises at the Lake Lanier Olympic Venue shall be allowed.
- B. The consumption on the premises license provided for herein is exempted from the food sale requirements provided for in section 5.60.110 paragraph B of this chapter.
- C. The county shall offer for bid an alcoholic beverage license, except as provided in subsection E below:

1. For consumption on the premises at the Lake Lanier Olympic Venue;
 2. Each bid shall be according to the terms and provisions set forth in the invitation to bid by the county commission;
 3. The right to sell alcoholic beverages under this bid system shall go to the highest and best bidder which is deemed in the overall best interest of the county, and shall entitle each license holder to the exclusive sale of alcoholic beverages for consumption on the premises at the Lake Lanier Olympic Venue;
 4. All sales of alcoholic beverages under each license shall be competitive and be of sufficient quality as is required by the franchise agreement that will be entered into between the county and the grantee of the franchise.
 5. The bidder must provide sufficient proof that he would be entitled to a business license and an alcoholic beverage license for consumption on the premises under this article.
 - D. No alcoholic beverages shall be sold, possessed or consumed on the premises of the Lake Lanier Olympic Venue unless the alcoholic beverages are delivered by or sold by the holder of the alcoholic beverage license provided for in paragraphs C and E of this section.
 - E. The director of the Lake Lanier Olympic Venue, or his designee, may hold an alcoholic beverage license for the Lake Lanier Olympic Venue, or the director of the Hall County Parks and Leisure Services, or his designee, may hold an alcoholic beverage license for the Lake Lanier Olympic Venue so that the orderly operation of the Lake Lanier Olympic Venue will not be interrupted in the event the person or entity holding the alcoholic beverage license for the facility is unable to serve alcoholic beverages for any reason. There shall be no county license fee paid by the director of the Lake Lanier Olympic Venue, or his designee, or the director of the Hall County Parks and Leisure Services, or his designee.
 - F. The hours of sale of alcoholic beverages on the premises of the Lake Lanier Olympic Venue shall be the same as provided in section 5.60.120 of this chapter for the sale of alcoholic beverages upon the licensed premises.
- (Res. of 4-23-09(2), § 8)

5.60.100. Building and location requirements.

- A. No license shall be issued for a location not suitable in the judgment and discretion of the county commission because of traffic congestion, or general character of the neighborhood, or because of the effect which such an establishment would have on the adjacent and surrounding properties and neighborhood.
- B. No license shall issue for a location within an area where, in the judgment and discretion of the county commission, the number of distilled spirits licenses already granted makes it contrary to the public interest or welfare.
- C. No license shall issue for a location where a valid and current Certificate of Occupancy has not been issued, or where the operation of such a licensed business would violate the zoning rules and regulations of the county.
- D. No license shall issue for a location where a previous license has been revoked or suspended, and where, in the judgment of the county commission, the problems which have arisen from the operation of a licensed business at such a location indicate that it is not in the interests of public health, safety, welfare, or morals that the sale of Distilled spirits be permitted at such a location.
- E. No license shall issue for a location where it would violate state or local law, regulations or resolutions.
- F. No license shall issue for a location where the nearest point of the main structure of the business is located within 600 feet of the nearest point of the main structure of any school or church as measured in a straight line between the two structures. The word "school" shall include kindergartens, primary and secondary schools, colleges and other educational institutions whether public or private. An exception to this distance requirement may be granted by the board of commissions when accompanied by a written consent from the church or school regarding the distance requirements indicating no opposition to the license being issued at a closer distance, unless such distance would be in violation of the Official Code of Georgia. Provided, however, this provision shall not apply where it would prohibit the renewal, or transfer, of an existing alcoholic beverage license for the sale of distilled spirits at a location where a license holder had been granted a license under the terms of any prior county resolution relating to the sale of distilled spirits. In the event a school or church subsequently locates within 600 feet of 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 a license. In such cases, the license may be renewed by the same license holder for the same place of business, or transferred to a new license holder, as long as all of the other provisions of this chapter are complied with. No license shall issue for any location in which the licensed premises contain a drive-in window for the sale of distilled spirits.

G. The licensed premises shall be subject to inspection by authorized personnel of the county.

H. Consumption on the premises licenses shall be issued only to restaurants and nonprofit private clubs and veterans' organizations as defined herein.

I. Licensed premises must be open for business at least nine months of each calendar year. Licensed premises may close for seasonal or remodeling reasons only. Closures due to being out of business, or change in ownership will require an application for a new license. Once the business is "closed," the license ceases to be valid and is revoked.

(Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 9)

5.60.110. Required reports and notices.

A. The licensee must report to the director within five days any change in any interests in the licensee's business, including but not limited to:

1. Any change in the division of the profits of the licensed business;
2. Any change in the division of net or gross sales for any purpose whatsoever;
3. Any change in the payment of rents or leases;
4. Any change in the ownership of any lease or building or land used in such business;
5. Any change in the ownership of stock of 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;
6. Any change in the local managing agent or registered agent of a corporate business licensed under this chapter.

B. Since licenses shall be revoked if gross sales of food products (excluding sales of alcoholic beverages) fall below the sum of \$3,000.00 monthly and if gross sales of food products (excluding sales of alcoholic beverages) fall below 50 percent of the combined business volume of food products and alcoholic beverages sold monthly for three consecutive months, a report verifying those sales is required of each license holder. On or before the 20th day of each month, each licensee shall furnish to the business license director an affidavit showing the gross sales of groceries and food products (excluding sales of distilled spirits), the gross sales of distilled spirits, and the gross sales of other merchandise for the preceding month. The business license director will furnish the form for this affidavit. The licensee must attach to the affidavit a copy of the Georgia Sales and Use Tax Report for the same period. These reports shall remain confidential.

C. Copies of summaries of sales and state form ATT-122 shall be furnished to the business license director not later than the tenth day of each month by wholesale dealers selling distilled spirits 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 section 5.60.200.

(Res. of 9-14-06, § 1)

5.60.120. Hours of operation.

A. The hours of sale for consumption on the premises of distilled spirits shall be 11:00 a.m. to 12:45 a.m. Mondays through Fridays. Hours on Saturday and Christmas Eve shall be 8:00 a.m. to 11:45 p.m. No alcoholic beverage sales are permitted when Christmas Eve falls on Sunday.

B. In the event that a licensed business is open for less than the hours stated in the preceding paragraph, then sales of distilled spirits shall be restricted to those regular business hours; however, in no event shall sales be made during hours other than described in the preceding paragraph.

C. All licensed businesses for the consumption of distilled spirits shall remove the beverages from the area of the premises used by customers within 15 minutes after closing time for the sale of the beverages.

(Res. of 9-14-06, § 1)

5.60.130. Advertising.

Advertising of the sale of distilled spirits shall be in accordance with the laws of the State of Georgia and the regulations adopted by the Georgia Department of Revenue.
(Res. of 9-14-06, § 1)

5.60.140. Minors.

A. All persons seeking to purchase alcoholic beverages within the unincorporated area of the county (regardless of their apparent age) shall be required to provide "proper identification" showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. "Proper identification" as defined for purposes of this subsection means any document issued by a state or U.S. governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, and includes, without being limited to, a passport, military identification and, driver's license and/or certified birth certificate. Violations of this section shall be subject to a fine of no less than \$100.00 on the first offense, and for a second offense, a fine of no less than \$250.00. This fine shall be levied against the actual license holder, at the licensed location, not specifically to the person failing to request the ID.

B. Any license holder, agent or employee of any license holder, who sells alcoholic beverages to a person under the age of 21 years, without requiring proper identification as that term is defined in paragraph A. above, shall, upon first conviction thereof, be sentenced to a mandatory sentence of a minimum of one weekend (48 hours) in confinement and a fine of not less than \$500.00. Subsequent convictions shall be punished as provided by section 5.30.230 of this Code.

C. Any license holder, or agent or employee of a license holder, who fails to require proper identification and who sells alcoholic beverages to a person under the legal age to purchase alcoholic beverages, as provided by state law, may, at the sole discretion of the board of commissioners, be subject to the revocation or suspension of his/her license on the first offense.

1. For a second offense, at the same licensed location, the board of commissioners may suspend the license for no less than 30 days, or at its discretion suspend the license for a longer period of time or revoke the license based on the severity of the offense, unless the second offense occurs within three years from the first offense, wherein the board of commissioners shall suspend the license for no less than 90 days, or at its discretion suspend the license for a longer period of time or revoke the license, based on the severity of the offense. This suspension may, at the sole discretion of the board of commissions, be less than 90 days if the license holder can provide proactive documentation showing training and education of its employees, and offers other programs to prevent the sale of alcoholic beverages to a person under the legal age to purchase alcoholic beverages. This educational program must be in place at the time of the violation in order to show the business as being proactive and qualify for the lesser suspension.

2. For a third offense, occurring within three years of the first offense, at the same licensed location, the board of commissioners shall revoke the license, and an application for a new license shall not be authorized until the expiration of 12 months following the date of revocation, providing the license holder has an educational/training program for employees of the business, and has other programs in effect to prevent the sale of alcoholic beverages to a person under the legal age to purchase alcoholic beverages. If the license holder does not have this educational program in place, then an alcoholic beverage license may not be applied for, for any business in which he may have any interest.

3. Businesses that have a proactive alcoholic beverage education program in effect, after three years of operation using the proactive program with no violations of underaged sales, may be considered as having no violations. Businesses that do not have an alcoholic beverage education program in effect, after ten years with no violations, may be considered as having no violations.

4. The board of commissioners, in its sole discretion, may suspend the license for a longer period of time, or revoke the license depending upon the severity of the offense evidenced by the facts in each case, including but not limited to, consideration of prior violations of law by the license holder. Where the board of commissioners has suspended the license of a specific location, such suspension shall not be relieved prior to its expiration notwithstanding the sale of the licensed premises or the business located thereon unless authorized by the board of commissioners pursuant to a public hearing held thereon.

D. License holders may not allow a person under 18 years of age to sell malt beverages or wine.

E. 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 provided by state law, or otherwise procure for or furnish to a person who is under the minimum age to purchase alcoholic beverages, as defined by state law, any alcoholic beverage, except for medical purposes upon the written prescription of a duly licensed physician under the laws of the state.

F. It is unlawful for any person who is under the minimum age to purchase alcoholic beverages, as provided by state law, to falsely misrepresent his or her age in any manner whatsoever in violation of this chapter or applicable laws.

G. It is unlawful for any person who is under the minimum age to purchase alcoholic beverages, as provided by state law, to purchase, drink, or possess any alcoholic or malt beverages or wine as defined herein in the county outside of any municipalities.

H. It shall not be considered a violation of this chapter for a person who is under the minimum age to purchase alcoholic beverages, as provided by state law, to purchase, drink, or possess any alcoholic or distilled spirits 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.

(Res. of 5-14-2009(1), § 1(Exh. D))

Editor's note: Res. of May, 14, 2009, § 1(Exh. D), deleted § 5.60.140, and enacted a new § 5.60.140 as set out herein. The former § 5.60.140 pertained to similar subject matter. See the Code Comparative Table for complete derivation.

5.60.150. Gross sales requirement.

A. Consumption licenses shall be revoked if gross sales of food products (excluding sales of alcoholic beverages) fall below the sum of \$3,000.00 monthly and if gross sales of food products (excluding sales of alcoholic beverages) fall below 50 percent of the combined business volume of food products and alcoholic beverages sold monthly for three consecutive months.

B. On or before the 20th day of each month, the consumption licensee shall furnish to the business license director an affidavit showing the gross sales of food products (excluding sales of distilled spirits), the gross sales of distilled spirits, and the gross sale of other merchandise for the preceding month. This affidavit shall be on a form furnished by the business license department. The licensee shall attach a copy of the Georgia Sales and Use Tax Report for the same period to his affidavit.

C. These reports shall remain confidential.

(Res. of 9-14-06, § 1)

5.60.160. Sale on Sunday, Christmas Day, and Election Day.

A. Except as specifically authorized by law, no person knowingly and intentionally shall sell or offer to sell alcoholic beverages on Sundays or Christmas Day.

B. Alcoholic beverages are authorized to be sold on any election day as defined herein.

C. All licensees who open their place of business on Sunday for purposes other than the sale of alcoholic beverages shall post signs at all locations where alcoholic beverages are displayed and at each check out place stating in one-inch block capital letters: "NO SUNDAY SALE OF ALCOHOLIC BEVERAGES."

(Res. of 9-14-06, § 1)

5.60.170. Sale, dispensing and miscellaneous regulations.

A. License holders may not sell distilled spirits on the licensed premises to any person who is in an intoxicated condition.

B. License holders shall not permit any disorderly conduct or breach of the peace on the licensed premises.

C. License holders may not sell, offer for sale, possess or permit the consumption on the licensed premises of any kind of alcoholic beverages or distilled spirits which a license holder is not authorized to sell under his license. The license holder shall not allow "brown bagging" on the licensed premises.

D. Distilled spirits may not be sold or offered for sale through vending machines on the licensed premises.

- E. Deliveries of distilled spirits to the licensed premises may be made only by a conveyance owned and operated by a wholesale dealer with a license from the board of commissioners to deliver such beverages in the county.
- F. No retail license holder shall accept delivery of distilled spirits from any wholesale dealer unless the wholesale dealer has fully complied with the state laws regulating and taxing the sale of such beverages at wholesale.
- G. No retail or consumption license holder shall deliver distilled spirits at any location other than the licensed premises.
- H. All licensees shall store all distilled spirits in their possession only on the premises for which the license was issued.
- I. Every license holder shall have available on the licensed premises a copy of this chapter and shall be responsible for compliance with this chapter by all persons on the premises.
- J. Reserved.
- K. Any and all costs associated with or for signs, notices, and/or advertisements as required by this chapter shall be borne by the applicant. Applicant shall be responsible for any and all fees charged for legal advice or consultations associated with this application.
(Res. of 9-14-06, § 1; Res. of 4-23-09(2), § 10)

5.60.180. Grounds for revocation or suspension of license.

The following shall be grounds for the suspension or revocation of a distilled spirits license. The existence of such grounds shall be determined by the board of commissioners in its sole discretion, to wit:

- A. Violation by the licensee of any state or federal law or regulation, except misdemeanors, or of any resolution or ordinance of the county, other than traffic violations.
- B. The failure of the licensee or his employees to report promptly to the sheriff's department any violation of law, regulation, county resolution or breach of the peace, disturbance, or altercation occurring on the premises.
- C. Any conduct on the part of the licensee or his employees contrary to the public welfare, safety, health or morals.
- D. Operating or conducting a business in a manner contrary to the public welfare, safety, health or morals, or in such a manner as to constitute a nuisance.
- E. The violation of any state or federal law or regulation, municipal ordinance, or county resolution or ordinance pertaining to alcoholic and distilled spirits. This ground specifically includes any violation of any provision of this chapter.
- F. The violation by the licensee of the Georgia Controlled Substances Act.
- G. The violation by the licensee of any federal, state or local law prohibiting the sale of pornographic materials.
- H. Failure of the licensee to furnish to the business license director any report required by this chapter or any report requested in writing by the director.
- I. Allowing a person to work in the licensed business who 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 under this chapter.
- J. Allowing a person to work in the licensed business who has been convicted of or pled guilty to any federal, state or local law classified as a felony involving moral turpitude.
- K. Allowing a person to work in the licensed business who has been convicted of or pled guilty to any federal, state or local law classified as a felony not involving moral turpitude within ten years from date of conviction.
- L. Allowing a person to work in the licensed business who has violated the provisions of this chapter or any law of the United States or any state law pertaining to the sale of malt beverages, wines or distilled spirits within the past five years from date of conviction.
- M. The conviction of the license holder or his employee(s) for driving under the influence within the past five years from date of conviction.

(Res. of 9-14-06, § 1)

5.60.190. Hearing on revocation or suspension of license.

- A. A license holder shall be entitled to a hearing by the board of commissioners concerning any alleged violation which could lead to revocation or suspension of the license.
- B. Upon the report of any violation of this chapter by the license holder or agents to the board of commissioners, the business license director shall give notice to the registered agent in writing that the managing agent shall show cause before the commission why the license should not be revoked or suspended.
- C. A written notice from the director shall specify the time and place for the hearing, which shall be not less than three days nor more than 14 days from the date of service of the notice.
- D. The board of commissioners shall have the power to suspend any license issued under this chapter for a period of time not to exceed 14 days pending the hearing before the board of commissioners 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. The board of commissioners shall hear relevant evidence as to the alleged violation of the chapter.
- G. The hearing need not be at a regular meeting of the commission but may be at such time and place as shall be fixed in the notice.
- H. The decision of the board of commissioners shall be by majority vote of the members present at the hearing; provided, however, three members must concur to pass any order.
- I. Within three days from the date of the hearing, the board of commissioners shall render a decision in writing and furnish a copy of the decision to the registered agent. A decision of the board shall be effective immediately, whether or not the licensee, managing agent, or registered agent can be personally served with a written copy of the decision.
- J. Except as otherwise provided herein, a licensee who has had his license revoked may reapply for a license after 30 days have passed from the effective date of the revocation. Such a reapplication shall conform with all procedural requirements applicable to a new application. The board of commissioners shall consider all matters relevant to the application, including the previous revocation.
- K. If the Sheriff of Hall County shall find that a business holding a license under this Chapter is in violation of a law of the State of Georgia, or in violation of a law or resolution of Hall County, and that the continued operation of the business would create a clear and present danger to the health, safety and general welfare and security of Hall County, the sheriff shall be empowered to seize and temporarily suspend the license of the business. The sheriff shall deliver the license to the business license director on the next working day. The chairman of the board shall then schedule a special hearing of the board to consider further action upon the order within five days of the date upon which the business license director received the license from the sheriff.
- (Res. of 9-14-06, § 1)

5.60.200. Excise taxes on mixed drinks consumed on the premises.

- A. *Imposition and rate of tax.* There is hereby imposed and levied upon every purchaser of a distilled spirit for beverage purposes by the drink within Hall County a tax in the amount provided in O.C.G.A. 3-4-131.
- B. *Authority and requirement of licensee to collect the tax.* Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of distilled spirits by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the county to facilitate the collection of the tax.
- C. *Collection of tax; records; rules and regulations.* In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The county shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.
- D. *Determination, returns and payments.*
1. *Due date of taxes.* The tax imposed by this section shall become due and payable from the purchaser at the time of purchase of any mixed drink in this county. All amount of such taxes collected by the licensee shall be due and payable to the county monthly on or before the twentieth day of every month next succeeding each respective monthly period for which this tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the

collecting agent, then the collection of the tax may be deferred by the county for an additional period not exceeding 30 days.

2. *Return; time of filing; persons required to file; contents.* On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the county in such form as the county may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of the tax collected on such drinks.

3. *Collection fee allowed licensees.* Licensees collecting the tax 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 such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, as now or hereafter amended (OCGA Section 48-8-1 et seq.).

E. *Deficiency determinations.*

1. If the county has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the county by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly period.

2. *Interest on deficiency.* The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof from the due date of taxes.

3. *Notice of determination; service.* The county or its designated representatives shall give to the licensee written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at his address as it appears in the records of the county. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.

4. *Time within which notice of deficiency determination to be mailed.* Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

F. *Determination if no return made.*

1. *Estimates of gross receipts.* If any person fails to make a return, the county shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total sales in this county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is in possession of or may come into the possession of the county official. Written notice shall be given in the manner prescribed in paragraph E(3).

2. *Interest on amount found due.* The amount of the determination shall bear interest at the rate of three-fourths of one percent per month, or fraction thereof, from the tenth day of the month following the monthly period, for which the amount or any portion thereof would have been returned, until the date of payment.

G. *Penalty for nonpayment.* Any person who fails to pay the tax herein imposed or fails to pay any amount of the tax required to be collected and paid to the county within the time required shall pay a penalty of 25 percent of the tax or amount of the tax, in addition to the tax or amount of the tax plus interest on the unpaid tax or any portion thereof as set forth in paragraph F(2).

H. *Action for tax; tax credit, penalty or interest paid more than once or erroneously or illegally collected; duty of successors or assignees of licensee to withhold tax from purchase money; liability for failure to withhold.*

1. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the county may bring an action in the courts of this state any other state or of the United States in the name of the county to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorney's fees and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the county under this article, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the county, he will have three years from the date of payment to file claim in writing stating the specific

ground upon which claim is founded. The claim shall be audited. If the claim is approved by the commission, the excess amount paid the county may be credited on any amounts then due and payable from the person by whom it was paid, or from his administrators or administrators.

2. *Duty of successors or assignees of licensee to withhold tax from purchase money.* If any licensee liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the business license director either a receipt reflecting full payment or a certificate stating that no amount is due.

3. *Liability for failure to withhold.* If the purchase of a business fails to withhold purchase as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

I. *Administration.*

1. *Records required from licensee:* Every licensee for the sale of alcoholic beverages by the drink in the county shall keep such records, receipts, invoices and other pertinent papers in such form as the county may require.

2. *Examination of records and audits:* The county or any person authorized in writing by the county may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for sale of distilled spirits by the drink and any licensee liable for the tax in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.

3. *Authority to require reports:* In administration of the provisions of this paragraph, the county may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to purchases which are subject to the tax. Reports shall be filed with the county when required by the county and shall set forth the purchase price for each purchase, the date or dates of purchase, and such other information as the county may require.

J. *Violations.* Any person violating any of the provisions of this subsection shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1.50.020 of the Official Code of Hall County. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the subsection is committed, continued or permitted by such person, and shall be punished accordingly. Any licensee or any other person who fails to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the county or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction thereof shall be punished as aforesaid.

(Res. of 9-14-06, § 1)

5.60.210. Reserved.

5.60.220. Distribution of required forms.

A. Any forms required by this chapter shall be printed by the county and furnished to applicants and license holders.

B. License forms shall be printed by the county and signed by the person in charge of issuing licenses for the county.

C. A copy of this chapter shall be furnished to each license holder by the county.

(Res. of 9-14-06, § 1)

5.60.230. Violations; penalty.

Any person, firm, corporation, association or partnership violating any provision of this chapter as the same exists or as it may hereinafter be amended, or shall fail to do anything required by this chapter as the same exists or as it may hereafter be amended, shall be guilty of a misdemeanor, amenable to the process of the Magistrate or State Court of Hall County, and upon conviction, shall be punished as provided in the Official Code of Hall County, Georgia section 1.50.020 for each violation in the discretion of the Court.

(Res. of 9-14-06, § 1)

5.60.240. Additional remedies.

In the event any provision of this chapter has been violated or is being violated, in addition to other remedies, Hall County may revoke the license or permit and/or may institute injunction, mandamus, or other appropriate action or proceeding to prevent or abate such violation.
(Res. of 9-14-06, § 1)