

CITY OF CLARKESVILLE
ORDINANCE NO. 2022-2

AN ORDINANCE OF CITY OF CLARKESVILLE, GEORGIA AMENDING CHAPTER 6, ALCOHOLIC BEVERAGES TO PROVIDE FOR ISSUING LICENSES FOR THE PACKAGE SALES OF DISTILLED SPIRITS FOR CONSUMPTION OFF PREMISES AND REGULATIONS RELATED TO SUCH BUSINESSES AND TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority of the City of Clarkesville, Georgia is authorized under Article IX, Section II, Paragraph III of the Constitution of the State of Georgia to adopt reasonable ordinances to protect the public health, safety, and welfare of the citizens of the City of Clarkesville, Georgia; and

WHEREAS, the duly elected governing authority of the City of Clarkesville, Georgia is the Mayor and City Council; and

WHEREAS, The Mayor and City Council of Clarkesville, Georgia at its regular meeting on February 7, 2022 adopted Ordinance No. 2022-1 which provided for a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the retail package sale of distilled spirits; and

WHEREAS, The Mayor and City Council of Clarkesville, Georgia, after initial efforts by City officials to put into effect the terms of Ordinance No. 2022-1 as written, realize that there are several practical impediments to effectively enforcing the original Ordinance as adopted and therefore provide by this Ordinance for the repeal of Ordinance No. 2022-1 and hereby adopt this Ordinance No. 2022-2 to rewrite and adopt a comprehensive and consolidated ordinance for the licensing, control, taxation, and regulation of the retail package sale of distilled spirits

NOW, THEREFORE, it is hereby ordained by the City Council of Clarkesville, Georgia that the previous Ordinance No. 2022-1 is hereby REPEALED in its entirety and the provisions contained herein shall apply regarding the retail package sale of distilled spirits.

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Section 1. That Chapter 6 is amended and in some cases by including new subsections to Chapter 6 of the Code of Ordinances of the City of Clarkesville so that Chapter 6 will include the following provisions:

A. Sec. 6-28 is hereby amended to read as follows:

Sec. 6-28. Same--Types issued.

Only the following licenses shall be issued under this article:

- (1) Retail sale of packaged distilled spirits, malt beverages and/or wines for consumption off the premises.
- (2) Retail sale of malt beverages by the drink for consumption on the premises.
- (3) Retail sale of wine by the drink for consumption on the premises.
- (4) Retail sale of distilled spirits by the drink for consumption on the premises.
- (5) Farm winery/farm winery tasting room
- (6) Growler sampling permit

B. Sec 6-33 is amended to read as follows:

Sec. 6-33. Fee schedule.

a) License and application fees applicable to this chapter are set out as follows:

- (1) Retail sale of packaged malt beverages for consumption off the premises - \$425.00
 - (2) Retail sale of packaged wine for consumption off the premises - \$425.00
 - (3) Retail sale of malt beverages by the drink for consumption on the premises - \$500.00
 - (4) Retail sale of wine by the drink for consumption on the premises - \$500.00
 - (5) Retail sale of distilled spirits by the drink for consumption on the premises - \$2,000.00
 - (6) Farm winery/farm winery tasting room - \$1,000.00
 - (7) Retail sale of packaged distilled spirits for consumption off premises - \$5000.00.
- Additionally, each licensee shall be required to post with the City and maintain annually a cash bond or an insured surety bond in the amount of \$5000.00 which shall only be refunded or canceled upon licensee's voluntary relinquishment of any license provided said licensee is otherwise in full compliance at such time with this Code of Ordinances.
- (8) Administrative/Investigative fees per location - \$250.00

b) License fees for first time applicants shall be prorated as follows. There shall be no proration of the Administrative/Investigative fees.

- (1) First time applications received during the first quarter, dates being defined as January 1 through March 31, shall pay 100% of the License fees.
 - (2) First time applications received during the second quarter, dates being defined as April 1 through June 30, shall pay 75% of the License fees.
 - (3) First time applications received during the third quarter, dates being defined as July 1 through September 30, shall pay 50% of the License fees.
- First time applications received during the fourth quarter, dates being defined as October 1 through December 31, shall pay 25% of the License fees.

Sec 6-138(b) is deleted and amended to read as follows:

(b) No premises shall be licensed for the sale of alcoholic beverages in the City without complying with the distance requirements as set forth in O.C.G.A section 3-3-21 of the Georgia laws, as may be amended from time to time by the Georgia legislature or any other similar general Georgia law, which laws and restrictions are incorporated herein by reference.

C. Chapter 6, Article VI. is amended to read as follows:

ARTICLE VI. DISTILLED SPIRITS, MALT BEVERAGES AND WINE PACKAGED SALES FOR CONSUMPTION OFF PREMISES

Sec. 6-180. Type of retail establishment; where permitted.

(a) No malt beverages or wine shall be sold for consumption off the premises except in sites located in nonresidential zones and that meet the following criteria:

- (1) Such an establishment is in the business of retail sale of items of tangible personal property (merchandise); and
- (2) The monthly receipts for such business from the sale of merchandise other than malt beverages and wines will exceed 75 percent of the total monthly receipts of such business from the sale of all merchandise including alcoholic beverages, unless such licensee is also licensed to sell distilled spirits by package pursuant to Section 6-188 of this Code in which case no such minimum sales of other merchandise shall be required.

(b) Notwithstanding the fact that a retail malt beverages and wine packaged sales license has been issued to a licensee, such licensee shall not be authorized to sell packaged malt beverages or wines at any time when the sales receipts of the business of such licensee derived from the sale of merchandise other than packaged malt beverages and wines are less than 75 percent of the total gross receipts of such business from the sale of all merchandise, including alcoholic beverages, for the proceeding calendar month.

Sec. 6-181. Hours and days of sale.

(a) Malt beverages and/or wine shall not be sold or distributed for consumption off the premises where sold except between the hours of 6:00 a.m. and 11:00 p.m., Monday through Saturday and between the hours of 12:30 p.m. and 11:00p.m. on Sunday.

(b) No malt beverages and/or wine shall be sold for consumption off premises at any time in violation of any federal, state, or local ordinance or regulation or of any special order of the City Council.

(c) It shall be unlawful for any distilled spirits package dealer in the city to sell distilled spirits except between the hours of 8:00 a.m. and 11:45 p.m. Monday morning through Saturday night. No distilled spirits package sales shall be allowed on Sundays.

Sec. 6-182. Advertising in official paper of county.

A notice of each application to sell distilled spirits, malt beverages and/or wine for consumption off the premises shall be advertised in the official legal organ of the county once a week for two weeks immediately preceding consideration of the application. An affidavit of publication verifying the required notice shall be executed by the applicant on a form provided by the city.

Sec. 6-183 - Growler sampling permit.

(a) A growler sampling permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of malt beverages by the package and a valid current malt beverage license from the state.

(b) No growler sampling shall be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken container. Any growler sampling occurring on the premises shall meet the requirements set forth in subsection (g) below.

(c) Subject to the restrictions herein, an eligible growler retailer may petition the city for a growler sampling permit provided it meets all requirements of the city's alcohol beverage ordinance and presently maintains a valid license for the sale of malt beverages by the package issued by the city. A growler sampling permit shall allow the permittee to offer or sell malt beverage samples in connection with an instructional or educational promotion, upon the request of a customer, or as part of a promotion. A growler sampling permit is intended to allow such activity on a limited basis to allow customers to taste small samples of unfamiliar or new malt beverages sold in growlers by the permittee.

(d) A growler sampling permittee shall be subject to all laws, rules and regulations of the city and state, including rule 560-2-5-.05 of the state department of revenue, alcohol and tobacco division, and shall be subject to permit revocation for violation thereof.

(e) Said growler sampling permit need only be applied for once and shall automatically renew when said license to sell malt beverages by the package is renewed. Provided, however, that the city may revoke or suspend such growler sampling permit and/or impose such conditions on its operation at the city's discretion for violation of this Code or in furtherance of the health, safety and welfare of the city's inhabitants.

(f) The one-time fee for application for the growler sampling permit shall be equal to the established fee for Administrative/Investigative fees per location in accordance with §6-33-(7)

- (g) Growler sampling permits shall be limited to growler retailers who obtain a permit from the city and who execute samplings pursuant to the following restrictions:
- (1) No customer shall receive via samples more than twelve (12) ounces of specialty malt beverages from any licensee per day, and the licensee shall not serve any individual sample that exceeds three (3) ounces.
 - (2) Samples are restricted to malt beverages dispensed from a tap and sold in growler form. No samples of bottled beer shall be provided.
 - (3) Only the licensee or an agent thereof shall open, handle, and serve opened packages, growlers, or kegs, and individual samples shall only be poured by the licensee or an employee thereof.
 - (4) Customers shall not remove opened packages or unsealed growlers from the premises.
 - (5) The holder of a growler sampling permit may conduct educational classes and sampling classes for class participants. Such events shall be limited to no more than twice per week and shall not exceed two consecutive hours in length. All conditions of sampling set forth herein shall apply to such classes.
 - (6) Growler sampling permittees are prohibited from selling distilled spirits and vehicular fuel. No growler sampling permit shall be granted to any retail consumption licensee.

Additional provisions related to package sale of distilled spirits for consumption off premises.

Sec. 6-184 License issuance for distilled spirits package sales - Retail dealer building and inventory requirements

(a) General regulatory and licensing procedures of distilled spirits package sales shall conform to Chapter 6 Alcoholic Beverages of the City's Code of Ordinances and any other Chapters or Sections of the City's Code of Ordinances as may be applicable, such as enforcement provisions, as well as all laws of the State of Georgia having general application to the sale of distilled spirits package sales.

(b) No retail dealer license for the sale of distilled spirits shall be issued to any applicant whose building where the business will be conducted (a) is not "free standing" (i.e., is part of a larger building or structure), except that such business may occupy leased space within a shopping center, provided that the distilled spirits display area or showroom is at least 1500 square feet in size. and an additional storage area of at least 500 square feet. For distilled spirits retail dealers desiring to sell malt beverages and wine in addition to distilled spirits, at least an additional 500 square feet of showroom, and at least an additional 500 square feet of storage area is required over and above the minimum square feet for the establishment set forth above. For the purposes of this ordinance, cooler space shall be considered storage area and spaces such as offices, mechanical rooms, janitorial rooms, breakrooms and bathrooms shall not count towards the minimum square footage requirements.

No retail license for the sale of distilled spirits by the package shall be granted under this chapter unless the premises to be licensed are, at the time the application is approved by the city council, located under the planning and zoning ordinance of the city in a commercial zoning district, not to include the Historic District, subject to the specific limitations of the respective district and located within the approved area as established by resolution of the City Council that allows sale of distilled spirits by the package within such areas, provided all other laws, rules and ordinances are followed. The initial area where the sale of distilled

spirits by the package shall be prohibited (other than residential areas of the City) is shown in red on the attached Exhibit "A. The city commission, in its discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application, or the proposed location of the business, and if in its judgment, circumstances are such that granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application. Such circumstances may include, but are not limited to effect on property, whether there is difficulty in police supervision, whether adequate parking exists, the number of existing licenses, etc.

(b) No premises shall be licensed for the sale of distilled spirits by the package without complying with the distance requirements as set forth in O.C.G.A section 3-3-21 of the Georgia laws, as may be amended from time to time by the Georgia legislature or any other similar general Georgia law, which laws and restrictions are incorporated herein by reference.

(c) No person, group, or entity with similar members, including family members, shall have an interest in more than one license for the package sale of distilled spirits or any other package sale of alcoholic beverages issued by the city.

(d) It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of distilled spirits by the package.

(e) It shall be unlawful for any person to sell or offer for sale distilled spirits by the package within the city by means of drive-through sale. For purposes of the section, the term "drive-through sale" means the sale of distilled spirits by the package by any means that allows the customer to remain in their motor vehicles.

(f) The license fee for a retail sales of distilled spirits package license shall be \$5000.00 annually.

(g) There is imposed by the city an excise tax on the first sale or use of distilled spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter. Said tax may be revised from time to time by resolution properly adopted by the Mayor and Council for the City.

(h) Applications for the initial issuance of licenses will not be accepted until the effective date of this ordinance. Acceptance of applications for the initial licenses, or any future allocation of licenses, will remain open for a period of thirty (30) days before review and consideration of such applications in accordance with this Ordinance. All applicants and applications will be fully reviewed by the City for compliance with all terms and provisions of the Code of Ordinances of the City, including but not limited to the provisions of Chapter 6, Article II. New complete applications or annual renewal for licenses for retail package sales of distilled spirits shall be given priority in the order in which they are received.

Sec. 6-185. Time for package sales of distilled spirits.

(a) It shall be unlawful for any distilled spirits package dealer in the city to sell distilled spirits except between the hours of 8:00 a.m. and 11:45 p.m. Monday morning through Saturday night. No distilled spirits package sales shall be allowed on Sundays.

Sec 6-186. Products Other than Distilled Spirits for Sale, Display, or Offer

No Retailer of Distilled Spirits shall sell, offer for sale, display, or keep in stock for sale or furnish at its licensed Premises where Distilled Spirits are offered for sale, any other products or services except the following:

- (a) Wines, if the Retailer holds a valid and current license to sell Wine at that Place of Business;
- (b) Malt Beverages, if the Retailer holds a valid and current license to sell Malt Beverages at that Place of Business;
- (c) Chewing gum, breath mints, manufactured packaged consumable single-serving snack items not requiring any preparation for consumption;
- (d) Beverages containing no Alcohol and which are commonly used to dilute Distilled Spirits;
- (e) Packaged ice, ice chests, and "koozies" (individual can and bottle coolers).
 - 1. The term "packaged ice" shall refer only to ice in packages of five pounds or greater that is also in compliance with Georgia Department of Agriculture Rule 40-7-1-.08, entitled "Food from Approved Source," and the packaging complies with Georgia Department of Agriculture Rule 40-7-1-.26, entitled "Labeling."
- (f) Paper, Styrofoam, or plastic cups, gift bags, which are limited in size to accommodate one 750 ml size bottle of wine or distilled spirits, and contain only products approved for sale or display by this regulation.
- (g) However, licensees shall not be permitted to have or operate any video games, electronic games, electronic gambling devices, COAM, including any allowed by or regulated by the Georgia Lottery Corporation, pinball machines or other such amusement devices;
- (h) Bar supplies, limited to:
 - 1. Corkscrews, openers, straws, swizzle stirrers, and bar-related containers, and wares made of glass, plastic, metal or ceramic materials.
 - 2. Cocktail olives, onions, cherries, lemons, limes, and sugars or salts produced and marketed specifically for the preparation of alcohol beverage drinks.
 - 3. Alcoholic Beverage drink recipe booklets, bar guides, and consumer-oriented Alcoholic Beverage publications.
- (i) Products co-packaged with Alcoholic Beverages, provided that the products are limited to items approved for sale or display by this regulation, are offered for sale and sold as a single unit, and do not include more than one type of Alcoholic Beverage product;
- (j) Check cashing services arising out of the sale of any product lawfully sold under this Ordinance;

- (l) Automated teller machine service for customer use; and
- (m) Gift certificates for use only at the issuing licensed Retailer.

Sec 6-187 - Applicability of article to those businesses operating both the package sale of distilled spirits and package malt beverages and wine for consumption off premises.

For licensees who wish to operate a business which conducts both the package sale of distilled spirits and package sale of malt beverages and wine, in the case of any conflict, the provisions of this article regulating the package sale of distilled spirits for consumption off premises shall prevail, and compliance with these provisions, rather than those provisions applicable to the license permitting the package sale of malt beverages and wine, is required. The applicant shall be required to meet all licensee qualifications and requirements under both this article and the article governing the licensing and sales of package malt beverages and wine.”

Section 2. Conflicting Laws and Regulations. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3. Severability. If any of the provisions of this resolution or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this resolution are declared to be severable.

Section 4. Effective. This ordinance will become effective upon its adoption.

Posted: _____

Adopted: _____

Barrie Aycock, Mayor
City of Clarkesville

Attest: _____
Glenda Smith, City Clerk

(SEAL)

EXHIBIT "A"

District where package sales of distilled spirits are NOT allowed

EXHIBIT A

