

Chapter 3-14 - ALCOHOLIC BEVERAGES

Footnotes:

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State Law reference— *Georgia Alcoholic Beverage Code, Official Code of Georgia Annotated, § 3-1-1 et seq.*

ARTICLE I. - IN GENERAL

Secs. 3-14-1—3-14-15. - Reserved.

ARTICLE II. - REGULATION OF ALCOHOLIC BEVERAGES

DIVISION 1. - GENERALLY

Sec. 3-14-16. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Alcoholic beverage: Includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Distilled spirits: Any alcoholic beverage obtained by distillation or containing more than twenty-one (21) percent alcohol by volume, including, but not limited to, all fortified wines.

Fortified wine: Any alcoholic beverage containing more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.

Grocery store: A retail business engaged primarily in the retail sale of food and groceries.

Malt beverage: Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six (6) percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Private club: Any nonprofit association organized under the laws of this state which:

- (a) Has been in existence for at least one (1) year prior to the filing of its application for a license to be issued pursuant to this chapter;

- (b) Has at least seventy-five (75) regular dues-paying members;
- (c) Owns, hires, or leases a building or space within a building for the use of its members, which building or space:
 - 1. Has suitable kitchen and dining room space and equipment; and
 - 2. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
- (d) 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. "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 on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulations shall not be considered profits from the sale of alcoholic beverages.

Proper identification: A document issued by a governmental agency containing a description of the person and the person's photograph and the person's date of birth. By way of example only and without limiting the foregoing, proper identification may be a passport, driver's license, or an identification card authorized under the Official Code of Georgia. "Proper identification" shall never include a birth certificate.

Restaurant:

- (a) Any public place kept, used, maintained, advertised and held out to the public as a place where at least one (1) meal per day is served five (5) or more days a week during normal business operations; and
- (b) Having adequate and sanitary kitchen and dining room equipment and a minimum seating capacity of sixty (60) or having annual gross receipts showing a minimum of sixty (60) percent of revenue from the sale of food.

Retail dealer: Except as to distilled spirits, any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. With respect to distilled spirits, the term means any person who sells distilled spirits for beverage purposes by the drink, such sales for consumption only on the premises.

Special event: A gathering or event for which the promotor or other person, firm, or corporation holding or producing the event must obtain a permit under chapter 3-15 of the Code of Henry County adopted May 1, 1984, as amended.

Wholesale dealer: Any person who sells beer, wine or distilled spirits to retail dealers or other wholesale dealers.

Wine: Any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not including 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.

(Ord. No. 82-3, § 1, 3-16-82; Ord. No. 91-07, 9-24-91; Ord. No. 97-01, § 2, 2-5-97; Ord. No. 04-06, § 1, 2-3-04; Ord. No. 03-13, 6-20-03)

State Law reference— Similar provisions, Official Code of Georgia Annotated, § 3-1-2(25).

Sec. 3-14-17. - Excise tax.

- (a) There is hereby levied an excise tax on the sale of malt beverages on each licensed wholesaler of malt beverages as follows:

48/7 oz. cans or bottles, \$1.40 per case; 36/8 oz. cans or bottles, \$1.20 per case; 24/12 oz. cans or bottles, \$1.20 per case; 24/14 oz. cans or bottles, \$1.40 per case; 24/16 oz. cans or bottles, \$1.60 per case; 12/32 oz. cans or bottles, \$1.60 per case; 24/7 oz. cans or bottles, \$.70 per case; 24/8 oz. cans or bottles, \$.80 per case; 12/12 oz. cans or bottles, \$.60 per case; 36/7 oz. cans or bottles, \$1.05 per case; 20/16 oz. cans or bottles, \$1.34 per case; 3.8 gallons, \$5.11 per containers; ¼ bbl., \$3.00 per container, and ½ bbl., \$6.00 per container.

- (b) There is hereby imposed an excise tax on the first sale or use of wine by the package in the amount of twenty-two cents (\$0.22) per liter, and a proportionate tax at like rates on all fractional parts of a liter. No such tax shall be imposed, levied or collected in any portion of the county in which a municipality within the county is imposing the tax authorized by Section 3-6-60 of the Official Code of Georgia Annotated on wine sold by the package.
- (c) The excise tax provided for in subsections (a) and (b) of this section shall be imposed upon and shall be paid by the licensed wholesale dealer.
- (d) The taxes shall be paid by the dealer on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of within the county by said wholesale dealer.
- (e) Each licensee responsible for the payment of the excise tax shall file a report itemizing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold during the month within the county. The licensee shall file the report with the county.
- (f) The wholesaler shall remit to the county on the tenth day of the month next succeeding the calendar month in which the sales were made the taxes imposed by this section.
- (g) There is hereby imposed an excise tax upon the sale of distilled spirits by the drink in the amount

of three (3) percent of the charge to the public for the beverages. No such tax shall be imposed, levied, or collected in any portion of the county in which a municipality within the county is imposing the tax authorized by section 3-4-130 of the Official Code of Georgia, Annotated. The tax imposed hereby shall be collected and paid by the licensee on or before the tenth day of the month following the calendar month in which the beverages are sold. Each licensee responsible for payment of the tax shall file a monthly report at the time the tax is paid stating the total amount of charges to the public from the sale of distilled spirits during the preceding month and shall supply appropriate supporting documentation.

(Ord. No. 82-3, § XV(3), (4), 3-16-82; Ord. No. 97-01, § 4, 2-5-97)

Cross reference— Local acts relating to licenses and taxation, Ch. 2-4.

State Law reference— County excise tax on malt beverages required, Official Code of Georgia Annotated § 3-5-80; payment procedures, Official Code of Georgia Annotated § 3-5-81; county excise tax on wine authorized, Official Code of Georgia Annotated, § 3-6-60.

Sec. 3-14-18. - Types of retail sales authorized; prohibited.

- (a) Malt beverages and wine shall be sold only by wholesale establishments, retail grocery stores, restaurants, or private clubs operated under a license issued under this article; and in the case of wholesale establishments and retail grocery stores, shall be sold only in sealed containers and shall not be opened for consumption or for any other purpose on the premises where sold. Malt beverages and wine also may be sold at special events as defined herein, provided the holder of the special event permit also sells or makes available at said event a substantial amount and variety of food and non-alcoholic beverages.
- (b) Distilled spirits shall be sold only by the drink for consumption on the premises in restaurants or private clubs operated under a license issued under this article, or at special events provided the same requirements for the sale of malt beverages and wine at special events are met.
- (c) No adult entertainment establishment, as defined in article II of chapter 3-17, shall be permitted to serve or sell alcoholic beverages. This prohibition is for the purpose of reducing criminal activity and minimizing community blight, which studies of related communities including, but not limited to, Austin, Texas; Amarillo, Texas; Beaumont, Texas; Indianapolis, Indiana; Los Angeles, California; Los Angeles County, California; and St. Paul, Minnesota, have shown to be increased by the presence of adult entertainment establishments.

(Ord. No. 82-3, § II, 3-16-82; Ord. No. 97-01, § 5, 2-5-97; Ord. No. 97-05, 3-17-97)

Sec. 3-14-19. - General duty of retail licensee.

A person issued a retail license pursuant to this article shall be active in, and solely responsible for, the management and operation of the business for which the license is granted.

(Ord. No. 82-3, § XII(4), 3-16-82)

Sec. 3-14-20. - Retailer to purchase from licensed wholesalers.

No holder of a license authorizing the sale of malt beverages and/or wine at retail in the county, nor any agent or employee of the licensee, shall receive malt beverages or wine delivered to the premises of the retail licensee by any means other than a conveyance owned or operated by a wholesale dealer with a license from the board of commissioners obtained pursuant to the provisions of this article.

(Ord. No. 82-3, § XIV(7), 3-16-82)

Sec. 3-14-21. - Notice to county of managerial changes in retail establishments.

The holder of any retail license issued pursuant to this article shall notify the board of commissioners in writing of any managerial change within five (5) days of such change. When such a change occurs, the applicant shall report in person to the board of commissioners' office to report the new information by filling out the manager section of the application form. Violation of this section shall be grounds for suspension of license.

(Ord. No. 82-3, § III(2), 3-16-82)

Sec. 3-14-22. - Hours of sale.

- (a) No holder of a license authorizing the sale of alcoholic beverages at retail establishments for off-premises consumption in the county nor any agent or employee of a licensee, shall sell, serve, distribute or give away alcoholic beverages upon the licensed premises at any time except between 7:00 a.m. and midnight, Monday through Saturday nor shall they sell, serve, distribute or give away alcoholic beverages on Sundays or Christmas Day. Pursuant to the delegation of authority granted to the board of commissioners of the county, by the state, with respect to the wholesale and retail sale of alcoholic beverages on election days; the sale of alcoholic beverages shall be lawful during the polling hours of any election, provided however, nothing herein shall authorize the sale of alcoholic beverages within two hundred fifty (250) feet of a polling place during such time as the polls are open.
- (b) No holder of a license authorizing the sale of alcoholic beverages in restaurants in the county nor any agent or employee of a licensee, shall sell, serve, distribute or give away alcoholic beverages upon the licensed premises at any time except between 7:00 a.m. and 2:00 a.m., Monday through Saturday, and at any time between 11:55 p.m. on Saturday until 1:55 a.m. on Sunday. Sales between 11:55 p.m. on Saturday and 1:55 a.m. on Sunday shall be treated as Saturday sales and not require a separate license pursuant to section 3-14-22.1. It shall be unlawful to sell, serve, distribute or give away alcoholic beverages on Christmas Day. Pursuant to the delegation of authority granted to the board of commissioners of the county, by the state with respect to the

wholesale and retail sale of alcoholic beverages on election days; the sale of alcoholic beverages shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within two hundred fifty (250) feet of a polling place during such time as the polls are open.

- (c) An election day is hereby defined as that period of time beginning one (1) hour prior to the opening of the polls and ending one (1) hour after the closing of the polls. The prohibition against the giving or furnishing of alcoholic beverages, spirituous liquors, malt beverages or other intoxicating beverages to any person on election days shall apply only with the territorial boundaries for which the election is being held.
- (d) The other provisions of this section notwithstanding, no malt beverages shall be sold at a time prohibited by state law.

(Ord. No. 82-3, §§ XI, XIV(3), 3-16-82; Ord. No. 84-04, 2-7-84; Ord. No. 86-06, 3-18-86; Ord. No. 91-07, 9-24-91; Ord. No. 03-03, 5-5-03)

Editor's note— The prohibition of Sunday sales was deleted from subsection (b) to conform with the provisions of Ord. No. 01-05, adopted Sept. 17, 2001, and approved at referendum on Nov. 6, 2001.

Cross reference— Sunday sales, § 3-14-22.1.

State Law reference— Hours of sale, Official Code of Georgia Annotated, § 3-3-20.

Sec. 3-14-22.1. - Sunday sales; licenses.

Sunday sales by licensees shall be permitted and regulated under the following terms and conditions:

- (1) A license to sell alcoholic beverages for consumption on the premises on Sundays must be obtained from the office of the county tax commissioner. In order to obtain said license, an applicant must possess a valid license issued pursuant to this chapter and must further provide satisfactory proof that the applicant derives at least sixty (60) percent of its total annual gross sales from the sale of prepared meals or food in all the combined retail outlets of the individual establishment where food is served, or that it derives at least sixty (60) percent of its total annual gross income from the rental of rooms for overnight lodging.
- (2) All licenses issued pursuant to this section shall restrict Sunday sales to consumption on the premises, and only during the time period of 11:00 a.m. until 11:59 p.m. on Sundays.
- (3) All provisions this chapter 3-14, being Ordinance No. 9701 relating to the issuance, denial, revocation or surrender of alcoholic beverage licenses, are hereby incorporated by reference in this section concerning Sunday sales, and the same shall apply to licenses issued for Sunday sales pursuant to this section.

(Ord. No. 01-05, § 3, 9-17-01; Ord. No. 06-10, 8-14-06; Ord. No. 19-04, § 1, 11-19-19)

Editor's note— The county has advised that Ord. No. 01-05 which pertained to Sunday sales was approved by the voters at a referendum held Nov. 6, 2001. Such ordinance did not specify manner of codification; hence, inclusion of § 3(1) through (3) of the ordinance as § 3-14-22.1 was at the discretion of the editor.

Sec. 3-14-23. - Sales to intoxicated persons.

No holder of a license authorizing the sale of alcoholic beverages, nor any agent or employee of the licensee, shall, upon the licensed premises, sell, serve, distribute, or give any alcoholic beverage to any person while such person is in a state of noticeable intoxication.

(Ord. No. 82-3, § XIV(2), 3-16-82; Ord. No. 84-04, 2-7-84; Ord. No. 97-01, § 6, 2-5-97)

State Law reference— Similar provisions, Official Code of Georgia Annotated § 3-3-22.

Sec. 3-14-24. - Sales to minors.

- (a) Except as otherwise authorized by law, no person knowingly, by himself or through another, shall sell, serve, distribute or give away or permit any person in his employ to sell, serve, distribute or give away any alcoholic beverage to any person under twenty-one (21) years of age.
- (b) The prohibition contained in subsection (a) of this section shall not apply with respect to the sale or purchase of alcoholic beverages for consumption:
 - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.
 - (2) At a religious ceremony.
 - (3) In the home with parental consent.
- (c) The prohibition contained in subsection (a) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is twenty-one (21) years of age or older. For purposes of this subsection, "proper identification" means any document that is issued by a 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 card, driver's license, or an identification card authorized under Official Code of Georgia Annotated Section 40-5-100 requiring the department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. "Proper identification" shall not include a birth certificate.
- (d) It shall be unlawful for anyone, either by himself or through another, to sell, serve, distribute, give away or otherwise permit the sale of alcoholic beverages to any person without first examining "proper identification" as defined herein above to be provided by the proposed purchaser of the alcoholic beverage.

(Ord. No. 82-3, § XIV(1), 3-16-82; Ord. No. 84-04, 2-7-84; Ord. No. 88-02, 2-2-88; Ord. No. 89-03, 2-21-89; Ord. No. 91-07, 9-24-91)

State Law reference— Similar provisions, Official Code of Georgia Annotated, § 3-3-23.

Sec. 3-14-25. - Minimum server age.

- (a) No holder of a license authorizing the sale of alcoholic beverages at retail in the county, nor any agent or employee of the licensee, shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell, or take orders for any alcoholic beverages for consumption on the premises.
- (b) The provisions of this section shall not prohibit persons under twenty-one (21) years of age who are employed in supermarkets, convenience stores, breweries or drug stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(Ord. No. 82-3, § XIV(6), 3-16-82; Ord. No. 88-02, 2-2-88; Ord. No. 97-01, § 7, 2-5-97; Ord. No. 19-01, § 1, 1-8-19)

State Law reference— Similar provisions, Official Code of Georgia Annotated § 3-3-24.

Sec. 3-14-26. - Breach of peace, etc. on licensed premises.

No holder of a license authorizing the sale of alcoholic beverages at retail in the county, nor any agent or employee of the licensee, shall permit on the licensed premises any disorderly conduct or breach of peace.

(Ord. No. 82-3, § XIV(4), 3-16-82; Ord. No. 97-01, § 8, 2-5-97)

Sec. 3-14-27. - Advertising.

No holder of a license authorizing the sale of alcoholic beverages at retail in the county, nor any agent or employee of the licensee, shall install any advertisement of the character or nature of the business being operated on the exterior of the building in which the business is carried on, or in any window or door, or at any place outside the building, whether on the same premises or not, with the exception of the following:

- (1) One (1) non-flashing sign no larger than three (3) feet by three (3) feet and bearing only the trade name of the business and the designation "Beer & Wine Package Store," and/or
- (2) One (1) non-flashing sign, no larger than three (3) feet by three (3) feet that may bear a brand name.

Elevated pole-mounted signs or any other sign advertising the nature of the business shall not be allowed in the parking lot or adjoining property.

(Ord. No. 82-3, § XIV(5), 3-16-82; Ord. No. 97-01, § 9, 2-5-97)

Cross reference— Signs generally, Ch. 3-10; zoning ordinance provision relating to signs, § 3-7-231 et seq.

Sec. 3-14-28. - Opening containers on licensed premises.

- (a) No person shall open any alcoholic beverages for consumption, or otherwise, within one hundred (100) feet of a place of sale except within the confines of a private club or restaurant under the terms of this article.
- (b) No holder of a license authorizing the sale of alcoholic beverages at retail in the county, nor any agent or employee of the licensee, shall suffer or permit a violation of subsection (a).

(Ord. No. 82-3, XIV(8), 3-16-82; Ord. No. 97-01, §§ 10, 11, 2-5-97)

State Law reference— Similar provisions, Official Code of Georgia Annotated, § 3-3-26.

Sec. 3-14-29. - Restriction on operator or manager dispensing alcoholic beverages.

The operator or manager of a place of business which has been issued a retail license pursuant to this article shall not be allowed to manage or dispense alcoholic beverages if he has been convicted of a felony or of any crime involving moral turpitude, or of any state or federal statute with reference to liquor, wine, or malt beverages.

(Ord. No. 82-3, § XII(2), 3-16-82)

Sec. 3-14-30. - Off-street parking for restaurants and clubs.

Adequate parking must be provided by restaurants and private clubs by accordance with the off-street parking requirements of all ordinances.

(Ord. No. 82-3, § XIV(9), 3-16-82)

Cross reference— Driveways and parking lots for certain buildings required, § 3-6-1; zoning ordinances off-street parking and service requirements, Ch. 3-7, § 7.

Sec. 3-14-31. - Storage by retailers.

All retailers licensed pursuant to this article shall store all alcoholic beverages in their possession on the premises for which the license is issued, and at no other place or places except upon written permission from the board of commissioners upon written application therefor.

(Ord. No. 82-3, § XV(6), 3-16-82; Ord. No. 97-01, § 12, 2-5-97)

Sec. 3-14-32. - Records and inspections of retailers.

Each retail licensee under this article shall retain in his place of business the invoice of each purchase of alcoholic beverages for at least six (6) months. All records as well as the premises of the licensee shall be subject to inspection by a duly authorized agent of the board of commissioners at any time.

(Ord. No. 82-3, § XV(5), 3-16-82; Ord. No. 97-01, § 13, 2-5-97)

State Law reference— Records generally, Official Code of Georgia Annotated, § 3-3-6.

Sec. 3-14-33. - Nonconforming uses.

Those businesses licensed prior to March 16, 1982 which do not meet the established criteria regarding floor space, food stock, or distance from churches or schools as outlined in section 3-14-50 as of such date shall be considered nonconforming uses, and as such, shall not be allowed to operate as a malt beverage or wine establishment except in the name of the license holder who was last issued a license prior to March 16, 1982; or in the name of a member of the license holder's immediate family. For purposes of this section, immediate family members shall include: husband, spouse, mother, father, sister, brother, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandfather, grandmother, grandson, granddaughter, stepmother, stepfather, stepson, and stepdaughter. If, however, improvements are made to the nonconforming establishment which bring it into compliance with the floor space and food stock requirements of this article, said establishment may be licensed and operated to sell malt beverages and wine by a person other than the previous license holder or immediate family members referred to above.

(Ord. No. 82-3, § XV(6), 3-16-82)

Sec. 3-14-34. - Employee regulations/picture identification.

The following regulations shall apply to all establishments holding a retail license for alcoholic beverages:

- (1) An employee shall meet the same character requirements as set forth in the general ordinances for the licensee, except for the residency requirements.
- (2) No person shall be employed by a retail beer and/or wine establishment until such person has applied for and received a permit from the Henry County Police Department. Prior to issuing a permit, the Henry County Police Department shall conduct a background check on the applicant and shall collect a nonrefundable investigative fee of twenty-five dollars (\$25.00) from the applicant to offset the cost of this background check. A fee of ten dollars (\$10.00) shall be charged upon the issuance/renewal of the permit which shall be valid for twelve (12) months from the date of issue. The permit shall be in the form of a picture identification (I.D.) badge. All picture identification (I.D.) badges currently issued to permittees are hereby deemed to be the permit of each permittee.
- (3) No permit shall be issued until such time as a signed application has been filed with the Henry County Police Department. The application shall include name, address, date of birth, general description of applicant; height, weight, hair color, eye color, social security number and driver's license or picture I.D.
- (4) No alcoholic beverage permit shall be issued to any person (i) who has been convicted of more than one (1) DUI offense within two (2) years of the date of application for said permit;

- (ii) who is currently serving probation pursuant to any plea under the First Offender Act; (iii) who has been convicted of any felony; (iv) who has been convicted, within five (5) years from the date of application for a permit, of any misdemeanor crime of moral turpitude; or (v) who has been convicted, within five (5) years of the date of application for a permit, as a habitual violator. For the purposes of this subsection, a conviction shall include an adjudication of guilt, a plea of guilty or a plea of nolo contendere in any criminal proceeding.
- (5) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Henry County Police Department the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers twice annually on/or before June 1 and again on/or before December 1.
- (6) All permits issued through administrative error can be terminated by the Henry County Police Department.
- (7) This section shall not be construed to include employees who do not serve or sell alcoholic beverages.
- (8) No licensee shall allow any employee required to hold a permit to work on the licensed premises without displaying, on their person in public view, the permit issued by the Henry County Police Department.
- (9) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the Henry County Police Department.
- (10) All permits issued hereunder remain the property of Henry County and shall be worn by the employee at all times while at work or on duty with the licensed establishment.

(Ord. No. 88-13, 12-3-88; Ord. No. 97-01, § 14, 2-5-97; Ord. No. 99-09, § 1, 4-6-99; Ord. No. 06-09, 8-14-06; Ord. No. 07-09, § A, 11-19-07)

Sec. 3-14-35. - Suspension or revocation of permit.

- (a) A permit issued pursuant to this article shall be a mere grant of privilege to sell and/or serve beer, wine, and/or alcoholic beverages during the term of the permit, subject to all terms and conditions imposed by this article and state law, or any future ordinances pertaining thereto, and subject to revocation, the permittee shall not be entitled to a return of the unearned permit fee.
- (b) Any permittee of a licensed business, found to be in violation of this article, specifically including a violation and/or violations of section 3-14-24 contained herein, which prohibits the sale and/or service of alcoholic beverages to any person under twenty-one (21) years of age, shall result in the suspension of the permit for a period of not less than ten (10) days for the first occurrence; and upon a second occurrence, within twelve (12) months, suspension of not less than twenty (20) days. Any permittee found to have committed such a violation and/or violations shall immediately surrender their permit for the full suspension period to the director of permits, inspections, licensing and code enforcement. Such permittees may retrieve such permits following

the expiration of the relevant suspension time period involved. Nothing contained herein shall prevent the board of commissioners from suspending or revoking any permit issued under this article whenever a person holding such a permit is found in violation of this article or is found guilty of violating any law involving moral turpitude, or when it shall be shown before the board of commissioners that the health, morals, interest and convenience of the public demand the suspension or revocation of such permit.

- (c) A suspension does not require notice or a hearing before the board of commissioners. Notice of a revocation hearing, however, shall be given, either personally or by leaving same at the permittee's employer at least ten (10) calendar days prior to the hearing. Such notice given in the name of the board of commissioners or the chairman, may include notice that the permit is suspended pending a hearing, in which case the permittee shall immediately cease to sell and/or serve any beer, wine, or alcoholic beverages.

(Ord. No. 99-09, § 2, 4-6-99)

Sec. 3-14-36. - Appeals.

- (a) All decisions approving, denying, suspending, or revoking a permit issued pursuant to this article or permits shall be in writing, with the reasons therefor stated, and mailed or delivered to the applicant and/or the applicant's employer.
- (b) Upon timely application, any permittee aggrieved by the revocation and/or suspension of a permit shall be afforded a hearing with an opportunity to present evidence and cross-examine opposing witnesses.

(Ord. No. 99-09, § 3, 4-6-99)

Secs. 3-14-37—3-14-45. - Reserved.

DIVISION 2. - LICENSES

Footnotes:

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Cross reference— *Local acts relating to licenses and taxation, Ch. 2-4.*

Sec. 3-14-46. - Required.

It shall be unlawful to sell, serve, distribute, or give alcoholic beverages at wholesale or retail within the limits of Henry County without a proper and current license to do so.

(Ord. No. 82-3, §§ I, II, X, 3-16-82; Ord. No. 84-04, 2-7-84; Ord. No. 97-01, § 16, 2-5-97)

State Law reference— County licenses required, O.C.G.A. §§ 3-5-40, 3-6-40; authority to license private clubs, O.C.G.A. § 3-7-40.

Sec. 3-14-47. - Wholesale licenses.

Wholesale licenses to sell beer or wine shall be issued only to those persons who are licensed by the state to sell and distribute malt beverages and/or wine at wholesale. Application shall be made with the board of commissioners and the applicant shall show proof of licensing by the state and shall demonstrate understanding of all laws and regulations pertaining to wholesale distribution in the county.

Upon approval of the application, the wholesale dealer shall pay an annual fee of five thousand dollars (\$5,000.00) to Henry County for issuance of their license.

(Ord. No. 82-3, § XIII, 3-16-82; Ord. N. 04-06, § 2, 2-3-04)

Sec. 3-14-48. - Special provisions for private clubs.

Notwithstanding any other provisions of this article, a county retail alcoholic beverage license may be issued to a private club; provided, however, that such license shall be for the purpose of malt beverages, wine or distilled spirits by the drink for consumption on the premises only.

(Ord. No. 82-3, § I(7), 3-16-82; Ord. No. 97-01, § 17, 2-5-97)

State Law reference— Private clubs generally, O.C.G.A. § 3-7-1.

Sec. 3-14-49. - Application for retail license.

(a) Any person who wishes to obtain a retail license for the sale of alcoholic beverages shall file with the business license supervisor a written application on a form provided by the county. Each applicant shall pay an administration fee of two hundred fifty dollars (\$250.00) and shall also tender with the application the license fee provided by this article. Said application shall include the following information:

- (1) Full name, home address, social security number and birth date of the applicant and the applicant's manager or agent, if different from the applicant, and whether the applicant is an individual, partnership or corporation, provided that the manager of each location owned by a corporation must receive the license in his name if the principal owner of the corporation resides in another county; if the applicant is a partnership, the names and addresses of each partner must be shown; if the applicant is a manager of a corporation or owner of a corporation, the names, addresses and telephone numbers of each officer of the corporation must be shown. If applicant is the owner, he must own at least a twenty-five (25) percent share of the business.
- (2) The location or address of the place of business at which the applicant will engage in

business, if and when permission to do so is granted by the county and a license is issued. The applicant shall include the plans for the building in which the business shall be operated, a plan of the property on which said building shall be situated and a parking diagram.

- (3) The names of all persons who have or will have an interest, monetary or otherwise, in the business which the licensee will operate under the license.
 - (4) The results of a police check (i.e., local records, GCIC and FBI).
 - (5) The employment record of applicant and operator/manager.
 - (6) Such other information as the board of commissioners may require from time to time.
- (b) As a prerequisite to the issuance of any such license, the applicant shall furnish a complete set of fingerprints which shall be forwarded to the Georgia Bureau of Investigation.
- (c) Each applicant shall make a sworn statement of his qualifications on the application form and place same on file with the business license supervisor before any license is issued. Any misrepresentation or concealment of fact in said application or sworn statement shall be grounds for revocation of license.

(Ord. No. 82-3, §§ V, XII(3), (6), 3-16-82; Ord. No. 86-05, 3-18-86; Ord. No. 97-01, § 18, 2-5-97; Ord. No. 07-06, § 1, 7-9-07)

Sec. 3-14-50. - Persons eligible for retail license.

No retail alcoholic beverage license shall be issued:

- (1) To a person who, in the opinion and judgment of the board of commissioners, is not of good moral character and reputation in the county in which he resides.
- (2) A person who is not a citizen of the United States or a person who does not possess a permanent resident alien green card.
- (3) To any person who has been convicted of a felony or any crime involving moral turpitude, or any federal or state law relating to liquor, malt beverages or wine.
- (4) To any person who is not a natural person.
- (5) To a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the qualifications required of a license holder.
- (6) To a person who is the previous holder of an alcoholic beverage license and is, in the judgment and discretion of the board of commissioners, an unfit person to have a license because of the manner in which he previously conducted business there under as to the necessity for unusual police observation and inspection in order to prevent the violation of any law or regulation relating to such business.
- (7) Unless the licensee is the owner or lessee of the premises to be licensed.
- (8) For a location not suitable in the judgment and discretion of the board of commissioners because of traffic congestion, general character of the neighborhood, or by reason of the

effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.

- (9) For a location within an area where, in the judgment of the board of commissioners, the number of alcoholic beverage licenses already granted makes it contrary to the public interest and welfare.
- (10) For a location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the board of commissioners, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.
- (11) Where the granting of such license would constitute a violation of state law or regulations.
- (12) For a grocery store, unless the grocery store: For purposes of issuance of a beer or wine license,
 - a. Maintains on display to the customer, a minimum stock of food and groceries, excluding tobacco, of not less than four thousand dollars (\$4,000.00) retail value; and
 - b. Has a floor space of not less than eight hundred (800) square feet, excluding storage; and
 - c. The location used for sale of beer or wine may be either shut off and locked by a door from the remainder of the building, or the display coolers or counters must be locked securely with signs posting the non-sale of alcoholic beverages during times that are not permitted by this article. The provisions herein requiring four thousand dollars (\$4,000.00) retail value of grocery stock and eight hundred (800) square feet of floor space shall not apply to those businesses existing prior to March 16, 1982.
- (13)
 - a. No license for the sale of malt beverages or wine for the purpose of off premises consumption, shall be issued for any location within one hundred (100) yards of the front door of any church building or within two hundred (200) yards of any school building, school grounds or college campus. This subsection 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 paragraph apply at any location for which a new license is applied for if the sale of wine and malt beverages was lawful at such location at any time during the twelve (12) months immediately preceding such application;
 - b. No license for the sale of wine or malt beverages for the purpose of off premises consumption, shall be issued for any location within one hundred (100) yards of the front door of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.
 - c. The term "school grounds" and "college campus" shall apply only to the parcel or parcels of land on which a school, school building, or educational building is located. The term "college" shall mean an educational institution authorized by the state to award associate,

baccalaureate or higher degrees.

- d. As used in this subsection, the term "school grounds" shall mean any portion of the property on which the school is located including parking lots, carpool lines, playgrounds, ball fields, and any other portions of the property. 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 currently defined in O.C.G.A. § 20-2-690(b) and as may be amended from time to time.
- e. As used in this subsection, the term "church building" includes sanctuaries, fellowship halls, Sunday schools, administrative offices and any other structure on the church's property for which a building permit must be issued.
- f. For purposes of this subsection (13), the distance between the church building, school building, school grounds or college campus and the location proposed for the sale of alcoholic beverages shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
 - 1) In a straight line from the front door of the structure from which beverage alcohol is sold or offered for sale;
 - 2) To the front door of the building of a church, government-owned treatment center or retail package store;
 - 3) To the nearest property line of the real property being used for school or educational purposes.

In measuring the most direct route of travel on the ground, one would have to go around a non-movable obstacle such as a tree or building, and count that distance toward the total distance measurement. The measurement done "As the crow flies," would not meet the measurement method in the above regulation. Any license issued prior to the effective date of December 4, 2012 would be required to adhere to the distance measurement procedures in place at the time of application submittal. Only those applications received after the effective date of December 4, 2012 would be required to adhere to the above measurement requirements.

- g. The requirements for minimum distance from a church building, college or university located in a "shopping center," as defined by the latest version of "A Glossary of Zoning Development and Planning Terms" edited by Michael Davidson and Fay Dolnick; shall not apply to any new license for retail package or retail consumption. Therefore, those seeking a alcoholic beverage license for the purpose of off-premises consumption shall

not be required to consider churches, colleges or universities which are located within these shopping centers in order to meet the distance requirements noted in subsection 14(a).

- h. This subsection shall not prohibit the renewal of any license lawfully issued prior to the effective date of December 4, 2012.

(Ord. No. 82-3, §§ I(5), III(2), XII(1)—(5), 3-16-82; Ord. No. 86-07, 3-18-86; 04-02, §1, 3-2-04; Res. No. 12-21, 12-4-12)

State Law reference— Authority of county to set licensing standards, Official Code of Georgia Annotated § 3-3-2.

Sec. 3-14-51. - Public notice and advertising of application for retail licenses.

- (a) A notice containing the information required in paragraph (c) of this section shall be published in the official legal organ of the county once a week for two (2) consecutive weeks immediately preceding the date upon which the business license supervisor will act upon the application.
- (b) No retail license shall be granted unless the applicant places a sign in the establishment where alcoholic beverages are to be sold. This sign shall remain on the premises for fifteen (15) consecutive days following the filing of the application. The sign shall be visible from the street or thoroughfare on which the establishment where alcoholic beverages are to be sold is located. 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. The day, month and year the license was applied for shall appear on said sign together with the following notation: "Questions and concerns may be addressed to the Henry County Business License Supervisor, 140 Henry Parkway, McDonough, Georgia 30252, or by phone at 770-288-6000."
- (c) No retail license shall be granted unless the applicant for a license places a notice of application in the official legal organ of publication in the county for two (2) consecutive weeks after application has been made, but prior to any action on said application. This notice shall state:
- (1) A license has been applied for;
 - (2) The date of application;
 - (3) The name of the person applying for the license;
 - (4) The location of the establishment where alcoholic beverages shall be sold; and
 - (5) The following notation: "Questions and concerns may be addressed to the Henry County Business License Supervisor, 140 Henry Parkway, McDonough, Georgia 30252, or by phone at 770-288-6000."
- (d) All costs for the sign, notice, and advertisement shall be borne by the applicant.

(Ord. No. 82-3, §§ VI, VII, 3-16-82; Ord. No. 97-01, §§ 20—22, 2-5-97; Ord. No. 07-06, § 2, 7-9-07)

Sec. 3-14-52. - Grant of application.

- (a) All applications for alcoholic beverage licenses meeting the provisions of this article shall be granted by the business license supervisor, unless some specific cause set forth in this article justifies a refusal.
- (b) If the business license supervisor denies an application for a license, the applicant shall have the right to appeal such decision in accordance with the appeals provisions enumerated in section 3-14-56.

(Ord. No. 07-06, § 3, 7-9-07)

Editor's note— Section 3 of Ord. No. 07-06, adopted July 9, 2007, amended § 3-14-52 in its entirety to read as herein set out. Former § 3-14-52 pertained to the issuance of retail licenses and derived from Ord. No. 87-09, adopted June 16, 1987; and Ord. No. 97-01, adopted Feb. 5, 1997.

Sec. 3-14-53. - License fees; joint issuance.

- (a) The applicant for a retail license for the sale of malt beverages shall pay to Henry County, Georgia, at the time of the issuance of such license the sum of seven hundred fifty dollars (\$750.00) as an annual license fee for the operation of one (1) year beginning on the first day of January. Applicants for a retail license for wine shall be subject to the same regulation and the annual license fee shall be three hundred seventy five dollars (\$375.00).
- (b) Applicants for a retail license for the sale of distilled spirits for beverage purposes by the drink shall be subject to the same regulations, and the annual license fee shall be five thousand dollars (\$5,000.00), except as hereinafter provided for nonprofit organizations and special events.
- (c) Nonprofit organizations shall pay an annual license fee for the sale of distilled spirits of one thousand three hundred seventy-five dollars (\$1,375.00).
- (d) Holders of special event permits shall pay the following license fees for each day of the event: seventy five dollars (\$75.00) for malt beverages; fifty dollars (\$50.00) for wine; and one hundred twenty-five dollars (\$125.00) for distilled spirits.
- (e) The license may be issued jointly in the name of the owner, lessee of the premises which shall operate the business and the manager in the event that the owner or lessee is from out-of-county. The manager shall be jointly responsible for the operation of the business and shall be subject to any penalties for violation of the county's ordinances.

(Ord. No. 82-3, § XV(1), (2), 3-16-82; Ord. No. 87-09, 6-16-87; Ord. No. 97-01, § 24, 2-5-97; Ord. No. 07-06, § 4, 7-9-07)

State Law reference— Payment of county license fee for malt beverage license required, Official Code of Georgia Annotated § 3-5-41; limitation on license fee for malt beverage wholesalers, Official Code of Georgia Annotated § 3-5-43.

Sec. 3-14-54. - Term and transfer.

Licenses issued pursuant to this article shall be applicable to and valid with the respect only to the business location referred to therein, and shall not be transferrable to any person other than the named licensee, except that if the manager of a location which is owned by a corporation is removed by that corporation from the position of manager and a new manager is named for that location, then in that event, the new manager's name must be provided to the county and all other pertinent information requested by the county must be provided, and a fifty dollar (\$50.00) transfer fee must be paid. This provision does not apply to the sale of a business. Such licenses shall expire upon and be of no validity after December 31 next after their issuance except in the event of renewals.

(Ord. No. 82-3, § IX, 3-16-82; Ord. No. 86-05, 3-18-86)

Sec. 3-14-55. - Suspension or revocation.

- (a) A license issued pursuant to this article shall be a mere grant of privilege to carry on business during the term of the license, subject to all terms and conditions imposed by this article and state law, or any future ordinances pertaining thereto, and subject to revocation or suspension at any time. In case of revocation, the licensee shall not be entitled to a return of the unearned license fee.
- (b) Any person, licensee or employee of a licensed business, found to be in violation of this section shall result in the suspension of the license for a period of not less than five (5) days for the first occurrence (thirty (30) days for a willful violation); upon a second occurrence, within twelve (12) months, suspension of not less than thirty (30) days; and upon a third occurrence within twenty-four (24) months, a suspension of not less than six (6) months or the remainder of the license period, whichever is greater. Nothing contained herein shall prevent the board of commissioners from suspending or revoking any license issued under this article whenever a person doing business under such license is found in violation of this article or is found guilty of violating any law involving moral turpitude, or when it shall be shown before the board of commissioners that the health, morals, interest and convenience of the public demand the suspension or revocation of such license.
- (c) A suspension does not require notice or a hearing before the board of commissioners. Notice of a revocation hearing, however, shall be given, either personally or by leaving same at the licensed place of business at least ten (10) calendar days prior to the hearing. Such notice given in the name of the board of commissioners or the chairman, may include notice that the license is suspended pending a hearing, in which case the licensee shall immediately cease to operate his business until further order.

(Ord. No. 82-3, §§ III, IV, 3-16-82; Ord. No. 89-04, 3-21-89; Ord. No. 97-01, § 25, 2-5-97)

Sec. 3-14-56. - Appeals.

- (a) All decisions approving, denying, suspending or revoking a license issued pursuant to this article or licenses shall be in writing, with the reasons therefor stated, and mailed or delivered to the applicant.
- (b) In case such application is denied by the business license supervisor, said denial shall be subject to initial appeal to the license review panel. There is hereby established a license review panel.
 - (1) The license review panel shall hear appeals from administrative decisions by the business license supervisor in regards to applications for alcoholic beverage licenses. An opportunity to present evidence and cross-examine opposing witnesses shall be afforded to appellants at this meeting.
 - (2) The license review panel shall have no jurisdiction to hear any appeal or to reverse, modify, or set aside any decision made by the board of commissioners.
 - (3) The license review panel shall be composed of three (3) members appointed by the county manager based on their position within the county. Post 1 shall be a county employee of the public safety division. Post 2 shall be a county employee of the planning and zoning services division. Post 3 shall be a county employee that serves as a general administrator within county government. Said appointees shall serve at the discretion of the county manager for an indefinite term.

The license review panel shall meet at such times as may be necessary. The license review panel shall select one (1) of its members as chair. Minutes shall be taken of the meetings of the license review panel and said minutes shall be kept in the business license office.

- (c) The decision of the license review panel to affirm, reverse, or modify, a decision of the business license supervisor shall be final unless appealed to the board of commissioners within fifteen (15) business days of the date of decision by the license review board. An opportunity to present evidence and cross-examine opposing witnesses shall be afforded to appellants at this meeting. The board of commissioners shall, within fifteen (15) business days from the conclusion of the hearing, render a decision to affirm or deny the decision of the business license supervisor.

(Ord. No. 07-06, § 5, 7-9-07)

State Law reference— Similar provisions, Official Code of Georgia Annotated § 3-3-2(b).

Sec. 3-14-57. - Renewals.

- (a) All retail alcoholic beverage licenses shall expire on December 31 of each year and are subject to renewals as provided for in this section, and subject to compliance with all applicable ordinances and state laws. Each applicant for renewal shall make an application on the form provided by the business license office by November 1 of each year. Each applicant shall provide the information required by the Code of Ordinances and shall authorize the inspection department to obtain

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NCIC/GCIC reports from the Henry County Sheriff's Department or other law enforcement agencies on applicants or applicants' employees. Fingerprinting shall not be required for renewal applications unless there is a new manager of a corporation.

- (b) Before any retail alcoholic beverage license can be considered for renewal, the manager of the occupational tax and alcoholic beverage licensing department shall compile information regarding the status of each business and maintain such information as may be relevant.
- (c) This information shall include violations, if any, of the beer and wine ordinance in the past twelve (12) months, and whether the retail license complies with the provisions of this article or state law governing the sale of alcoholic beverages.

(Ord. No. 85-22, 12-3-85; Ord. No. 86-04, 3-18-86; Ord. No. 97-01, §§ 26—28, 2-5-97; Ord. No. 08-01, §§ 19, 20, 1-14-08)