

Redline of Amendments to Chapter 3 of the City Code under proposed Ordinance

The amendments contained in the proposed Ordinance to amend Chapter 3 of the City Code¹ are provided below in redline format – each code section being amended under the proposed Ordinance is redlined (i) to identify/track revisions of *existing* code sections or (ii) to identify provisions of *new* code sections:

Section 1 of the Ordinance:

[Sec. 3-1. Definitions.

As used in this chapter, the following terms shall have the respective meanings ascribed to them: ...]

Art Gallery. A retail establishment primarily engaged in, and which derives at least seventy percent (70%) of its total annual gross sales from, the sale or display of art books, paintings, sculptures, or other works of art; but specifically excluding libraries, book stores, theaters, and establishments where the display of works of art is incidental to its primary use.

Art Studio. A retail establishment primarily engaged in providing instruction in painting, sculpture, drawing, photography, craft work, fiber art, or other visual or graphic art techniques, and which derives at least seventy percent (70%) of its total annual gross sales from the sale of such services and art products related to such services; but specifically excluding body art studios and tattoo parlors.

Section 2 of the Ordinance:

¹ AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA TO AMEND CHAPTER 3 (ALCOHOLIC BEVERAGES) OF THE CODE OF THE CITY OF ALPHARETTA, GEORGIA; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING THE SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION ON THE PREMISES; TO PROVIDE EXCEPTIONS APPLICABLE TO ART STUDIOS, GALLERIES AND COOKING CLASSES FROM CERTAIN REGULATIONS GOVERNING ON-PREMISES CONSUMPTION; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING ANCILLARY WINE TASTING LICENSES; TO DELETE, MODIFY AND ADD PROVISIONS GOVERNING BREWERIES; TO ADD A NEW ARTICLE XIX PROVIDING FOR THE LICENSING OF DISTILLERIES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

Sec. 3-40. Locations where prohibited.

No alcoholic beverages may be sold by the drink for consumption on the premises where sold except in: (1) eating establishments regularly serving prepared food, with a full-service kitchen consisting of a four-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and the city fire marshal, prepared to serve food every hour they are open, ~~or in a;~~ (2) supermarkets or wine bars, where these establishments are permitted to seat forty-five (45) or more persons pursuant to applicable building, fire and safety codes in effect for the city; (3) cigar shops; (4) art galleries or art studios; or (5) hotels, motels or high rise office and apartment buildings. When located in hotels, motels and high rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure. Unless otherwise expressly exempted in this Chapter from this requirement, Establishments not located in hotel or motels shall derive a minimum of fifty (50) percent of their total annual gross food and beverage sales from the sale of prepared meals or food (except that wine bars shall derive a minimum of forty (40) percent). Hotels or motels containing such establishments shall derive a minimum of fifty (50) percent of their total annual gross income from the sales of prepared meals or food and from the rental of rooms for overnight lodging. For the purposes of this Chapter, the term "hotel" or the term "motel" means an establishment that contains not less than thirty-five (35) separate rooms for overnight lodging. On or before the 20th day of each calendar month, each such establishment shall file a report of the previous calendar month's operation with the office of the director of finance verifying compliance with the above provisions. Such reports shall be filed on forms designated by the city. These forms are also used to report excise taxes on the sale of distilled spirits by the drink, which are also due by the tenth day of each calendar month. Any licensed establishment that fails to meet the appropriate percentage requirements for two (2) consecutive months shall be subject to immediate revocation. An audit may be required at any time to ensure compliance with these provisions. Nothing in this section shall be deemed to prohibit hotel room service of alcoholic beverages.

Section 3 of the Ordinance:

Sec. 3-41. - Hours of sale.

Alcoholic beverages shall not be sold for consumption on the premises except:

- (a) Monday through Saturday between the hours of 9:00 a.m. and 2:00 a.m. of the following day; Monday through Saturday and
- (b) on Sunday from 12:30 p.m. until 2:00 a.m. on Monday in any licensed establishment which derives at least fifty (50) percent of its total annual gross food and beverage sales from the sale of prepared meals or food or which derives a minimum of fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging.

Section 4 of the Ordinance:

"Sec. 3-42. Consumption sales only.

- (a) Except as may be otherwise expressly provided in this chapter, personsestablishments holding a license to sell alcoholic beverages for consumption on the premises shall not hold a license for the sale of alcoholic beverages by the package.
- (b) The foregoing prohibition, however, shall not apply with respect to the following:
 - (1) sSupermarkets and brewpubs, as defined in Sec. 3-1; provided, however, no such license shall include or authorize the sale of distilled spirits by the package; and
 - (2) eEating establishments, as defined in Sec. 3-1, may sell wine by the package for off-premises consumption, provided that no more than ten percent (10%) of the interior floor area of the establishment is devoted to the display of package wine and no more than ten percent (10%) of the establishment's revenues derived from the sale of alcoholic beverages is derived from package wine sales. Notwithstanding the foregoing, the sales of wine by the package for off-premises consumption shall not

be used in calculating the total annual gross food and beverage sales for the establishment for the purpose of determining whether the establishment constitutes an eating establishment as set forth in Sec. 3-1.

- (c) For the purposes of this chapter, where a person holds a license to sell alcoholic beverages by the package, including distilled spirits, at one establishment and a license to sell to sell alcoholic beverages for consumption on the premises at a contiguous establishment, and the licensed premises of each establishment are physically separate from the other, with the only interconnectivity between the establishments (if any) being an inside connecting service door or passage-way, such establishments shall be considered separate and distinct establishments, provided that:
- (1) each establishment operates under a trade name different from the other;
 - (2) all business transactions are kept separate;
 - (3) each establishment must operate in compliance with all other provisions of this Chapter and all other laws and regulations applicable to such business;
 - (4) each establishment has a separate entrance for the public and the establishments share no common entrance;
 - (5) the inside connecting service door or passage-way (if any) must be located behind the bar or service counter of each establishment or otherwise so situated or maintained as to be reasonably accessible only to the licensee or employees of the establishments, and only the licensee and employees of the establishments may use such door or passage-way; and
 - (6) all other conditions required by state regulations applicable to such contiguous operations are met.”

Section 5 of the Ordinance:

Sec. 3-46. Brown-bagging, BYOB Prohibited; Exceptions Furnishing of wine by patron to restaurant.

It is prohibited for any person to bring his or her own alcoholic beverage (brown-bagging) into any retail establishment, without regard to whether such establishment is licensed to sell alcoholic beverages, for consumption on such premises.

(a) *Exceptions.* The foregoing prohibition is subject to the following specific exceptions:

(1) *Furnishing of wine by patron of restaurant.*

~~Notwithstanding any other contrary provision of the ordinance from which this section derives, a~~Any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to bring into the restaurant one (1) unopened bottle of wine for consumption on ~~, if the patron purchases a meal and consumes a portion of the bottle of wine and the meal on~~ the restaurant's premises. In order for this provision to apply, the restaurant must establish a policy for permitting ~~same~~this and must charge a minimum corkage fee of ten dollars (\$10.00) per bottle. Nothing in this section shall be deemed to require a restaurant to establish such a policy. Any wine not consumed at a restaurant, shall be disposed of at the premises and not carried out in an open container, unless the restaurant is able to reseal and repackage the opened bottle of wine in accordance with Section 3-47. Except as provided in this section, it is prohibited for any person to bring his own alcoholic beverage into any retail establishment without regard to whether such establishment is licensed to sell alcoholic beverages.

(2) *Patrons participating in cooking classes.* This

section shall not prohibit any person who is participating in a cooking class offered by a retail establishment from bringing one (1) unopened bottle of wine into the retail establishment to consume with the meal prepared as part of such class provided: (a) the retail establishment has a policy permitting a patron participating in a cooking class to bring an unopened bottle of wine into the retail establishment for consumption on the premises by the patron; (b) the retail establishment does not charge

a corking or other fee for same; (c) the price of a cooking class offered by the retail establishment does not vary based on whether class participants will be permitted to bring wine into the retail establishment for consumption on the premises; (d) no employee of the retail establishment under the age of 18 shall be working in the establishment during the times such classes are offered; and (e) the retail establishment has an established closing time of no later than 10:00 p.m. Any opened bottle of wine not consumed at the retail establishment during the cooking class shall be disposed of at the premises and not carried out in an open container. All other applicable state and city laws, regulations and ordinances which address the use and serving of alcoholic beverages shall apply to this subsection.

(b) For the purposes of this section, the term retail establishment shall not include a private hotel room or similar guest room or a private club.

Section 6 of the Ordinance:

Sec. 3-49. Art Gallery Exception.

An art gallery may obtain a license for the sale of alcoholic beverages for consumption on the premises without meeting the requirement that the establishment provides a full-service kitchen serving prepared foods or derives a minimum of fifty percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food; provided that no more than ten percent (10%) of the establishment's total annual gross sales are derived from the sale of alcoholic beverages.

Section 7 of the Ordinance:

Sec. 3-60. Types of establishments where retail sale permitted.

- (a) No distilled spirits by the package shall be sold at retail except in: (1) retail establishments devoted exclusively to the retail sale of alcoholic beverages by the package; (2) retail establishments in which space has been set aside devoted exclusively to the retail sale of distilled spirits by the package, with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located, except as provided in item (3) of this subsection; or (3) in hotels, motels and highrise office buildings where every public entrance to this use shall be from a lobby, hallway or other interior portion of the primary use structure.
- (b) ~~All retail liquor stores shall be located only in the C-1 or C-2 zoning districts.~~
- ~~(c) Nothing in this section shall prohibit the retail sale within these establishments of liquid commodities and mixes normally used in the preparation and serving of distilled spirits.~~

Section 8 of the Ordinance:

Sec. 3-160. Ancillary wine tasting license; ~~C~~conditions of license issuance.

~~(a) The holder of a wine-only package winestore license, with or without a package malt beverage license, but in no event with a package distilled spirits license, with licensed premises having a minimum of 200 square feet of floor space dedicated to the display of wine offered for sale, shall be eligible for an ancillary wine tasting license to sell or provide samples or tastings of wine offered for sale by the package to customers for consumption on the premises under the following conditions set forth in this section.~~

- ~~(a) The licensee shall maintain on the premises and offer for sale by the package at least twenty-five (25) different brands of wine.~~
- ~~(b) Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine~~

~~education classes and sampling designed to promote wine appreciation and education.~~

- (be) Wine sampling and tasting for customers shall only be conducted at a wine counter area constituting no more than ten (10) percent of the entire floor area of the premises.
- ~~(cd) Wine sampling for customers shall be limited to one consecutive two-hour period in any one day. Samples shall not exceed two (2) ounces or less, and no customer shall consume more than eight (8) ounces in any two-hour period calendar day.~~
- (de) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (ef) No open containers of wine shall be removed from the licensed premises.
- ~~(g) Not more than one time per week for a period of not to exceed two (2) consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.~~
- ~~(h) Holders of an ancillary wine tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.~~
- (fi) Wine sampling and tasting is only permitted within the enclosed portion of the premises.
- ~~(g) Wine sampling and tasting is only permitted during the hours the licensed premises are authorized to provide package sales of alcoholic beverages; provided, however, no wine sampling and tasting shall be permitted on Sunday.~~
- ~~(hj) Wine sampling and tasting shall not be permitted prior to the City's approval of a package license holder's application for an ancillary wine tasting license and the package license holder's payment of the subject license fee. The annual fee for an ancillary wine tasting license shall be two hundred and fifty dollars (\$250.00), which fee may be revised from time to time by resolution of the mayor and council.~~

Section 9 of the Ordinance:

Sec. 3-193. Exception for breweriesTastings.

~~Tastings shall be permitted in accordance with the provisions of O.C.G.A. § 3-5-38, as amended from time to time.~~

~~As a limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages established under state law, a brewer's license authorizes the holder of such license to sell directly to the public on its licensed premises up to 3,000 barrels of malt beverages manufactured on such licensed premises per year for: (1) consumption on the premises; and (2) consumption off the premises (sales by the package), provided that such sales by the package shall not exceed a maximum of 288 ounces per consumer per day. Such retail sales are permitted on the days and at the times that the retail sale of malt beverages for consumption on the premises or by the package, as applicable, is authorized for other retailer licensees under this chapter. Under no circumstances shall such malt beverages be sold by a licensed brewer to a licensed retailer or retail consumption dealer for the purpose of resale. Any brewer engaging in the retail sales of malt beverages pursuant to this section shall remit all state and local excise taxes to the proper tax collecting authority. For the purposes of this article, "barrel" means thirty-one (31) gallons of malt beverages.~~

Section 10 of the Ordinance:

ARTICLE XIX. DISTILLERIES.

Sec. 3-210. Definitions.

As used in this chapter:

Distiller means a manufacturer of distilled spirits.

Distillery means a facility where distilled spirits are manufactured (distilled, rectified or blended).

Sec. 3-211. Distiller's license authorized.

The manufacturing of distilled spirits in the city is authorized pursuant to the issuance of a distiller's license by the city council; provided, however, that no person shall be permitted to own or operate a distillery or otherwise manufacture distilled spirits in the city without first obtaining a proper distiller's license from the city council pursuant to the

procedures set forth in Article I of this chapter, and each holder of a distiller's license shall comply with the provisions of this chapter and all other applicable state and local statutes, ordinances, resolutions and regulations, including, but not limited to, rules and regulations promulgated by the Department of Revenue.

Sec. 3-212. Application; license fee.

Application for a distiller's license shall be made in the manner and in accordance with the procedures set forth in Article I of this chapter. The annual fee for a distiller's license shall be five hundred dollars (\$500.00), which fee may be revised from time to time by resolution of the mayor and council.

Sec. 3-213. Unlawful to manufacture distilled spirits without license.

It shall be unlawful for any person to manufacture distilled spirits within the city except under a valid distiller's license granted by the city council as set forth in this article. Distilled spirits may only be manufactured on the licensed premises of a distillery.

Sec. 3-214. Exception for distilleries.

As a limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of distilled spirits established under state law, a distiller's license authorizes the holder of such license to sell directly to the public on its licensed premises up to 500 barrels of distilled spirits manufactured on such licensed premises per year for: (1) consumption on the premises; and (2) consumption off the premises (sales by the package), provided that such sales by the package shall not exceed a maximum of 2,250 milliliters of distilled spirits per consumer per day. Such retail sales are permitted on the days and at the times that the retail sale of distilled spirits for consumption on the premises or by the package, as applicable, is authorized for other licensees under this chapter. Under no circumstances shall such distilled spirits be sold by a licensed distiller to a licensed retailer or retail consumption dealer for the purpose of resale. Any distiller engaging in the retail sales of distilled spirits pursuant to this section shall remit all state and local sales, use, and excise taxes to the proper tax collecting authority. For the purposes of this article, "barrel" means fifty-three (53) gallons of distilled spirits.