

**ORDINANCE NUMBER 1202**

**AN ORDINANCE TO AMEND CHAPTER 6, ALCOHOLIC BEVERAGES OF THE CODE OF ORDINANCES OF THE CITY OF PEACHTREE CITY, GEORGIA, TO AND UPDATE PROVISIONS OF THE ALCOHOLIC BEVERAGES ORDINANCE; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE FOR SEVERABILITY, TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEACHTREE CITY, GEORGIA, THAT:

**Section 1.** Chapter 6, Alcoholic Beverages, Article I, In General, Section 6-2., Definitions, is hereby further amended to read and to be codified as follows:

**ARTICLE I. IN GENERAL**

**Sec. 6-2. Definitions.**

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

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

*Alcoholic beverage* means all alcoholic, distilled spirits, beer, malt beverage, wine, or fortified wine.

Approved containers means a tamper evident container that:

- (1) Does not contain openings or straw holes;
- (2) Is sealed in a manner that is visibly apparent if the container has been subsequently opened or tampered with; and
- (3) Has an affixed label or marking that identifies the licensee that prepared and sold the mixed drink.

*Art shop.* A retail business devoted exclusively to providing art education that is limited to instruction in painting, sculpture and similar crafts; or to selling and displaying portraits, paintings, sculptures, art supplies and similar artwork and crafts. An art shop shall not allow activities that would cause the business to be an "adult entertainment establishment" as defined in chapter 10, article II of this Code.

*Brown bagging* means the act of patrons entering any restaurant, private club, or other establishment providing food or entertainment in the normal course of business and bringing in and consuming the patron's own alcoholic beverage.

*Brown bag establishment* means any restaurant, private club or other establishment providing food or entertainment in the normal course of business, and in which the owners or their agents knowingly allow patrons to bring in and consume the patrons' own alcoholic beverages.

*Caterer* means any person who prepares food and furnishes beverages, but not alcoholic beverages, for consumption off the premises of a food service facility or restaurant for a special event.

*Close corporation* means a domestic corporation which does not have:

- (1) More than five stockholders;
- (2) A corporation as a shareholder; or
- (3) More than one class of stock.

*Curbside pick-up* means when a licensee furnishes purchased goods to a customer's vehicle within a clearly designated pick-up area located within a paved parking area adjacent to the licensed premises.

*Distilled spirits* means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including but not limited to all fortified wines.

*Food service establishment* means any establishment holding a valid food service permit from a respective county health department.

*Fortified wine* means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Fortified wine" includes but is not limited to brandy.

*Growler* means glass, plastic or other type of container, not less than 12 ounces or more than 64 ounces, used to hold specialty malt beverages such as beer and hard cider, which are dispensed from a tap and sealed airtight before being sold to the customer for off-premise consumption.

*Growler retailer* means a person or entity that holds a current retail package (malt beverage) license from the city for the sale of malt beverages pursuant to subsection 6-36(a)(4) and a valid current alcohol license from the state and sells specialty malt beverages in growlers. A growler retailer does not include any retailer that sells distilled spirits or that holds a consumption license from the city.

*Hotel* means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a seating capacity of at least 40, where meals are regularly served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant, or both, on their premises; and the holder of such franchise shall be included in the definition of hotel hereunder. If more than one franchise is granted, such franchise will be considered an additional licensee under this chapter.

*Individual* means a natural person not a corporation.

*Interest in license* means an individual's having an interest in a license if he:

- (1) Is the owner of the license.
- (2) Is a co-owner of the license.
- (3) Is a partner in any partnership that owns an interest in a license.

- (4) Is a stockholder in any corporation which owns an interest in a license.
- (5) Shares in any income or corpus of any trust fund having any interest in a license to sell at retail.

*License representative* means, if a license representative is required, a resident of the state and a manager of the business who is on the premises on a regular basis.

*Licensee* for all businesses means that:

- (1) The licensee shall be at least 21 years of age.
- (2) If the business is to be operated by an individual, the licensee shall be that individual.
- (3) If the business is to be operated by a partnership, the licensee shall be an individual who is a partner; or, if all partners are nonindividuals, then the licensee shall be an individual who is an officer of any corporation which is a partner, or an individual who is an officer, manager or agent of any unincorporated entity which is a partner.
- (4) If the business is to be operated by a close corporation, corporation or similar business entity, the licensee shall be either an officer of the corporation or the registered agent of the corporation.
- (5) If the licensee is a resident of the state and a manager of the business who is on the premises on a regular basis, the licensee may also be the license representative of the business. If not, a license representative shall be named in accordance with this chapter.

*Malt beverage* means any alcoholic beverage obtained by the fermentation or any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume, and including, but not limited to, ale, porter, brown, stout, lager beer, malt liquor, small beer and strong beer.

*Manufacturer* means any maker, producer, or bottler of an alcoholic beverage and:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- (2) In the case of malt beverages, any brewery; and
- (3) In the case of wine, any vintner.

*Minor* means any person under the age of 21 years.

*Mixed drink* means a beverage prepared by combining distilled spirits with nonalcoholic liquid or liquids and that:

- (1) Is prepared on the day of the sale by an employee of the licensee;
- (2) Contains no more than 3 ounces of distilled spirits; and
- (3) Is sealed in an approved container.

*Package* means a bottle, can, keg, barrel or other original consumer container.

*Permitted location* means a building, premises or location for which a permit is required pursuant to this chapter and shall include a premises and a licensed premises as defined herein.

*Person* means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit.

*Premises* means a definite enclosed area or other outside area with controlled ingress and egress wherein spirituous liquors, alcoholic beverages, malt beverages or wine shall be manufactured; sold and consumed; and/or sold by the package to be consumed elsewhere.

*Private residence* means an occupied house, dwelling or structure in a residential zoning district wherein families reside.

*Retail consumption dealer* means any person who sells alcoholic beverages for consumption on the premises or for curbside pick-up at retail.

*Retail grocery store* means a store which carries groceries as at least 51 percent of its inventory. For purposes of this section, the term "groceries" does not include alcoholic beverages, gasoline, diesel fuel, motor oil, grease or other petroleum products used for the maintenance or operation of motor vehicles.

*Retail package dealer* means any person who sells alcoholic beverages in unbroken packages for consumption off the premises at retail.

*Special event or private function* means any organized activity having as its purpose entertainment, recreation and/or education, such as a festival, party, reception, celebration or assembly which occurs or takes place on private or public property.

*Twenty-one years of age and up special event* means a special event for which the primary intended purpose is consumption or tasting of alcoholic beverages if more than 50 percent of the expected gross revenue will be derived from the sale of alcoholic beverages, to include the sale of tickets that allow access to, or redemption of, alcoholic beverages.

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

*Wine* means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, grapes, or other natural products by natural fermentation. Wine includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, sake, natural wines, rectified wines, and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

**Section 2.** Chapter 6, Articles III, Operating Regulations and Responsibilities, Sections 6-122 and 6-130, are hereby further amended to read and to be codified as follows:

### **ARTICLE III. OPERATING REGULATIONS AND RESPONSIBILITIES**

#### **Sec. 6-122. Sale outside licensed premises or removal of alcoholic beverages dispensed on premises.**

- (a) Except as provided herein, it shall be unlawful for any sale of alcoholic beverages to be made outside of the premises licensed for such sale. All alcoholic beverages consumed on the premises of a retail consumption dealer shall be dispensed by that dealer.
- (b) Except as provided herein, any food service establishment which is licensed to sell distilled spirits for consumption on the premises may sell mixed drinks for off-premises consumption in approved containers, provided that such mixed drinks are:
  - (1) Sold to an individual 21 years of age or older who shall be limited to two mixed drinks per entrée ordered:

(2) Accompanied by a food order and a sales receipt within a time stamp that indicates the date and time of such purchases:

(3) Sold for the personal use and not for resale and picked up in person by the same individual customer to whom the mixed drinks and entrees were sold and from whom the food service establishment received payment; provided, however, that such individual customer shall not include a delivery service or third-party agent; and

(4) Furnished with the accompanying food order the customer on the premises or by way of curbside-pick-up.

(c) For golf club facilities, "licensed premises" includes not only the room wherein alcoholic beverages are sold or served but shall also include the entire building where the room is located and the entire boundary of the golf course except parking lots, alleyways, public streets, public multi-use paths including paths shared with the public, and lakes. Patrons may consume the same on the licensed premises as defined above, and the following provisions shall apply:

(1) Golf clubs shall clearly mark areas where the course intersects public streets and public multi-use paths with signs reading "Public Way—Open Containers of Alcohol Prohibited".

(2) Golf club staff may not sell alcohol within the prohibited distances outlined in section 6-39.

(d) The Frederick Brown, Jr. Amphitheater permits alcoholic beverages to be brought to the amphitheater by persons attending the activity where alcohol is permitted according to subsection 54-7(1).

(Ord. No. 923, § 3, 12-6-2007; Ord. No. 1077, § 3, 5-1-2014)

Editor's note(s)—Ord. No. 923, § 3, adopted December 6, 2007, amended § 6-122 Editor's note(s)— in its entirety to read as herein set out. Formerly, § 6-122 Editor's note(s)— pertained to removal of alcoholic beverages dispensed on premises, and derived from the Code of 1980, § 3-43.

### **Sec. 6-130. Brown bagging, brown bag establishments prohibited; exceptions**

(a) Except as provided herein, "brown bagging" and "brown bag establishments" as defined in this chapter shall be prohibited within the city.

(b) Exceptions. The foregoing prohibition in subsection (a) of this section is subject to the following specific exceptions:

(1) Furnishing of wine by a patron of a restaurant. Any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to bring into the restaurant one unopened bottle of wine for consumption on the premises. In order for this provision to apply, the restaurant must establish a policy for permitting same and must charge a minimum corkage fee of \$10.00 per bottle. Nothing in this section shall be deemed to require a restaurant to allow brown bagging. Any wine not consumed at a restaurant shall be disposed of at the premises and not carried out in an open container except for the removal of partially consumed bottles of wine as permitted by O.C.G.A. § 3-6-4(c) The Frederick Brown, Jr. Amphitheater permits alcoholic beverages to be brought to the amphitheater by persons attending the activity where alcohol is permitted according to subsection 54-7(1).

(Ord. No. 923, § 3, 12-6-2007)

**Section 3.** Chapter 6, Articles IV, Taxation of Beverages by the Drink, Section 6-162., Taxes Levied, is hereby further amended to read and to be codified as follows:

**ARTICLE IV. TAXATION OF BEVERAGES BY THE DRINK'**

**Sec. 6-162. Tax levied.**

There is imposed and there shall be paid a tax of three percent of the purchase price of every sale of an alcoholic beverage (but not including malt beverages, fermented wines or fortified wines) purchased by the drink in the city. Sales of mixed drinks for off-premises consumption shall be taxed in accordance with O.C.G.A. § 3-4-130 through O.C.G.A. § 3-4-133.

**Section 4.** All ordinances or parts thereof which conflict with the provisions of this ordinance are, to the extent of such conflict and except as hereinafter provided, hereby repealed.

**Section 5.** Should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any provision thereof other than the provisions specifically declared to be invalid. The City Council declares that it would have passed this ordinance and each subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses or phrases may be declared invalid.

**Section 6.** This ordinance shall be in full force and effect upon its official adoption by the City Council.

**Done, Ratified, and Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.**

(Signatures on following page)

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*Kim Learnard*

Kim Learnard, Mayor

*Mike King*

Mike King, Mayor Pro Tem

*Philip E. Prebor*

Philip E. Prebor, Councilmember

*Frank J. Destadio*

Frank Destadio, Councilmember

ATTEST:

*Yasmin Julio*

Yasmin Julio, City Clerk

(SEAL)

