

CHAPTER 8
ALCOHOLIC BEVERAGES

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Adopted: December 19, 1996

Signed: _____
Donna M. Waters, Clerk

CHAPTER 8

ALCOHOLIC BEVERAGES

ARTICLE 1: SPIRITUOUS LIQUORS OR DISTILLED SPIRITS

8-100 An ordinance to provide for the issuance of alcoholic beverage licenses; to define terms; to provide jurisdiction; to require an application; to provide for an expiration date; to set fees; to set taxes on wholesalers; to require returns; to prohibit sales if taxes are not paid; to set standards for granting license; to provide rules and regulations; to require bar cards; to provide for Sunday sales; to prohibit alcoholic beverages at public facilities; to set penalties; to set forth revocation procedures; to repeal conflicting ordinances; to provide a severability clause; to set an effective date, and for other purposes.

8-101 Title.

The title of this Ordinance shall be "The Bryan County Alcoholic Beverage Code."

8-102 Definitions.

1. Alcoholic beverage. Shall include all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.
2. 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.
3. Malt beverage. Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any similar product, or any combination of such products in water, containing not more than 6 percent alcohol by volume, and including ale, porter, brown, stout, lager beer, light beer, and strong beer.
4. General terms. When the words "person," "retail consumption dealer," "wholesale dealer," or "wholesaler," and "wine" are used in the Section that follow, they shall be used and applied as defined in Official Code of Georgia Annotated, Section 3-1-2.

8-103 Jurisdiction. This Ordinance shall be effective and applicable in Bryan County, Georgia, outside the corporate limits of any municipality therein.

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8-104 Business must apply for license. From and after the passage of this Ordinance every person engaged in either a retail or wholesale alcoholic beverage business shall file an application for a license to conduct such business with the County Commissioners of Bryan County, Georgia, to be approved by the Bryan County Commissioners before engaging in or continuing said business.

8-105 Expiration date. Licenses shall expire at the end of each calendar year, and may be renewed only in the manner and form as provided in this Ordinance for the original granting of licenses. Failure to renew a business license by January 31 of each year shall incur the following penalty charges:

1. An execution of fifty percent (50%) of the regularly required fees.
2. A subpoena to the Magistrate Court of Bryan County for violation of this Ordinance.

8-106 Fees. The license fees are hereby fixed and assessed on an annual basis or on a prorated basis as set forth in subsection (9) of this Section. Fees shall be paid annually to the Bryan County Commissioners. The following classification of each business is hereby established:

1. Each retail beer dealer shall pay an annual license fee of five hundred (\$500.00).
2. Each wholesale beer dealer shall pay an annual license fee of six hundred twenty-five dollars (\$625.00). This license shall include the right to sell only to wholesalers or retailers holding licenses to sell beer.
3. Each retail liquor dealer selling liquor by the package only shall pay an annual license fee of thirteen hundred dollars (\$1,300.00); each retail establishment selling liquor by the drink (pouring), thirteen hundred dollars (\$1,300.00).
4. Each wholesale liquor dealer shall pay an annual license fee of two thousand five hundred dollars (\$2,500.00). This shall include the right to sell only to wholesalers or retailers holding licenses to sell liquor.
5. Each distiller or manufacturer of alcoholic beverages shall pay an annual license fee of one thousand eight hundred seventy-five dollars (\$1,875.00).
6. Each retail wine dealer shall pay an annual license fee of three hundred dollars (\$300.00).

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7. Each wholesale wine dealer shall pay an annual license fee of three hundred and ten dollars (\$310.00). This license shall include the right to sell only to wholesalers and retailers holding licenses to sell wine.

8. Every person engaged in more than one of the businesses provided for in this section and in the Ordinance shall pay the aforesaid license fees for each such business engaged in and each such beverage sold. Pursuant to O.C.G.A. Section 3-4-21, no person shall be issued more than two retail dealer licenses, nor shall any person be permitted to have a beneficial interest in more than two retail dealer licenses, regardless of the degree of such interest. Except, a retail dealer license shall be reissued if the license has been: 1) Held prior to the creation of any of the licensee's familial relationships (within the first degree of consanguinity as computed by common law or by marriage) or 2) Held prior to April 3, 1978.

9. Every person engaged in any of the businesses provided for in this section and in the Ordinance shall pay the aforesaid license fees for every separate place in which he transacts or engages in said business. In the event that an application for a license shall be filed later than January 1 of any year, there shall be no pro-ration of the license fees.

10. There shall be no transfer of any alcoholic beverage license from one person or entity to another, if a business is sold or otherwise transferred during the calendar year, the new owner shall apply for a new license in his name.

11. Applications for new alcoholic or malt beverage license must be accompanied by an application fee of ten dollars (\$10.00).

8-107 Tax on wholesalers. Each wholesale dealer in malt beverages, spirituous liquors, or wines shall pay, in addition to the regular license provided by this Ordinance, a tax on beverages sold to retailers located within the unincorporated area of Bryan County, in accordance with the following schedule: Rates are established by this Ordinance in accordance with the State of Georgia Uniform Local Beer excise Tax Act of 1974.

1. MALT BEVERAGES

(1) One dollar and twenty cents (\$1.20) per case of 48 bottles or cans when each bottle or can contains 6 ounces.

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(2) One dollar and forty cents (\$1.40) per case of 48 bottles or cans when each bottle or can contains 7 ounces.

(3) One dollar and twenty cents (\$1.20) per case of 36 bottles or cans when each bottle or can contains 8 ounces.

(4) One dollar (\$1.00) per case of 24 bottles or cans when each bottle or can contains 10 ounces.

(5) One dollar and twenty cents (\$1.20) per case of 24 bottles or cans when each bottle or can contains 12 ounces.

(6) One dollar and forty cents (\$1.40) per case of 24 bottles or cans when each bottle or can contains 14 ounces.

(7) One dollar and sixty cents (\$1.60) per case of 24 bottles or cans when each bottle or can contains 16 ounces.

(8) One dollar and sixty cents (\$1.60) per case of 12 bottles or cans when each bottle or can contains 32 ounces.

(9) Forty-four cents (\$.44) per barrel, keg, or drum with a capacity of one and one eighths (1.125) gallons.

(10) Eighty seven cents (\$.87) per barrel, keg, or drum with a capacity of two and one quarter (2.25) gallons.

(11) One dollar fifty cents (\$1.50) per barrel, keg, or drum with a capacity of (3.875) gallons (1/8 barrel).

(12) Three dollars (\$3.00) per barrel, keg, or drum with a capacity of seven and three quarters (7.75) gallons (1/4 barrel).

(13) Six dollars (\$6.00) per barrel, keg, or drum with a capacity of fifteen and five tenths (15.5) gallons (1/2 barrel).

(14) Twelve dollars (\$12.00) per barrel, keg, or drum with a capacity of thirty-one (31.0) gallons (one barrel).

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2. DISTILLED SPIRITS For liquor sold to retailers located within the unincorporated area of Bryan County for sale either by the package or by the drink, the tax shall be computed as follows: Eighty cents (\$.80) per gallon; forty cents (\$. 40) per half-gallon; twenty cents (\$. 20) per quart; sixteen cents \$.16) per one-fifth gallon; ten cents (\$.10)

per pint; eight cents (\$.08) per one tenth gallon; and five cents (\$.05) per one-half pint or smaller.

3. WINES For wine sold to retailers located within the unincorporated area of Bryan County, an excise tax shall be paid at the rate of eighty cents (\$.80) per gallon. The tax on wine sold in other than one gallon containers shall be computed proportionately.

8-108 Sale prohibited if taxes are not paid.

1. It shall be unlawful for any person to sell at retail or for consumption any malt beverages, wines or spirituous liquors on which the taxes provided for in this Ordinance have not been paid to the wholesale dealer or distributor for the county.

2. It shall likewise be unlawful for any wholesale dealer or other person to deliver any malt beverages, wine or distilled spirits to any retail dealer in the county without first collecting the taxes as provided in this Ordinance.

8-109 Possession by retailers prohibited unless taxes are paid. It shall be unlawful for any retail dealer to have in his possession any alcoholic beverage unless the tax required by the county has been paid to the wholesaler, distributor or other source delivering or causing the beverages to be delivered to the retail dealer. Whenever any such beverages are found in the possession of a retail dealer and the records of the payment of the taxes do not appear upon the records of the wholesaler, it will be presumed that the tax has not been paid and the burden shall be upon the retailer or seller to prove such fact. All aforesaid beverages found in the possession of any retail dealer on which the tax has not been paid shall be subject to confiscation by county authorities and shall be sold by county authorities and the receipts thereof paid into the county treasury.

8-110 Granting the License.

1. The Commissioners of Bryan County shall grant a license hereunder when the same is found to be in the public interest and general welfare.

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2. The Commissioners of Bryan County in determining whether or not any license or permit applied for hereunder shall be granted, shall consider the following standards:

(1) The applicant's reputation, character, and mental and physical capacity to conduct a business engaged in the sale of wine, beer, and/or alcoholic beverages.

(2) The location for which the license is sought as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values.

(3) The number of licenses previously granted for similar businesses in the trading area of the place for which the license is sought.

(4) The proximity of the location of said establishment to schools, churches, libraries, and other public buildings in the surrounding area as provided for in Section 8-111.

(5) Whether applicant is a previous holder of a license to sell wine, beer and/or alcoholic beverages, and whether applicant has violated any law, regulation or ordinance relating to such business.

(6) If applicant is a previous holder of a license to sell wine, beer, and/or alcoholic beverages, whether unusual police observation and inspection were required, including the number and frequency of complaints filed by citizens objecting to the manner of conducting business at said location.

(7) No licenses shall be granted to any applicant who is not a citizen of the United States, and if the applicant is a partnership or corporation, then at least one of the active partners, or the principal stockholder must be a citizen of the United States.

(8) No license shall be issued to any applicant, if any individual applicant or any individual having an interest as either an owner, partner or principal stockholder, whether such interest be direct or indirect, or such individual's spouse shall have been convicted of or had accepted plea of nolo contendere to any felony or misdemeanor either in the State of Georgia, or any other State or possession of the United States within the past ten (10) years, or of any

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municipal ordinance except traffic violations. The term "conviction" as used herein shall include the forfeiture of an appearance bond.

8-111 Rules and regulations. The following rules and regulations are hereby established and shall govern the conduct and operation of every such place of business and of every person owning and operating such place of business:

1. All establishments duly licensed hereunder must fully comply with all sanitary requirements promulgated by the Bryan County Health Department.
2. All musical units or amusement machines installed in any establishment licensed hereunder must be properly registered with the office of Bryan County Commissioners.
3. Illegal gambling conducted on the premises of any establishment licensed hereunder shall be cause for revocation of such license.
4. No alcoholic beverages provided for in the Ordinance shall be kept for sale or given away, in any building, storehouse, place of business or vehicle located within 600 feet of any school ground, college campus, church, mortuary, chapel or other place of worship, or within 600 feet of any public library, courthouse, jail or other public building.
5. Disorderly conduct in any place of business or other place where the beverages provided for in the Ordinance are permitted to be sold is expressly forbidden by this Ordinance, and every person owning and/or operating a place of business for which a license has been granted, and for which the license fee has been paid, shall be subject to license revocation, in the manner provided for in this Ordinance, for permitting any disorderly conduct in such places of business.
6. Alcoholic beverages of any kind can be sold on the day of an election in the unincorporated area of Bryan County.
7. Retail establishments shall not open before 9 A.M. and shall not close later than 12 P.M. except on Sundays, Thanksgiving and Christmas Day when the same shall not open.
8. No person shall serve, sell or give away distilled spirits or alcoholic beverages on Sunday.

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9. Retail dealers shall keep their place of business sufficiently lighted to protect the health and safety of patrons and persons lawfully on the premises.

10. Retail grocery establishments selling malt beverages and/or wine shall permit sales only between the hours of 9:00 A.M. and 12:00 P.M. on every day except Sundays, Thanksgiving Day, and Christmas Day when same shall not open.

11. No person shall sell, serve or give any alcoholic beverage to any person who is a minor, or who is physically or mentally incapacitated, or who is intoxicated, or to any person who is procuring such alcoholic beverages for such persons.

12. In all establishments serving alcoholic beverages by the drink, or permitting consumption on the premises; entertainment may be provided, but entertainment which is immoral, indecent or lewd and is considered obscene according to legal standards is forbidden, and all entertainers in such establishments shall be fully clothed at all times.

13. Bryan County reserves the right to promulgate additional regulations or ordinances pertaining to the conduct of the business of selling alcoholic beverages and any person licensed hereunder shall be subject to such additional regulations that may be promulgated from time to time by the Commissioners of Bryan County.

8-112 Bar Cards.

1. It shall be unlawful for any holder of wine, beer, or alcoholic beverages licenses as aforementioned to permit himself or any other person(s) to work or to serve in or about his place of business, in which said wine, beer and alcoholic beverages are sold for consumption on the premises, unless said person has a registration card issued by the Bryan County Commissioners, setting forth therein the name of the employer, employee and the location of the place of employment.

2. The registration card, or bar card shall be issued annually and shall not be transferable from one bar owner to another, nor from one location to another. Each person holding a registration card, or bar card, shall annually, likewise, get a health certificate from the Bryan County Health Department.

3. The fee shall be \$5.00 for each registration card, or bar card, and shall be paid by the bar owner.

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8-113 Sunday Sales. There shall be no Sunday sales of alcoholic beverages in the unincorporated areas of Bryan County, Georgia.

8-114 Public Facilities. It shall be unlawful to sell, possess or consume any alcoholic beverages at the Hendrix Park or Richmond Hill Park or any other public facility during any public gathering. It shall be unlawful to consume any alcoholic beverages or controlled substances in any of the neighborhood parks, grounds, boat ramps, public facilities, or areas which are owned and/or operated under the jurisdiction of Bryan County.

8-115 Prosecution and penalty for violations. Any person convicted of violating any of the provision of this Ordinance shall be subject to a fine not exceeding one thousand dollars (\$1,000.00) and imprisonment in the Bryan County Jail not exceeding sixty (60) days, either or both or any portion of either or both; and further, upon the conviction of any holder of any alcoholic beverage license of a violation of this Ordinance, the commissioners shall be authorized to revoke the license of the violator. For the purpose of prosecution of violators of the Ordinance each and every violation of every separate section hereof shall be considered a separate offense.

8-116 Revocation of license.

1. In addition to any criminal penalty that may be imposed by Section 8-115 of the Ordinance, the Commissioners of Bryan County shall have the right to deny, suspend or cancel any license if:

- (1) The license application is not filed in good faith or is filed by some person as a subterfuge for any other person.
- (2) Any applicant for a license or any licensee under this ordinance wilfully fails to comply with any provisions of this Ordinance.
- (3) Any person to whom a license has been issued is no longer engaged in the dealing of alcoholic beverages or no longer qualifies as a licensee under this ordinance.

2. Before any denial, suspension or cancellation of a license granted under this ordinance, the applicant or licenses shall be afforded notice and hearing as follows:

- (1) The notice shall be served personally or by certified mail not less than

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twenty (20) days before the hearing. The notice shall include:

- a) A statement of the time, place and nature of the hearing;
- b) A statement of the legal authority under which the hearing is to be held;
- c) A reference to the section of ordinances and statutes involved;
- d) A short and plain statement of the matters asserted;
- e) A statement as to the right of any party to representation by legal counsel at the hearing, the right of any party to present evidence on all issues, and the right of any party to subpoena witnesses and documentary evidence.

(2) At the hearing, all parties may be represented by legal counsel, and may respond to and present evidence on all issues involved.

(3) The Commissioners of Bryan County, as the hearing agency, shall have the right to exercise the powers provided in Official Code of Georgia Annotated 50-13-13, to promulgate such other rules for the orderly disposition of the hearing as they deem appropriate.

8-117 Advertising prohibited. No establishment serving alcoholic beverages by the drink shall advertise or cause to be advertised by any means the fact that such beverages may be purchased by the drink except that such establishments shall be allowed to use the words "Your favorite beverages served".

8-118 Possession and reading of this ordinance. It shall be the duty of the management of all premises licensed hereunder to maintain a copy of this Ordinance on such premises and to instruct all employees on the terms thereof, and no license shall be issued to any applicant until such applicant shall have read the entire text of this Ordinance and certify in writing such reading and knowledge thereof.

8-119 General provision. Every person, firm or corporation who shall become eligible for any of the above categories after January 1, 1985, shall, before commencing business, apply to the office of the Clerk of the Bryan County Commissioners, or their representative(s), for the appropriate license(s).

8-120 Effective date. This Ordinance shall be in effect on and after January 1, 1985 and shall continue thereafter without reenactment from year to year unless changed,

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amended or repealed by specifications of Commissioners of Bryan County.

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