



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2019-545

Date of Reading and Adoption: December 9, 2019

At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

**AN ORDINANCE TO AMEND CHAPTER 6, ALCOHOLIC BEVERAGES, ARTICLE II
“EXCISE TAXES” AND ARTICLE III “ LICENSING AND REGULATION” OF THE
CODE OF ORDINANCES OF THE CITY OF LILBURN; TO REPEAL CONFLICTING
ORDINANCES; TO PROVIDE FOR AND EFFECTIVE DATE; AND FOR OTHER
PURPOSES.**

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT CHAPTER 6, ALCOHOLIC BEVERAGES, OF ARTICLE II AND ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE AMENDED AS FOLLOWS:

Sec. 6-27. – Per-drink excise tax.

- (a) Every purchase of distilled spirits alcoholic beverages by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee hereunder and such licensee shall remit the same to the city on or before the 19th day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of alcoholic beverages by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the finance director or designee to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to the rate authorized for deductions from state tax under Part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended; provided, that said tax is not delinquent at the time of payment. Each licensee shall include as part of this monthly report the total liters purchased within that same month of distilled spirits and the registered wholesaler from whom it was purchased. It shall be the duty of every such licensee required to make a report and pay any tax levied hereunder, to keep and preserve suitable records of the sales taxable hereunder, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three years.
- (d) Any licensee who violates any provision of this chapter may upon conviction be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the county jail and/or the license of such location may be subjected to a supervised action plan, suspended, or revoked.

Sec. 6-63. License; criteria for issuance.

- (o)(1)a. As used in this section, an "interest in the license" shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, a general or limited partner in a

partnership which owns all or any part of a license, a stockholder in any corporation that owns all or any part of a license, an owner, lessor, sub lessor of, or stockholder in any corporation owning or leasing, any real estate which is occupied by a retail liquor store, or shares in any income or corpus of any trust fund or estate having any interest in a retail liquor store. Notwithstanding any of the other provisions of this section, no person shall be deemed to have more than ~~one~~ two interests in any one license.

- (p) An eating establishment that is licensed as a retail consumption dealer shall not sell distilled spirits in packages at any time. An eating establishment that is licensed as a retail consumption dealer shall be eligible for a license to sell packaged beer and wine for off-premises consumption, pursuant to the same procedures as are set forth in this chapter as it pertains to a ~~retain~~ retail package store, and each such eating establishment shall comply with all other applicable state and local requirements.

Sec. 6-67. Same-Transferability

- (e) Any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license hereunder automatically without the necessity of any hearing, provided, however, that the establishment may continue to sell alcohol beverages during the period of time that a new application for a license is under review of for a period of 30 days, whichever time period is shorter. No additional license fees shall be required during the period for which the original license was issued. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. If no new application for a license is made within ten (10) days of the change in ownership, the license shall stand automatically revoked. If the license application is received after the ~~seventh~~ tenth (10) day, the license fees set forth in section 6-65 shall apply.

Sec. 6-85. Employee regulations.

- (a)(2) No person shall be granted a pouring permit unless it appears to the satisfaction of the ~~Chief of Police~~ City Manager or his/her designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude; illegal gambling; illegal possession or sale of controlled substances; illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law; driving while under the influence of alcohol and/or drugs; obstruction or hindering of law enforcement officers; riot; inciting to riot; giving false information to law enforcement officer; and/or hindering apprehension or punishment of a criminal within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. In the event that the chief of police or his designee learns of a person's first time conviction for illegal possession of alcohol as a misdemeanor or a first time conviction for illegal possession of alcohol as a violation of a city ordinance, the chief of police shall notify the city manager, who will then determine said person's eligibility for an alcohol pouring permit.
- (c) No permit shall be issued until such time as a signed application has been filed with the ~~department of chief of police~~ City Clerk or his/her designee and upon paying a fee which shall be established by the mayor and council and a search of the criminal record of the applicant completed. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the

inclusion of arrest information, these applications shall not be produced for public inspection without a court order.

- (d) The chief of police shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this chapter, the ~~chief of police~~ City Clerk or his/her designee shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the ~~chief of police~~ City Clerk or his/her designee shall notify the employer that this person is not eligible for employment, the cause of such denial and their right to appeal.
- (e) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the ~~chief of police~~ City Clerk or his/her designee 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.
- (f) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the ~~chief of police or the~~ City Manager.
- (i) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the ~~department of chief of police~~ City Clerk or his/her designee.
- (k) Separate permits shall be required by the ~~department of chief of police~~ City Clerk for each employee working in more than one establishment serving alcoholic beverages.
- (l) No person shall be issued a permit if it is determined that the person knowingly and willfully falsified, concealed or covered up any material fact by any device, trick, or scheme while making application to the ~~department of chief of police~~ City Clerk or his/her designee for an alcoholic beverage pouring permit under this section. Any person convicted of this offense shall be punished by a minimum fine of \$250.00.
- (m)(3) Each establishment will provide the ~~chief of police~~ City Clerk or his/her designee a list of all servers that are employed and the certificate number of each "alcohol awareness server." This list is to be received no later than 60 days from receipt of license to operate, including renewals. At the time of submission to the ~~chief of police~~ City Clerk or his/her designee, all alcohol awareness training certificates must be current and shall not expire within three months of the establishment obtaining its annual license.

Sec. 6-86. Employee regulations; hearings on adverse actions.

- (b) The ~~chief of police~~ City Clerk or his/her designee shall provide written notice to the applicant/employee of his/her order to deny, suspend or revoke the permit. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant/employee of the right to appeal under the provision of this chapter. Any applicant/employee who is aggrieved or adversely affected by a final action of the ~~chief of police~~ City Clerk or his/her designee may have a review thereof by appeal to the City Manager and/or his/her designee. Such appeal shall be by written petition, filed in the office of the City Manager or his/her designee within 15 days after the final order or action of the ~~chief of police~~ City Clerk or his/her designee. The filing of an appeal shall not act as a supersedeas, unless the ~~chief of police~~ City Clerk or his/her designee so states in the written decision.

- (c) The city manager and/or his/her designee shall conduct a hearing on each appeal within 20 days of the filing date of the written appeal, unless a continuance of such date is agreed to by the appellant and the ~~chief of police~~ City Clerk or his/her designee.
- (d) The City Clerk or his/her designee shall be authorized to issue no more than three subpoenas on behalf of each party regarding witnesses for said hearing, unless further subpoenas are approved in writing by the City Manager and/or his/her designee.
- (g) After said hearing, the City Manager and/or his/her designee shall provide written notice to applicant/employee and the ~~chief of police~~ City Clerk of his/her decision. Such written notification shall set forth in reasonable detail the reasons for such decision and shall notify either party of the right to appeal under the provisions of this chapter. A review of the decision of the City Manager and/or his/her designee may be made by appeal to the City Council on the record only; no further evidentiary hearings shall be held before the City Council. Such appeal shall be by written petition, filed in the office of the City Clerk or his/her designee within 15 days after the final decision of the City Manager and/or his/her designee. It shall be the duty of the City Clerk or his/her designee to forward a copy of said appeal and record to the City Council. In order to defray administrative costs, said written petition must be accompanied by a filing fee of \$500.00 from the appealing party. The filing of an appeal shall not act as a superseadeas, unless the City Manager and/or his/her designee so states in the written decision.

BE IT FURTHER ORDAINED that this ordinance becomes effective upon its adoption.

BE IT FURTHER ORDAINED that all regulations or parts of regulations in conflict with this Ordinance are hereby rescinded to the extent of said conflict.

SO ORDAINED this the 9th day of December, 2019.

Johnny D. Crist, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, City Clerk
(Seal)