

City of Guyton, Georgia
CITY COUNCIL RETREAT
February 25, 2022 at 10:00 A.M.



C.D. Dean, Jr., Public Safety Complex
GUYTON GYMNASIUM
505 Magnolia Street
Guyton, GA 31312

AGENDA

1. **Call to Order**
2. **Alcohol Policy Discussion**
3. **Consideration to Adjourn this City Council Retreat**

Chapter 6 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 6-2-1. Definitions.

When the words “alcohol,” “alcoholic beverage,” “distilled spirits,” “malt beverage,” “wine,” “fortified wine” “person,” “retail consumption dealer,” “retail dealer,” “wholesale dealer” or “wholesaler,” “manufacturer,” “package,” “retail package liquor store,” “retail consumption dealer,” “retailer,” “retail dealer,” and “gallon” are used in this chapter, they shall be used and applied as defined in O.C.G.A. § 3-1-2.

Sec. 6-2-2. Jurisdiction; Purpose; Privilege.

- (a) **Jurisdiction.** This chapter shall be effective and applicable in the corporate limits of the city.
- (b) **Purpose.** This Ordinance is enacted for the purposes, among others, of promoting the health, safety, and general welfare of the community; establishing reasonable and ascertainable standards for regulation and control of licensing and dispensing of sales of all permissible forms of alcoholic beverages, whether through package sales or by the drink; preserving residential areas, with reasonable consideration to the character of the areas and their suitability for particular uses; protecting and preserving schools, churches, and other public institutions; reducing congestion in roads and streets; and with a general intent of promoting desirable living conditions and sustaining stability of neighborhoods and property values.
- (c) **Privilege, Not a Right.** Nothing in this Chapter shall be construed as giving a person a right to sell or otherwise deal in alcoholic beverages, whether through package sales or by the drink.
 1. **License Language.** All licenses issued under this Ordinance shall have printed on the front these words:

“THIS LICENSE IS A MERE PRIVILEGE SUBJECT TO SUSPENSION AS WELL AS REVOCATION AND ANNULMENT, AND IS SUBJECT TO ANY AND ALL ORDINANCES NOW IN EFFECT OR WHICH MAY BE ENACTED.”

Sec. 6-2-3. License.

- (a) **License Required.** Every person engaged in either a retail or wholesale alcoholic beverage business, as approved by the State of Georgia, shall file an application with the city clerk for a license to conduct such business, to be approved by the City Council, before engaging in or continuing such business in the City of Guyton.
 - (b) **Persons Prohibited from Holdings Licenses.** Alcoholic beverages licenses shall not be issued to the following:
 1. Any person who has been convicted of driving under the influence of intoxicants or drugs or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding two (2) years;
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2. Any person who has been convicted of any criminal offense if such conviction tends to indicate that the applicant would not maintain the operation for which a license is being sought in conformity with federal, state, or city law;
 3. Any person who has been convicted of a felony or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding five (5) years;
 4. Any person who has been convicted of a violation of law pertaining to the sale of alcoholic beverages or the sale or possession of a controlled substance or who has pleaded nolo contendere or forfeited bond in connection with any such charge within the preceding five (5) years;
 5. Any partnership, unless all partners qualify;
 6. Any corporation or limited liability company, unless all officers or members who will be directly concerned in the management of the business qualify;
 7. Any trust, unless all trustee(s) qualify; and
 8. Any person whose license to sell alcoholic beverages has been revoked by any licensing authority during the preceding five (5) years.
 9. Any person under the age of twenty-one (21) at the time the application is submitted.
- (c) After investigation by the Chief of Police of the fitness of the applicant and the proposed location, all licenses shall be granted or denied by the governing authority at a public meeting.

Sec. 6-2-4. Expiration date.

Alcoholic beverage licenses shall expire at the end of each calendar year and may be renewed only in the manner and form as provided in this chapter for the original granting of such licenses.

Sec. 6-2-5. License fees.

- (a) License fees for the following alcoholic beverage license categories are as set forth in the schedule of fees and charges.
- (1) Retail malt beverages, by package only
 - (2) Retail malt beverages, and wine, by package only
 - (3) Retail liquor, malt beverages, and wine, by package only
 - (4) Consumption on-premises, liquor, malt beverages, and wine
 - (5) Consumption on-premises, malt beverages and wine
 - (6) Consumption on-premises, malt beverages only
 - (7) Wholesale liquor
 - (8) Wholesale malt beverages
 - (9) Wholesale wine
 - (10) Special Event Venue
 - (11) Distiller, brewer, or manufacturer
 - (12) Transfer license

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- (b) **Assessment of Fees.** Alcoholic beverage license fees are fixed and assessed on an annual basis or on a prorated basis as set forth in subsection (c) of this section. License fees shall be paid annually to the city clerk.
 - (c) **Payment of Fees.** Every person engaged in any of the businesses provided for in subsection (a) of this section shall pay the license fees in amounts as set forth in the fee schedule for every separate place in which he or she transacts or engages in such business. Any person engaging in such business prior to July 1 of any year shall pay the full annual license fee in amounts as set forth in the fee schedule. Any person engaging in such business after July 1 shall pay the balance of such annual fee in amounts as set forth in the schedule of fees and charges. There shall be no difference or deduction in the annual license fee for wholesalers.
 - (d) **Transfer of License.** To transfer a license during the calendar year, any person engaged in any of the businesses provided for in subsection (a) of this section must make a written application to the city clerk, to be approved by the City Council, and pay a fee as set forth in the fee schedule. The transfer application shall be subject to the same requirements and criteria as an application for a new license.

Sec. 6-2-6. Tax on wholesalers.

Each wholesaler shall pay, in addition to the regular license fees as set forth in the fee schedule, a tax on beverages sold to retailers located within the corporate limits of the city in accordance with the following:

- (1) **Malt beverages.**
 - a. Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;
 - b. Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (2) **Distilled spirits.** For distilled spirits sold to retailers located within the city for sale either by the package or by the drink, an excise tax shall be paid at the rate of \$0.22 per liter or \$0.83 per gallon. The tax on distilled spirits sold in other size containers shall be computed at proportionate rates.
- (3) **Wine.** For wine sold to retailers located within the city, an excise tax shall be paid at the rate of \$0.22 per liter or \$0.83 per gallon. The tax on wine sold in other size containers shall be computed at proportionate rates.

Sec. 6-2-7. Returns to finance department; right to inspect.

- (a) Each wholesale dealer receiving, selling, shipping or delivering malt beverages, distilled spirits or wine to wholesalers or retailers in the corporate limits of the city shall make a return to the city clerk by the tenth of the month following the month for which the tax is due, and shall pay the taxes imposed by this chapter. The dealer shall also file with his or her monthly return a certified copy of his or her report of monthly sales to retailers made to the state department of revenue.
- (b) The city shall have free and complete access by its duly authorized agents to any books, papers, records or memoranda bearing upon the statement for the purpose of ascertaining the correctness of any statement required to be filed by this chapter.
- (c) Any establishment holding a license issued under this Chapter shall at all times, during the period allowable by law for operation of the business, be open to inspection by any officer of the City Police Department, any licensed inspector of the city, or to any person designated by the governing authority or the City Chief of Police. In addition, if the premises are being used after hours by employees or the owners or their agents, the premises may be inspected at this time by the persons designated in this section.

Sec. 6-2-8. Sale if taxes are not paid.

- (a) It shall be unlawful for any person to sell by the package or for consumption on the premises any malt beverages, wines, or distilled spirits on which the taxes provided for in this chapter have not been paid to the wholesale dealer or distributor from which such alcoholic beverages have been purchased.
- (b) It shall be unlawful for any wholesale dealer or other person to deliver any malt beverages, wines or distilled spirits to any retail dealer in the city without first collecting the taxes as provided in this chapter.

Sec. 6-2-9. Possession by retailers if taxes are not paid.

It shall be unlawful for any retail dealer to have in his or her possession any alcoholic beverages unless the tax required by the city has been paid to the wholesaler, distributor or other source delivering or causing the beverages to be delivered to the retail dealer. Whenever any alcoholic 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 alcoholic beverages found in the possession of any retail dealer on which the tax has not been paid shall be subject to confiscation by the city authorities and shall be sold by the city authorities and the receipts thereof paid into the city treasury.

Sec. 6-2-10. Granting of license.

- (a) **Public Interest and General Welfare.** The City Council shall grant an alcoholic beverage license when it is found to be in the public interest and general welfare.
- (b) **Licensing Criteria.** The City Council, in determining whether or not any license or permit applied for under this chapter shall be granted or denied, shall consider the following:
 - (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 the 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 such establishment to church buildings, alcoholic treatment centers, school buildings, educational buildings, school grounds, college campuses and other public buildings or property in the surrounding area as provided for in section 6-2-11.
 - (5) Whether the applicant is a previous holder of a license to sell wine, beer and/or alcoholic beverages, and whether the applicant has violated any law, regulation or ordinance relating to such business.
 - (6) If the 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 in which the business was conducted in such location.
 - (7) Whether the applicant or the applicant's employee(s) have violated any state or federal law or regulation or any provision of this Chapter or other municipal ordinance, at any time adopted, relating to the sale, use, possession, or distribution of drugs or alcoholic beverages.
 - (8) The making of any untrue or misleading statement in the application for a license or any renewal thereof or the omission from such application or renewal of any information required in the application.

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- (9) Whether the license application is filed in good faith or is filed by some person as subterfuge for any other person.
 - (11) Evidence that the type and number of schools, churches, libraries, or public recreation areas, including playgrounds, or other circumstances, in the vicinity of the place of business could cause minors to frequent the immediate area, even though there is compliance with the minimum distances as provided in this Chapter.
 - (12) Whether the premises meets the requirements of all state, county, and city laws, ordinances and regulations which apply to said premises, including, but not limited to, zoning, building, fire, and sanitation codes as well as the distance requirements set forth in this Chapter.
 - (13) Whether the applicant has defaulted on any obligation, of any kind whatsoever, owing to the City of Guyton.
 - (14) Whether there is evidence that a substantial number of incidents requiring police intervention have occurred within a square city block of the proposed location during the twelve (12) months immediately preceding the date of the application
 - (15) Whether an application has previously been denied on the basis of the qualifications or suitability of the proposed location.
- (c) **Maximum Number of Distilled Spirits Retail Licenses Permitted.**
- (1) Subject to subsection (2)–(5) below, the city will not accept any applications for the retail sale of distilled spirits by the package, and no licenses for the retail sale of distilled spirits by the package shall be issued over the number of two (2).
 - (2) If at any time and for whatever reason, the number of active licenses for the retail sale of distilled spirits by the package falls below two, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to two. The City Manager shall set the dates during which applications under this Section shall be accepted.
 - (3) The provisions of subsection (2) notwithstanding, one (1) additional license may be issued once the population of the city exceeds 10,000. In this regard, additional licenses may be issued in the future for each 7,500 person increase in population over 10,000. In determining population, the city shall utilize the most recent population figures published by the Coastal Regional Commission of Georgia. In the absence of such figures, the city shall utilize any future decennial census.
 - (4) If the total number of permitted licenses has increased pursuant to subsection (c) above, and if at any time and for whatever reason thereafter, the number of active licenses for the retail sale of distilled spirits by the package falls below the number then permitted, then the city shall accept applications for and issue such additional licenses for the retail sale of distilled spirits by the package so as to bring the total number of active licenses for the retail sale of distilled spirits by the package to the total number then permitted. The City Manager shall set the dates during which applications under this Section shall be accepted.
 - (5) If the city receives more applications than allotted licenses to be issued under this section which applications comply with the standards for the issuance of licenses for the sale of package distilled spirits set forth in this Chapter, then the selection of the successful application(s) shall be conducted by a lottery system overseen by an independent third party firm. The applications drawn from the lottery system shall then be presented to the City Council for action on the approval of the initial licenses to be issued under this Chapter.

Sec. 6-2-10.1. Application; investigation consent.

- (a) All applications for licenses shall be made upon forms provided by the city. All applications shall contain a full and complete sworn and notarized statement by each applicant of all material facts as determined by the city manager to be relevant to the requirements of this chapter and further shall include, but not be limited to, the name of any other entity having a financial interest of ten percent or more in the establishment for which a license is sought.
- (b) Each applicant shall consent to an investigation and submit a complete set of fingerprints as instructed within the application, and fingerprints will be used to check the criminal history records maintained by the Georgia Crime Information Center (GCIC) and the FBI for any instance of criminal activity during the five years immediately preceding the date of the application.
- (c) An application fee, as set forth in the fee schedule, is required for non-Sunday sales license applications under this chapter. The application fee is nonrefundable except as otherwise provided in this chapter.

Sec. 6-2-11. Rules and regulations.

The following rules and regulations are established and shall govern the conduct and operation of every place of business selling wine, beer and/or alcoholic beverages, and of every person owning and operating such place of business:

- (1) **Sanitary Requirements.** All establishments duly licensed under this chapter must fully comply with all sanitary requirements promulgated by the county health department.
- (2) **No Illegal Gambling.** Illegal gambling conducted on the premises of any establishment licensed under this chapter shall be cause for revocation of such license.
- (3) **Proximity Requirements.** No alcoholic beverages provided for in this chapter may be kept for sale or given away in any building, storehouse, place of business, or vehicle located within 200 yards of any church building, alcoholic treatment center, school building, educational building, school grounds, or college campus.
- (4) **Disorderly Conduct.** Disorderly conduct in any place of business or other place where wine, beer and/or alcoholic beverages are permitted to be sold is expressly forbidden by this chapter, and every person owning and/or operating a place of business for which a license under this chapter has been granted, and for which the license fee has been paid, shall be subject to license revocation, in the manner provided for in section 6-2-15, for permitting any disorderly conduct in such place of business.
- (5) **Incorporation of State Laws.** All of the laws of the state pertaining to the sale of alcoholic beverages by retail dealers are incorporated in this chapter and are as fully applicable as though completely set forth in this chapter, including, without limitation, those pertaining to the sale of alcoholic beverage to persons under the age of twenty-one (21).
- (6) **Hours of Operation for Package Sales of Beer and Wine.** Except as provided in Sec. 6-2-11(18)(b) (regarding hours of operation for retail package liquor stores), hours of sale for package sales of beer and wine shall be from 8:00 a.m. until 2:00 a.m. of the following day, Monday through Friday, from 8:00 a.m. until 12:00 midnight on Saturday, and from 12:30 p.m. until 11:30 p.m. on Sunday.
- (7) **License Availability for On the Premises Consumption.** Licenses to sell alcoholic beverages by the drink may be granted only to inns and eating establishments, as those terms are defined in Sec. 6-2-12 of this chapter.

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- (8) **Hours of Operation for Sales of Alcoholic Beverages by the Drink.**
- a. Alcoholic beverages, including wine, malt beverages, and distilled spirits by the drink, may be sold for consumption on the premises from 10:00 a.m. to 2:00 a.m. of the following morning, Monday through Saturday.
 - b. Further, in and only in licensed establishments which derive at least 50 percent (50%) of their total annual gross income from the sale of food or rental of rooms for overnight lodging, alcoholic beverages for consumption on the premises may be served on Sundays from 12:30 p.m. to 12:00 midnight.
 - c. In addition, when New Year's Eve falls on a Sunday, alcoholic beverages may be sold for consumption on the premises from 12:01 a.m. to 2:00 a.m. on New Year's Day, so long as the establishment serving such alcoholic beverages is duly licensed to sell alcoholic beverages on Sundays.
 - d. In the event that any licensed premises shall remain open after the expiration of serving hours, such as a restaurant remaining open and continuing to serve food, all alcoholic beverages shall be removed from the public areas of said premises within thirty (30) minutes after the close of serving hours as set out above.
- (9) **Restrictions on Hours of Operation Applicable to All Sales of Alcoholic Beverages.** No licensee under this Chapter shall furnish, sell or offer for sale alcoholic beverages of any type at any of the following times:
- a. At any time on Sundays, except as specifically provided elsewhere in this Chapter, or on Christmas Day.
 - b. At any time in violation of State Law, a local ordinance or regulation or a special order of the governing authority; and
 - c. The wholesale or retail sale of alcoholic beverages shall be lawful during the polling hours of any election; provided however, that such sales do not occur within two hundred fifty (250) feet of a polling place during such hours that the polls are open.
- (10) **License Required.** No person shall serve or sell alcoholic beverages on Sunday unless a valid license for Sunday sales has been issued by the City Council as provided for in section 6-2-12.
- (11) **Removal of Beverages from Premises Licensed to Sell Alcoholic Beverages by the Drink.** All alcoholic beverages sold by consumption on the premises licensees shall be consumed only on the licensed premises, except to the extent that O.C.G.A. § 3-6-4 allows patrons to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises, provided such bottle must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
- (12) **Lighting.** Retail dealers shall keep their place of business sufficiently lighted to protect the health and safety of patrons and persons lawfully on the premises. All retail dealers and serving establishments shall keep their main entrance unlocked during normal scheduled business hours and allow entry for inspection. Exceptions may be granted for specially approved and permitted private events.
- (13) **Additional Regulations.** The city reserves the right to promulgate additional regulations or ordinances pertaining to the conduct of the business of selling alcoholic beverages, and any person licensed under this chapter shall be subject to such additional regulations that may be promulgated from time to time by the City Council.

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- (14) **Sale of Alcoholic Beverages on Local or Statewide Election Day.** All persons holding an alcoholic beverage license within the city shall be permitted to sell alcoholic beverages consistent with that license on any local and statewide election day; however, no sale of alcoholic beverages shall be permitted within 250 feet of any polling place or of the outer edge of any building within which such polling place is established. The term “election day” shall include all elections as defined in O.C.G.A. § 3-3-20.
- (15) **Temporary/Special Events Permits.** Temporary/special event permits to dispense alcoholic beverages may be issued to persons when the event is sponsored by:
- a. A private non-profit organization located in the State of Georgia as classified by the U.S. Internal Revenue Service and no less than 80 percent of the proceeds of the event must benefit the sponsoring non-profit organization. Selling of alcohol is permitted and admission to the event may be charged and advance tickets to the event may be sold.
 - b. Closed private event to which the general public is not invited and during which alcoholic beverages will be served only to invited guests. No exchange of anything of value such as admission charges or sale of alcoholic beverages shall be permitted under this subsection 15(b)
 - c. City sponsored events.
 - d. Temporary/special event permits will be issued for events to be held on Mondays through Saturdays, and are prohibited on Sundays. Applications will be submitted for approval by the police chief and City Council. Permits will be issued for a maximum of two days and at a rate specified in the fee schedule.
- (16) **Signage.**
- a. No lighted “distilled spirits” or “bar” or “liquor” or “beer” or “wine” or any other such sign indicating that an establishment deals in alcoholic beverages shall be allowed to burn after store hours. No plaque or sign of any kind which is visible from the exterior of a business shall make reference to the price of any alcohol sold therein. This section shall not prohibit the advertisement of brands or promotions inside the business or signs displaying the business’s name (e.g. John's Bar & Grill, Margarita Mary's, etc.).
 - b. All licensees under this Ordinance shall be required to post a sign, the printed portion of which shall be at least nine (9) inches wide by eleven (11) inches tall, in a conspicuous location in their place of business which reads as follows:

“It is against the law for a person under the age of twenty-one (21) years to have in his or her possession or under his or her control any alcoholic beverage. It is also a violation of the law for such a person to misrepresent his or her age in any manner for the purpose of obtaining any alcoholic beverage.

Any person who conspires, aids, abets, or assists any other person under the age of twenty-one (21) years to obtain an alcoholic beverage shall be guilty of violating these provisions.”
- (17) **Outdoor Dining Areas.** Alcoholic beverages, by the drink, shall be permitted in an outdoor dining area, in a space in which the licensee serves food and beverages as part of the operation of an eating establishment under the following provisions:
- a. An outdoor dining area may be located in front of an eating establishment or on the side, with no part located within a public right-of-way.
 - b. The width shall not exceed the width of the eating establishment and shall contain no more than 50 percent of the total seating capacity of the establishment.
 - c. The space shall be enclosed within a clearly delineated area, which is surrounded by a continuous physical barrier (not designed to create a ladder effect) at least 40 inches high with a maximum

height of 48 inches and shall have one or more points of emergency egress at least 36 inches wide.

- (18) **Package Sales of Distilled Spirits.** The package sale of distilled spirits shall only be permitted in retail package liquor stores (“liquor stores”) which are duly licensed by the city and state to sell distilled spirits by the package and which are devoted exclusively to the sale of alcoholic beverages in the original container for off-premises consumption. Such sales shall be subject to all state and federal laws and regulations, which shall supersede any sections of the City of Guyton Code of Ordinances that are less restrictive than state or federal laws and regulations, as well as the provisions of this Section:
- a. **Proximity Requirements.** In addition to the proximity requirements of Sec. 6-2-11(4) of this chapter, liquor stores may not be located within 500 yards of an existing liquor store.
 - b. **Hours of Operation.** Liquor stores may be open to the public and sell alcoholic beverages from 8:00 a.m. until 11:00 p.m. Monday through Saturday. Liquor stores may only engage in the package sale of wine and malt beverages during the hours set forth in this subsection.
 - c. **Display, Offer, or Sale of Products other than Distilled Spirits.** Liquor stores may only sell, display, or keep in stock such items permitted pursuant to G.A.C. Rule 560-2-3-.04.
 - d. **No Open Containers.** Liquor store licensees shall not permit and no person shall engage in the breaking of a package containing any alcoholic beverage or the drinking of any alcoholic beverage on the licensed premises.
 - e. **Building Requirements.** No license for the sale of distilled spirits shall be issued to any applicant whose building where the business will be conducted does not include a showroom of at least 1,500 square feet. For liquor stores desiring to sell malt beverages and wine in addition to distilled spirits, at least an additional 250 square feet of showroom, and at least 250 square feet of storage area is required over and above the minimum square feet for the establishment set forth above. For the purposes of this ordinance, cooler space shall be considered storage area and spaces such as offices, mechanical rooms, janitorial rooms, breakrooms and bathrooms shall not count towards the minimum square footage requirements.
 - f. **Minimum Inventory.** Liquor stores shall maintain a minimum inventory of at least \$150,000.00 in distilled spirits available for sale. Liquor stores selling malt beverages and wine in addition to distilled spirits shall maintain a minimum of \$10,000.00 inventory in malt beverages and wine.
 - f. **Ingress and Egress.** Public ingress and egress to a liquor store shall be provided directly to and only to the exterior of the building in which the liquor store is located and not to any other enclosed part of the building in which it is located. For example, if a liquor store is located in a shopping center, there shall be no ingress and egress to the liquor store from another store in the shopping center.
 - f. **Zoning Requirements.** No license for the package sale of distilled spirits by the package shall be valid or granted under this chapter unless all applicable requirements or approvals of the City’s zoning ordinance have been met or obtained.
 - g. **Restriction on Number of Licenses.** One person shall have not more than one (1) license for the package sale of distilled spirits in the city. No person shall either in his or her own right or as an associate of or through any company or agency own at any time more than one (1) license for the package sale of distilled spirits in the city.
- (19) **Measurements.** All measurements under this Chapter shall be measured from the front door of the structure from which beverage alcohol is sold or offered for sale; (b) in a straight line to the nearest public sidewalk, walkway, street, road or highway; (c) along such public sidewalk, walkway, street, road or highway by the nearest route; (d) to the front door of the building, or to the nearest portion of the grounds, whichever is applicable under the applicable Georgia statute.

(20) **Annexed Areas.** Any person(s), establishment, partnership, corporation, or other entity which holds a county license for the sale, manufacture, package, or distribution of alcoholic beverages and which is located in an area annexed by the city shall have thirty (30) days from the effective date of the annexation to apply for the appropriate licenses and permits under this ordinance. The applicant shall pay all applicable fees and costs for the equivalent license(s) to the city according to a biannually pro-rated schedule.

(21) **Proof of Insurance.**

- a. **Proof of Dram Shop Insurance.** Persons holding any license for the sale of alcoholic beverages shall, on or before commencement of sales, or within thirty (30) days of the approval of their application (whether for a new license or a renewal), whichever is sooner, submit to the City Clerk a certificate of alcohol liability insurance (dram shop), in effect for the license period and issued by an insurer required to be licensed pursuant to state law, providing an annual aggregate policy limit for dram shop insurance of not less than \$1,000,000.00 per policy year with a minimum \$500,000.00 sublimit on assault and battery claims. A 30-day notice of cancellation in favor of the city must be endorsed to the policy and attached to the certificate.
- b. **Proof of General Liability Insurance.** Persons holding any license for the sale of alcoholic beverages shall, on or before commencement of sales, or within thirty (30) days of the approval of their application (whether for a new license or a renewal), whichever is sooner, submit to the City Clerk a certificate of liability insurance, in effect for the license period and issued by an insurer required to be licensed pursuant to state law, providing at least \$1,000,000.00 in commercial general liability insurance coverage. A 30-day notice of cancellation in favor of the city must be endorsed to the policy and attached to the certificate.

Sec. 6-2-12. Sunday sales.

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Sunday sales means the sale of alcoholic beverages for consumption on the premises in eating establishments or inns between the hours of 12:30 p.m. and 11:30 p.m. on Sundays.

Eating establishment means an establishment:

- (1) Whose primary business is the sale of prepared meals;
- (2) Which is licensed to sell distilled spirits, malt beverages or wine; and
- (3) Which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

An eating establishment shall have its primary floor area specifically designed, set aside, set up and operating to serve meals and food on the premises and shall have a fully-equipped commercial kitchen to include an appropriate stove, refrigerator, food preparation area, sink and other items required by the county health department and city inspections department for the preparation of food. An eating establishment shall have a printed or posted menu from which selections of prepared meals can be made.

Inn means an establishment which is licensed to sell distilled spirits, malt beverages or wines and which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

- (b) **Purpose and Intent.** The purpose and intent of this section is to allow those eating establishments that serve the public to sell alcoholic beverages with meals on Sunday. It is not the intent of this section to permit neighborhood taverns and bars to sell alcoholic beverages on Sunday via the mechanism of serving incidental meals on Sunday.

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- (c) **License application classifications.** The following three license application classifications and criteria for Sunday sales licenses are established:
- (1) *New applicant at new location* means an eating establishment or inn that has not been licensed for alcoholic beverage sales for any purpose for at least one year prior to application at such place of business.
 - (2) *Application at existing location* means an application for a Sunday sales license at a location which has an alcoholic beverage license under the same ownership or the previous business ownership within the previous license year.
 - (3) *Application at existing location with alcoholic beverage and Sunday sales license (transfer) and/or renewal* means a transfer or renewal of a Sunday sales license at an existing licensed location, licensed within the previous license year.
- (d) **Licensing procedures.**
- (1) An applicant for a new location shall include an affidavit by the applicant certifying to the intent to meet the requirements of this section and that it will be either an eating establishment or inn. Each new applicant, after having operated for a period of 12 months, must provide to the police department a certified public accountant (CPA) or registered public accountant (RPA) certified affidavit as set forth in subsection (d)(3) of this section.
 - (2) An application for an existing location shall include an affidavit by the applicant certifying to the intent to meet the requirements of this section for Sunday sales, and that such location is either an eating establishment or an inn.
 - (3) An application for a transfer or renewal license shall include a certified affidavit from a certified public accountant (CPA) or registered public accountant (RPA) attesting to the accuracy of the financial information supplied to him and that such location derived at least 50 percent (50%) of its gross revenues for the last 12 months of business under present or previous ownership from the sale of prepared meals or room rental in the case of an inn. In the absence of such data, the business owner will not be considered for Sunday liquor sales until a certified affidavit from a CPA or RPA is submitted certifying as to the revenues for the immediate 12 months of business preceding the time of application for a Sunday sales license. Failure to attach such affidavit to an application or failure to comply with the terms of the affidavit will result in disapproval of the application and revocation of the license.
 - (4) Each serving location or place under the same ownership and within the same building or structure under one roof shall be considered one business under the terms of this section, and shall be licensed by one application and one license issued.
 - (5) A separate license shall be required for serving locations in separate buildings under the same ownership or management control, and for all locations under separate ownership or management or ownership control.
 - (6) A separate license shall be required for a serving location within a building or structure if that serving location is under separate ownership or management control from other serving locations within the same building or structure, and in such case, each serving location shall meet the appropriate criteria for a Sunday sales license without considering either food sales or room rental of the owner serving locations within the same building or structure.
 - (7) The accounting and purchasing records for each license issued under this section must be maintained in a manner that is separate and distinct from any other business or activity.
 - (8) An application fee, as set forth in the fee schedule, is required for all Sunday sales license applications. The application fee is nonrefundable except as otherwise provided in this chapter. The license fee for Sunday sales of alcoholic beverages shall be set forth in the fee schedule. A license application for the Sunday sales of distilled spirits for such establishments shall be completed and submitted by December

31 of the year preceding the year for which the license is sought. Failure to submit the application by the deadline or failure to supply all information requested will result in disapproval of the application and denial of the license without a hearing.

(e) **Miscellaneous provisions.**

- (1) Only persons licensed under this section are authorized to sell distilled spirits, malt beverages or wine for consumption on the premises in those eating establishments and inns so licensed on Sundays, in compliance with the Georgia Alcoholic Beverage Code, O.C.G.A. § 3-3-1 et seq.
- (2) In enforcing this section, the city and its authorized agents, employees and representatives have the right to audit the records and financial books of applicants and license holders. The city and its authorized agents, employees and representatives also have the right to enter upon the premises of applicants and license holders to inspect the premises and determine whether they comply with this section.
- (3) The provisions of this section shall apply immediately to all Sunday sales licenses.

- (f) **Sale of Alcoholic Beverages on Sundays without Special License.** It shall be unlawful for any person to sell alcoholic beverages on Sunday within the city limits without obtaining and possessing a special license as set forth in this section.

Sec. 6-2-12.1. Sunday Package Sale of Wine and Malt Beverages.

Sunday package sales of wine and malt beverages means the package sale of wine and malt beverages by retailers between the hours of 12:30 p.m. and 11:30 p.m., for off-the-premises consumption only.

- (a) **Purpose and Intent.** The purpose and intent of this section is to allow those licensed retailers who engage in package sales of wine and malt beverages to be allowed to sell on Sundays.
- (b) **License application classifications.** Any retailer licensed to engage in the package sale of wine and malt beverages shall be permitted to sell on Sunday, in accordance with the provisions of this Chapter, once all applicable fees have been paid.
- (c) **Annual license fee.** The annual license fee for Sunday package sales of wine and malt beverages by retailers shall be set forth in the fee schedule.
- (d) **Miscellaneous provisions.**
 - (1) Only retailers licensed under section 6-2-10 of this chapter are authorized to engage in the package sale of wine and malt beverages on Sundays, in compliance with the Georgia Alcoholic Beverage Code, O.C.G.A. § 3-3-1 et seq.
 - (2) In enforcing this section, the city and its authorized agents, employees and representatives also have the right to enter upon the premises of applicants and license holders to inspect the premises and determine whether they comply with this section.
 - (3) The provisions of this section shall apply immediately to all retail Sunday sales licenses.

Sec. 6-2-13. Consumption on public property.

- (a) It shall be unlawful for any person to consume any alcoholic beverages or controlled substances in any of the city or public parks, grounds, public facilities or lands owned by the city, or areas appurtenant to any lands and facilities which are owned and/or operated under the jurisdiction of the city.
- (b) It shall be unlawful for any person to consume any alcoholic beverages or controlled substances in parking lots open to the public.

Sec. 6-2-14. Violation; penalty.

Any person convicted of violating any of the provisions of this chapter shall be punished as provided in section 1-1-12. Upon the conviction of any holder of any alcoholic beverage license of a violation of this chapter, the City Council, in its discretion, shall be authorized to revoke the license of the violator.

Sec. 6-2-14.1. Disciplinary action; reporting required.

Within 45 days of any disciplinary action, as defined in O.C.G.A. § 3-3-2.1(a)(1), taken by the city against a licensee, the city shall report such disciplinary action to the Georgia Department of Revenue "GDOR" in accordance with the format, rules, and regulations promulgated by the GDOR.

Sec. 6-2-15. Revocation, Suspension and Denial of License.

- (a) (1) In addition to any criminal penalty that may be imposed by section 6-2-14, the City Council shall have the right to deny, suspend or cancel any license under this chapter if:
- a. The license application is not filed in good faith or is filed by some person as a subterfuge for any other person.
 - b. Any applicant for a license or any licensee under this chapter willfully fails to comply with any provisions of this chapter.
 - c. Any person to whom a license has been issued under this chapter is no longer engaged in the dealing of alcoholic beverages or no longer qualifies as a licensee under this chapter.
 - d. The City Council, in its discretion, determines that a grant or renewal of a license is not in the public interest after considering the criteria set forth in section 6-2-10.
- (2) Except as otherwise provided in this chapter, before any denial, suspension, or cancellation of a license granted under this chapter, the applicant or licensee shall be afforded notice and a hearing as follows:
- a. The notice shall be served personally or by certified mail, not less than 20 days before the hearing. The notice shall include a:
 1. Statement of the time, place and nature of the hearing;
 2. Statement of the legal authority under which the hearing is to be held;
 3. Reference to the sections of ordinances and statutes involved;
 4. Short and plain statement of the matters asserted;
 5. 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 present witnesses and documentary evidence.
 - (b) **Hearing.** At the hearing, all parties may be represented by legal counsel, and may respond to and present evidence on all issues involved. The City Council, as the hearing agency, shall have the right to exercise the powers provided in O.C.G.A. § 3A-114, and to promulgate such other rules for the orderly disposition of the hearing as it deems appropriate.
 - (c) **Decisions in Writing.** All decisions of the governing authority or Municipal Court denying, suspending, revoking, or refusing renewal of a license application shall be stated in writing with the reasons therefor and a copy of such statement shall be provided to the applicant either personally or by certified mail, return receipt requested, within ten (10) days of said decision.

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- (d) **Denial.** In cases where the application is denied, the city clerk shall refund to the applicant the amount of the license fee submitted with the application, excluding costs for newspaper advertisement and investigatory activities.
 - (e) **Notice.** For the purpose of this Chapter, notice shall be deemed delivered when personally served or, when served by certified mail, return receipt requested, within three (3) days after the date of deposit in the United States mail with proper postage affixed.
 - (f) **Criminal Prosecution.** Any administrative action by the governing authority to suspend or revoke a license issued hereunder, shall not preclude and may be in addition to, any criminal prosecution by a proper authority as provided by the laws and ordinances of the City of Guyton, the State of Georgia, or the United States.

ARTICLE II. MIXED DRINK EXCISE TAX

Sec. 6-2-16. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectfully ascribed to them below except where the context clearly indicates a different meaning:

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

Drink: Any alcoholic beverage served for consumption on the premises which may or may not be diluted by any other liquid.

Due date: From the 20th day after the close of the monthly period for which tax is to be computed.

Licensee: Any person who holds a license or permit from the City of Guyton to sell alcoholic beverages by the drink.

Monthly period: The calendar months of any year.

Person: An individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or co-operative non-profit membership, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit, the plural as well as the singular members, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax provided herein.

Purchase price: The consideration received for the sale of distilled spirits by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property or services of any kind or nature and also the amount for which credit is allowed by licensee to the purchaser, without any deduction therefrom whatsoever.

Purchaser: Any person who orders and gives present or future consideration for any distilled spirits by the drink.

Tax: The tax imposed by this section.

Sec. 6-2-17. Administration generally.

- (a) The city manager or his or her authorized representative shall administer and enforce the provisions of this article for the levy and collection of the tax imposed hereby.
- (b) The city manager shall have the authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the State of Georgia, or the Constitution of this state or the United States for administration and enforcement of the provisions of this article and the collection of taxes hereunder.

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- (c) Every licensee for the sale of distilled spirits by the drink in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the city manager may require.
 - (d) The city manager or his or her designee may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
 - (e) In administration of the provisions of this article, the city manager may require the filing of reports by any person having in such person's possession or custody information relating to the sales of distilled spirits which are subject to the tax. The reports shall be filed with the city manager's office when required and shall set forth the price charged for each sale, the date of sale and such other information as the city manager may require.

Sec. 6-2-18. Tax Imposed; rate.

There is hereby imposed and levied upon every sale of distilled spirits purchased by the drink in the city a tax in the amount of three percent (3%) of the purchase price of the drink.

Sec. 6-2-19. Collection due by licensee.

Every licensee or his or her agent is hereby authorized and directed to collect the tax imposed by this article from the purchasers of distilled spirits by the drink sold within his or her licensed premises.

Sec. 6-2-20. Payment; returns, collection fees; penalties and interest for late payments.

- (a) All amounts of such taxes shall be due and payable monthly to the city manager's office of the City of Guyton on or before the 20th day of the next succeeding respective monthly period.
- (b) The remittance of the taxes collected shall be on a return which shall include gross receipts from the sale of distilled spirits by the drink, amount of tax collected or due for the related period, and such information as may be required by the city manager.
- (c) Payments received after the 20th day of the month shall be assessed a penalty of ten percent of the amount due but not less than \$100.00 and interest at a rate of one percent per month or any part thereof.

Sec. 6-2-21. Determination of deficiency amount.

- (a) If the city manager is not satisfied with the return or returns of the tax or the amount of tax required to be paid to the City of Guyton by any licensee he may compute and determine the amount required to be paid upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the due date of the taxes.
- (c) In making a determination, the city manager's office may offset overpayment, for a period or periods, against any underpayment, for another period or periods against penalties and against the interest on underpayment. The interest on overpayment shall be computed in the same manner set forth in subsection (b) above.
- (d) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of the rules and regulation, a penalty amount of ten percent shall be added to the deficiency amount.
- (e) If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provisions of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added to the amount of the deficiency.

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- (f) The city manager or his or her or her authorized representative shall give to the licensee written notice of his or her determination. The notice may be served personally or by mail: if by mail, such service shall be addressed to the licensee at the address as it appears in the records of the city manager. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
 - (g) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should expire last.

Sec. 6-2-22. Determination upon failure to file return.

- (a) If any licensee fails to make a return, the city manager shall make an estimate of the amount of the gross receipts of the licensee for the sale of distilled spirits by the drink at said licensee's pouring outlet. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into possession of the city manager's office. Upon the basis of this estimate, the city manager shall compute and determine the amount required to be paid the City of Guyton, adding to the sum thus determined a penalty equal to ten percent thereof. One or more determinations may be made for one or for more than one period. Written notice shall be given in the manner prescribed in subsection 6-2-21(f).
- (b) The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month that any portion thereof should have been returned, until the date of payment. In addition, a penalty of ten percent of the determination, but not less than \$100.00 shall be assessed for failure to file a return.

Sec. 6-2-23. Overpayment.

If the licensee or person determines that he has overpaid tax, penalty or interest, or paid more than once, which fact has been determined by the city manager, the licensee will have three years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the city manager, the excess amount paid the City of Guyton may be credited on any amounts then due and payable from the persons by whom it was paid or his or her administrators or executors.

Sec. 6-2-24. Purchasers or successors of business.

- (a) If any licensee or person liable for any amount under this article sells out his or her business or quits the business, his or her successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the city manager showing that the city has been paid or a certificate stating that no amount is due.
- (b) If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

Sec. 6-2-25. Legal action to collect.

At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city manager may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent, together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

Sec. 6-2-26. Revocation of license.

The failure to pay the above prescribed tax shall render the licensee or person liable therefor subject to revocation of their alcoholic beverage license in accordance with the procedures set forth in section 6-2-15.

Sec. 6-2-27. Penalty.

- (a) Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 1-1-12. Any licensee or other person who fails to furnish any return required to be made or who fails to furnish a supplemental return or other data required by the city manager or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction shall be punished as aforesaid.
- (b) Any person who fails to pay any taxes due under this article shall not be permitted to renew his or her occupational tax certificate or alcoholic beverage license until all said taxes have been paid in full.

**CITY OF GUYTON
STATE OF GEORGIA**

ORDINANCE NO. 2022-__

AN ORDINANCE TO AMEND THE CITY OF GUYTON, GEORGIA ZONING ORDINANCE, AS AMENDED; TO ALLOW LIQUOR STORES AS A SPECIAL PERMITTED USE IN THE C-1, C-2, AND C-3 ZONING DISTRICTS; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF GUYTON, GEORGIA IN A CALLED MEETING ASSEMBLED AND PURSUANT TO LAWFUL AUTHORITY THEREOF, AS FOLLOWS:

SECTION 1. The text of Section 609(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-1 Zoning District.

SECTION 2. The text of Section 610(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-2 Zoning District.

SECTION 3. The text of Section 611(B) of the City of Guyton, Georgia Zoning Ordinance, as amended, shall be amended to add “Liquor Stores” as a Special Permit Use in the C-3 Zoning District.

SECTION 4. All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance, or of the City of Guyton, Georgia Zoning Ordinance.

SECTION 6. This ordinance shall become effective upon the date of adoption.

SO ORDAINED AND RESOLVED, this __ day of _____, 2022.

CITY OF GUYTON

Russ Deen, Mayor

Attest:

Approved as to form:

Meketa Hendricks-Brown, City Clerk

Benjamin M. Perkins, Esq., City Attorney

Mayor Pro Tem Michael Johnson

Council Member Joseph Lee

Council Member Hursula Pelote

Council Member Marshall Reiser

First Reading

Second Reading and Adopted