# Chapter 3

# ALCOHOLIC BEVERAGES


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## ARTICLE I. IN GENERAL

**Section 3.1 Definitions.**

For the purposes of this ordinance, the following definitions shall apply:

*Bar* means any premises at which a retailer licensed pursuant to this title to sell alcoholic beverages derives 75 percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises.

*Bouncer* means an individual primarily performing duties related to verifying age for admittance, security, maintaining order, or safety, or a combination thereof.

*City* as used herein shall mean the incorporated area of the City of Blakely, Georgia.

*City Council* or *Council* shall mean the City Council of the City of Blakely, Georgia.

*Conviction* shall mean an adjudication of guilt or a plea of guilty, or a plea of nolo contendere or the forfeiture of bond by a person charged with a crime.

*Disciplinary action* means any citation or arrest arising out of the violation of any law, rule, regulation, resolution, or ordinance of a governmental entity relating to the manufacture, distribution, sale, or possession of alcoholic beverages against a licensee, an employee of a licensee, or any person holding a financial interest in the license of the licensee on the premises or place of business of any licensee.

*Distance* shall be measured by the most direct route traveled on the ground.

*Distilled Spirits* shall mean those beverages defined in O.C.G.A. Section 3-1-2(8).

*Governmental entity* means the United States government, any state government, any local government, and any department, agency, or instrumentality thereof.

*License* shall mean the authorization by the City Council of the City of Blakely to engage in the sale of malt beverages and/or wine.

*Licensee* means any person issued a license pursuant to this title by a governmental entity to operate a bar.

*Malt Beverages* and *Wine* shall mean those beverages defined by the Official Code of Georgia Annotated, § 3-1-2.

*Minor* shall mean any person to whom the sale of alcoholic beverages is prohibited by

O.C.G.A. § 3-3-23.

*On Premise Consumption* shall mean the consumption of an alcoholic beverage by the drink on the premise where the drink is purchased.

*Person* shall mean any individual.

*Powdered alcohol* means a powdered or crystalline substance that contains any amount of alcohol for direct use or reconstitution.

*Premises* shall mean the definite closed or partitioned-in locality, whether a room, shop, or building, wherein malt beverages and/or wine are sold and any and all surrounding and adjacent areas, whether enclosed or not, which are owned by or under the control of the person to whom the license is issued.

*Retail Sale* shall mean selling or offering for sale any malt beverage and/or wine to any member of the public.

*School* or *College* shall mean such state, county, city, church or other school that teaches the subjects commonly taught in the common schools of this state, to include licensed preschool and/or kindergarten facilities and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations, and other special subjects are taught.

**Section 3.2** **Public Possession or Consumption.**

a. It shall be unlawful for any person to drink any alcoholic beverage upon property of the City or upon any open premises adjacent to any public business in the City, whether or not such person is located in a vehicle.

b. It shall be unlawful for any person to have in his or her hand any open container used, or which has been used, for alcoholic beverages, upon the property of the City or upon any open premises adjacent to any public business in the City.

c. This section shall not be applicable to the "parking lot" or other premises of a duly licensed business selling alcoholic beverages where "curb service" is regularly provided by employees of such business; however, this section is expressly applicable to such businesses where customers "service themselves," which is to say, where the customer makes his purchase and returns to a vehicle or the outside premises of such business.

**Section 3.3** **Possession, etc., by Minors.**

a. It shall be unlawful for a minor to attempt to purchase or purchase, or for any other

person to purchase for a minor, any alcoholic beverage.

b. It shall be unlawful for a minor to exhibit any fake, forged, or borrowed credentials in an effort to obtain alcoholic beverages to which he or she is not legally entitled.

c. It shall be unlawful for a minor to have alcoholic beverages in his or her possession.

d. It shall be unlawful to sell any alcoholic beverage to any individual without first checking the purchaser's credentials which shall include a date of birth.

e. It shall be unlawful to allow any minor on the premises of any business or establishment when thirty percent or more of the gross receipts of the business is from the sell of alcoholic beverages.

**Section 3.4** **General Operational Regulations.**

a. No holder of a license authorizing the retail sale of alcoholic beverages in the City, or any agent or employee of the licensee, shall do any of the following upon the licensed premises:

1. Knowingly sell malt beverages and/or wine and distilled spirits to a minor.

2. Knowingly sell malt beverages and/or wine and distilled spirits to any person while such person is in an intoxicated condition.

3. Sell malt beverages and/or wine and distilled spirits upon the licensed premises, or permit the consumption of malt beverages and/or wine and distilled spirits upon the licensed premises, on any day or at any time when such sale or consumption is prohibited by law.

4. Permit on the licensed premises any disorderly conduct or breach of peace.

b. It shall be unlawful for establishments to permit the sale or consumption of any alcoholic beverage upon the premises without obtaining the appropriate license permitting such sale or consumption.

c. No person shall allow or require an individual under the age of 21 to serve as a bouncer on a premises or in n establishment where alcoholic beverages are dispensed, served, or sold pursuant to a license issued under Title III of the Georgia Code.

d. No individual under the age of 21 shall enter or be allowed to enter a bar unless he or she is accompanied by his or her parent, guardian, or spouse who is 21 years of age or older. This subsection shall not apply to an individual while he or she is attending a live musical concert or live presentation of the performing arts for which he or she has paid an admission charge.

**Section 3.5 Hours of Operation.**

a. Retail and wholesale dealers of malt beverages, wine, and distilled spirits shall not permit their places of business to be opened for the sale of such beverages on Christmas Day, or any other days prohibited by state law. Retail and wholesale dealers of malt beverages, wine, and distilled spirits shall not engage in the sale of such beverages except between the hours of:

i. 6:00 a.m. and 1:30 a.m. Monday, Tuesday, Wednesday
ii. 6:00 a.m. and 2:30 a.m. on Thursday, Friday
iii. 6:00 a.m. and 12 midnight on Saturday
iv. 12:30 p.m. and 11:30 p.m. on Sunday.

b. Establishments with an on-premise consumption licenses issued pursuant to Section 3.12(d) of this Chapter shall not engage in the sale of alcoholic beverages on Christmas Day or any other day prohibited by state law. When on-premise consumption is allowed, the license holder and all employees shall vacate the premises within 15 minutes after closing time. Establishments referred to in this subsection shall not engage in the sale of alcoholic beverages between the hours of:

i. 2:00 a.m. and 6:00 a.m. on Monday through Saturday
ii Not after 2:00 a.m. on Sunday (unless Section 3.5(c) applies).

c. The license holder and all employees shall vacate the premises within 15 minutes after closing time.

d. Establishments having an on-premises consumption license issued pursuant to Section 3.12 (d) of this Chapter, that derive at least 50 percent of their total annual gross sales from the sale of prepared meals or food, in all of the combined retail outlets of the individual establishment where food is served, and establishments which derive at lest 50 percent of their total annual gross income from the rental of rooms for overnight lodging, may engage in the sale of alcoholic beverages for consumption on the premises on Sundays from 12:30 p.m. until 12:00 midnight. No alcoholic beverages may be served, however, on Christmas Day or any other day prohibited by state law.

**Section 3.6 Use of Licensed Wholesalers.**

Alcoholic beverages shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer with a permit from the State of Georgia and a license from the City to make deliveries in the City. Transportation of such beverages by any other means shall be grounds for revocation of the retail license or wholesale license.

**Section 3.7 Statutes Adopted.**

All state laws and regulations pertaining to the sale of alcoholic beverages are incorporated herein and considered a part of this article.

**Section 3.8 Penalties.**

A violation of any provision of this Chapter shall constitute an offense punishable as provided in Section 1.7 of the City Code of the City of Blakely.

**Section 3.9 Powdered Alcohol.**

a. No person shall manufacture, use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol.

b. No person licensed or issued a license shall use powdered alcohol as an alcoholic beverage or use powdered alcohol to create an alcoholic beverage.

c. This ordinance section shall not apply to the use of powdered alcohol for bona fide research purposes by a:

1. Health care provider that operates primarily for the purpose of conducting scientific research;

2. State institution;

3. Private college or university; or

4. Pharmaceutical or biotechnology company.

**Section 3.10 Notification to State Revenue Department of Violations.**

a. Within 45 days of disciplinary action, the licensee shall notify the Georgia Department of Revenue of the details of such disciplinary action, in a format determined by the department, including:

1. The date such action was taken;

2. The nature of such action;

3. Other information required by the department.

b. Pursuant with O.C.G.A. § 3-3-2.1(c), within 45 days of taking the disciplinary action, the county clerk must report all disciplinary action to the Georgia Department of Revenue.

## ARTICLE II. MALT BEVERAGES, WINE AND DISTILLED SPIRITS

### Division 1. Generally.

**Section 3.11 Title.**

This article shall be known as the "Blakely Alcoholic Beverage Ordinance."

**Section 3.12 General Provisions.**

a. The sale of alcoholic beverages shall be legal in the City of Blakely, subject to the following terms, conditions, and restrictions, and upon full compliance by all persons engaged in business under the provisions of this ordinance.

b. The license granted hereunder shall be a mere grant or privilege to carry on a business during the terms of the license, subject to all the terms and conditions imposed herein and by related laws located in the applicable provisions of the Official Code of Georgia Annotated and other City ordinances relating to business licenses.

c. Licenses may be granted for the purpose of package sales of malt beverages and/or wine.

d. Licenses may be granted for the sale of malt beverages and/or wine to be consumed on the premises.

e. Licenses may be granted for the purpose of package sales of distilled spirits.

f. Licenses may be granted for the purpose of the sale of distilled spirits by the drink for consumption on the premises where sold if the establishment seeking the license, during the twelve months immediately preceding the granting of the annual license, or such portion thereof as it shall have been in operation, realized fifty percent (50%) or more of its gross income from the sale of food.

**Section 3.13 Excise Tax–Malt Beverages.**

a. There is hereby levied and imposed upon all wholesale dealers selling malt beverages within the City a specific excise tax in the amount of $.05 per 12-ounce container or any portion thereof so as to graduate the tax on bottles, cans, and containers of various sizes of malt beverages sold by each wholesale dealer within the City, and an excise tax on tap or draft beer in the amount of $6 for each container sold, as hereinafter specified, containing not more than 15½ gallons and at a like rate for fractional parts, where the beverage is sold in or from a barrel or bulk container, such beverage being commonly known as tap or draft beer.

b. *Against whom levied:* The malt beverage excise tax is levied against and shall be paid by each licensed wholesale dealer in malt beverages in the City.

c. *Due date and required report:* The malt beverage excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of malt beverages sold for the preceding calendar month by size and type of container.

**Section 3.14 Excise Tax--Wine.**

a. *Rate of levy*: There is hereby set and levied on the sale of wine, excluding fortified wine, an excise tax in the sum of $.22 per wine gallon and in similar proportion for bottles and containers of various sizes.

b. *Against whom levied*: The wine excise tax shall be paid by each licensed wholesale dealer in wine in the City.

c. *Due date and required report:* The wine excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of wine sold for the preceding calendar month by size of container.

**Section 3.15 Excise Tax–Distilled Spirits.**

a. *Rate of levy*: There is hereby levied an excise tax computed at the rate of $0.22 per liter on all distilled spirits sold, displayed, or stored in the City.

b. *Against whom levied:* The distilled spirits excise tax shall be paid by each licensed wholesale dealer in distilled spirits in the City.

c. *Due date and required report:* The distilled spirits excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of and payment shall be accompanied by a report itemizing the exact quantities of distilled spirits sold. The tax imposed by this section shall be prorated down on one-half pints, pints, fifths, quarts, half-gallons, wile gallons and other authorized sizes so that each bottle or each individual size container shall be taxed on the basis set forth in this section.

**Sections 3.16 - 3.19 Reserved.**

## Division 2. Licenses.

**Section 3.20 Application Fee.**

There shall be non-refundable fee of $75.00 which must be submitted simultaneously with an application for any license covered under this Chapter, no such application shall be processed and considered by the city Council until such fee has been paid.

**Section 3.21 Licensee Qualifications.**

All applicants shall be investigated by the City of Blakely Police or by such other person or entity as may be designated by the City Council. The report of such investigation shall be presented to the City Council for consideration with the application.

No alcoholic beverage license required by this chapter shall be issued:

a. To any person who is not a resident of the City of Blakely unless such person designates a resident of the City who shall be responsible for any matter relating to the license.

b. To a person who, in the opinion and judgment of the governing body, is not of good moral character and reputation in the community in which such person resides.

c. To a person found by the governing body to have been guilty of the violation of any federal, state, or local law or regulation respecting the manufacture, possession, or sale of any alcoholic beverage within the last five years, or who has forfeited a bond to appear in court to answer charges for any such violation within the last five years.

d. To any person who is the previous holder of an alcoholic beverage license and is, in the judgment and discretion of the governing body, an unfit person to have a license because of the manner in which such person conducted business thereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any laws or regulations relating to such business.

e. For a location not suitable in the judgment and discretion of the governing body because of traffic congestion, general character of the neighborhood, or by reason of the effect which such establishment would have on the adjacent and surrounding properties.

f. For a location within an area where, in the judgment of the governing body, the number of alcoholic beverage licenses already granted makes it contrary to the public interest and welfare of the citizens of the City.

g. For a location at which a previous alcoholic beverage license has been denied, revoked, or suspended, and where, in the judgment of the governing body, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the best interest of public health, safety, welfare, or morals that the sale of alcoholic beverages be permitted at such location.

h. To any person who has made any false statement on an application for a license under this chapter or any previous application for a license under this chapter.

i. To any person who has been convicted of a felony, or a violation of the laws or regulations of any state or political subdivision relating to the use or sale of drugs or alcoholic beverages, or who has been convicted of a misdemeanor involving the use of firearms, theft, violence, or a crime of moral turpitude. The forfeiture of bond or collateral or a plea of nolo contendere or a plea of guilty shall be considered a conviction for the purpose of this section.

j. To a person who is related within the first degree of consanguinity and affinity, as computed according to the Cannon law, to any person who has been previously denied a license or had a license revoked or suspended, if such previous applicant or holder of a license has any ownership interest in the applicant's business.

k. To a person who has had a license revoked within the last five years.

l. For a location for the sale of distilled spirits within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds or college campus.

m. For a location for the sell of malt beverages and wine within 100 yards of any school building, educational building, school grounds or college campus.

n. For a location which does not have adequate off-street facilities or other parking available for its patrons.

o. To any corporation unless all directors, officers and stock holders are residents of the City of Blakely unless such corporation designates a resident of the City who shall be responsible for any matter relating to the license.

p. To any employee or elected official of the City including the Mayor and City Council.

q. To anyone making a statement on an application for a license that is found to be false.

**Section 3.22 Malt Beverages--License Required.**

Each brewer, wholesale dealer, and retail dealer of malt beverages, as such terms are defined in O.C.G.A. §§ 3-1-2 and 3-5-1, who does business within the City shall be required to obtain an annual license from the City Clerk. Each brewer, wholesale dealer, and retail dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

**Section 3.23 Same--Fees.**

The annual license fee for malt beverage brewers, retail dealers, and wholesale dealers shall be $300.

**Section 3.24 Wine--License Required.**

Each retail or wholesale dealer of wine, as such term is defined in O.C.G.A. §§ 3-1-2 and 3-5-1, who does business within the City shall be required to obtain an annual license from the City Clerk. Each such dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

**Section 3.25 Same--Fees.**

The annual license fee for each place of retail wine distribution in the City shall be $300. The annual license fee for each wholesale dealer of wine shall be $300.

**Section 3.26 Distilled Spirits–License Required.**

Each retail or wholesale dealer of distilled spirits, as such term is defined in O.C.G.A. § 3-1-2 who does business within the City shall be required to obtain an annual license from the City Clerk. Each such dealer shall make application in the manner prescribed by the City Clerk prior to January 1 of each year. Each application shall be considered by the City Council no later than the first regularly scheduled meeting in January. No new applicant for an alcohol license may engage in the sale of alcohol without approval by the City Council. Applicants for renewal may continue the sale of alcohol beverages until the license application is denied by the Council.

**Section 3.27 Same–Fees.**

The annual license fee for retail and wholesale distributors of distilled spirits shall be $2,500.

**Section 3.28 On Premise Consumption.**

On premise consumption of malt beverages and wines is permitted, subject to the payment of the license fees herein after provided. On premise consumption of distilled spirits is permitted, subject to payment of the license fee hereinafter provided, only on the premises of an establishment which, during the twelve months immediately preceding the granting of each annual license, or such portion thereof as it shall have been in operation, realized fifty percent (50%) or more of its gross income from the sale of food.

License fees for on premise consumption of malt beverages shall be $200.00 for each premise. License fees for on premise consumption of wines shall be $200.00 for each premise. License fees for on premise consumption of distilled spirits on each premise permitted, shall be $2,000.00. The foregoing license fees for the consumption on the premises shall be in addition to all other fees imposed by this ordinance.

Except for those establishments that realize fifty percent (50%) or more of its gross income from the sale of food, establishments licensed for the on-premise consumption of alcoholic beverages shall be required to provide security personnel. A minimum of one (1) POST certified law enforcement officer shall be present at all time and upon all occasions. When any such establishment shall have more than one hundred (100) patrons present on the premises of the establishment between the hours of 8:00 p.m. and closing time, the establishment shall provide an additional security officer for every 100 patrons, or any part thereof, in addition to the first 100 patrons. [For example, should there be 101 patrons present or 200 patrons present at any establishment between the hours of 8:00 p.m. and closing time, the establishment would be required to have at least two security officers present. However, should there be 201 patrons present or 300 patrons present at any such establishment between the hours of 8:00 p.m. and closing time, the establishment would be required to have three security officers present.] Notwithstanding the fact that the security personnel shall be compensated by the establishment, the security officer(s) shall file a written report of any violation on the licensed premises whether such violation be by a patron, an employee of the establishment, or the licensee; and the security officer shall take such action as may be necessary to enforce or seek enforcement of this or any other applicable local, state or federal law or ordinance.

**Section 3.29 Change of Location and/or Licensee.**

A license issued under the provisions of this section shall permit the sale or manufacture of alcoholic beverages only on the premises described in the application under the supervision of the named licensee. Any license transfer to a location other than the premises described in the original application. There shall be an application fee of $50 for the transfer to a new location. No license under this article shall be transferable to any person. It shall be the duty of the licensee to immediately surrender this/her license to the City Council when he/she ceases to operate the business.

**Section 3.30 Suspension and Revocation--Grounds for Suspension or Revocation.**

a. The City Council may suspend or revoke any alcohol license. Should the Council revoke a license, such license may not be reinstated for five years. Provided further, a license shall not be granted to any person who is related in the first degree of consanguinity and affinity as is computed according to common law or to any person who has had an ownership interest or management with responsibility of the applicant's business. Should the Council suspend any license, the license shall be suspended for a specific period of time and shall be reinstated at the end of the suspension period upon payment of a $150 reinstatement fee without further action by the City

Council. Provided, however, should an alcohol license be suspended beyond the end of the calendar year, the City Council shall approve or deny the license at the conclusion of the suspension period as provided in Sections 3.22, 3.24, and 3.26 hereof. Upon such approval, the applicant shall pay a $150 reinstatement fee and the annual license fees prescribed herein.

b. The following shall be grounds for the suspension or revocation of an alcoholic beverage license; whether or not such grounds exist shall be determined by the governing body in its sole discretion:

1. The violation by the license holder of any federal, state, or local law or ordinance relating to the use and sale of drugs or alcoholic beverages or involving the use of firearms, theft, violence, or a crime of moral turpitude.

2. The failure of the license holder to report promptly to the City Police Department any violation of law or municipal ordinance, breach of the peace, disturbance, or altercation occurring inside the premises.

3. Any conduct on the part of the license holder or license holder's employee on or off premises contrary to the public health, safety, or morals of the citizens of the City.

4. Operating or conducting the business on the licensed premises in a manner contrary to the public welfare, safety, health, or morals of the citizens of the City or in such manner as to constitute a nuisance.

5. Upon the business or the operation or location thereof, or the owner or any person connected therewith, ceasing to meet any of the qualifications for the issuance of a license as stated under Section 3.21 hereof.

6. The failure of the license holder or license holder's employees to keep the licensed premises free and clear of any disturbances of the peace; loud or boisterous conduct; lewd, obscene, or immoral entertainment; violation of any federal, state, or local law or ordinance relating to the use and sale of drugs or alcoholic beverages or involving the use of firearms, theft, violence, or a crime of moral turpitude.

c. The determination of whether the license holder or license holder's employee has violated this section shall be made by the governing body. An actual conviction in a court for any offense shall not be necessary in order to suspend or revoke the license.

d. The Police Chief shall report any violation of this ordinance or any state or federal law by any license holder or any disturbance or violation law of any kind at any location alcoholic beverages are sold to the City Clerk. The report shall be placed on the agenda at the next regularly

scheduled meeting of the City Council.

**Section 3.31** **Same--Procedure; Appeal.**

a. After the governing body shall deny any application for a license or the transfer of any license or shall suspend or revoke any existing license, the applicant or license holder, as the case may be, shall be given notice in writing with the reasons therefor stated.

b. Any applicant or license holder aggrieved by the decision of the governing body shall have the right to request, within 10 days after receipt of notice, a hearing on such decision. Upon receipt by the governing body of a request for such hearing, a hearing shall be scheduled within 20 working days; and the applicant or license holder, as the case may be, shall be notified of the date, time, and place of such hearing. At such hearing, the licensee or applicant shall have the right to appear in person and by attorney and to have witnesses appear on his/her behalf and to cross examine opposing witnesses. The witnesses shall testify under oath, and the technical rules of evidence shall not apply.

**Sections 3.32 - 3.35** **Reserved.**