

CITY OF SNELLVILLE

STATE OF GEORGIA

ORDINANCE NO. 2023-04

AN ORDINANCE TO AMEND PORTIONS OF CHAPTER SIX OF THE CODE OF ORDINANCES OF THE CITY OF SNELLVILLE TO ALLOW FOR THE ISSUANCE OF LICENSES TO SELL DISTILLED SPIRITS BY THE PACKAGE PURSUANT TO THE REFERENDUM VOTE CONDUCTED NOVEMBER 8, 2022, TO REPEAL CONFLICTING ORDINANCES, AND FOR OTHER PURPOSES

WHEREAS, a referendum pursuant to O.C.G.A. 3-4-41 was conducted during the November 8, 2022 special called election and the majority of voters were in favor of allowing retail package sales of distilled spirits in the City of Snellville, Georgia; and

WHEREAS, the Mayor and the Council of the City of Snellville, Georgia is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs and local government; and,

IT IS HEREBY ORDAINED BY THE GOVERNING AUTHORITY OF THE CITY OF SNELLVILLE, GEORGIA, and by the authority thereof:

Section 1. Article I of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended by adding the following definition:

Sec. 6-1. – Definitions.

Package store (distilled spirits) means a retail business establishment that sells unbroken sealed bottles or other sealed containers of alcoholic beverages, malt beverages (beer), wine and distilled spirits (liquor) only at retail to consumers and not for resale for off-premises consumption:

1. Which derives from such retail sale of alcoholic beverages in unbroken packages at least 75 percent of its total annual gross sales from the sale of a combination of distilled spirits, malt beverages, and wine; and
2. That is not a beverage store, bottle shop, convenience store, drug store, grocery store, or growler shop, or other retail outlet that is not permitted to sell distilled spirits for off-premises consumption.

Section 2. Article II of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended by adding the following:

Section 6-48 Additional Application Requirements for Retail Dealers in Distilled Spirits by Package:

(a) Licensed premises' building requirements:

(1) No license to sell distilled spirits by the package shall be effective until the building in which the business will be located is complete, detailed plans of the building and outside premises have been submitted to and approved by the city, and the city has issued a certificate of occupancy for the building. For initial qualification for a license, the applicant must attach to his or her initial application a survey, a rendering of the proposed building, and a site plan. The proposed building shall be subject to final inspection and approval when completed by the building inspector, the fire marshal, the planning director, and shall comply with other ordinances of the city for zoning, storage, parking, buffers and other issues. The proposed building also shall comply with all regulations of the state revenue commissioner and all the laws of the state.

(2) Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building shall be readily visible at all times from the front of the street on which the building is located. The lighting shall reveal the inside retail area of the building and shall reveal all of the outside premises of the building.

(3) The licensed premises shall only be allowed in the following zoning classes: General Business (BG) and Highway Service Business (HSB).

(4) The licensed premises shall not be within 500 yards of another licensee authorized to sell distilled spirits by the package, 100 yards of a house of worship building or 130 yards of any school building, school grounds, or college campus as described in Section 6-72(b) of this Ordinance. Distances shall be measured consistent with Section 6-72(d) of this Ordinance.

(5) The licensed premises must contain a minimum of 10,000 square feet of heated and air-conditioned space, must be a free-standing building, and it must be located on property that is a minimum of one-half acre in size with a minimum of 100 feet of road frontage on a Principal Arterial or within 350 feet of the Principal Arterial public right-of-way, as classified by the latest update of The Gwinnett County Long Range Road Classification Map.

(6) The licensed premises shall allow ingress and egress for customers and their purchases through a door opening to the outside and facing a public street or public pedestrian area.

(7) The licensed premises must have access to a traffic light either directly from the licensed premises parking lot or through access easements through adjacent properties.

(8) Deliveries shall be made at the rear of the store building and all loading areas, dumpsters, recycling bins, and compactors shall be screened from ground view.

(9) Licensed premises shall not sell lottery tickets, magazines, or cigarettes, cigarette-like devices, or vaping products. Premium cigars and pipes, pipe tobacco and other pipe products are allowed.

(10) The building shall be owned or leased by the applicant, and proof of ownership or lease is required.

(b) *Proof of insurance required:* The applicant for a license to sell distilled spirits by the package shall provide proof of comprehensive general liability insurance, including liquor liability coverage, for the licensed premises with coverage of at least \$2,000,000.00 per occurrence, inclusive of personal injury, bodily injury, death, and property damage, and an umbrella policy with coverage of at least \$2,000,000.00 per occurrence. At the time a license application is submitted, the city will accept as proof of insurance a quote from a reputable insurance company. The applicant may need to ask the insurance company for an extension of the quote. Prior to opening a package store, and thereafter at the time of renewing a license, a licensee must submit a certificate of insurance to the Department of Planning and Development. Failure to do so is cause for revocation of a license.

(c) *Number of licenses to be determined by population:* The city shall issue no more than two license for the retail sale of distilled spirits, until such time as the number of city residents reaches 30,000, as found in the most recent population estimates published by the United States Bureau of the Census or American Community Survey, at which time the city may issue an additional license or licenses so long as thereafter the number of licenses in operation within the city limits at any one time shall not exceed one license to sell packaged distilled spirits for each 10,000 city residents as found in the most recent population estimates published by the United States Bureau of the Census or American Community Survey.

Sec. 6-49. – Application Approval Process for Retail Dealers in Distilled Spirits by Package

(1) Upon action of the Mayor and Council, the city shall publish notice of availability of any license(s) to sell distilled spirits by the package in a newspaper of general circulation in the city and state the deadline for filing an application. Such notice shall be published at least once a week for two consecutive weeks. The application deadline shall be at least 20 business days after publication. All applications for a license to sell distilled spirits by the package shall be submitted during business hours to the city manager or his/her designee, who shall mark the application with the time and date received.

(2) Upon the filing of an application, the city manager or his/her designee shall have five business days to review the application and to send a copy of the application to all affected departments of city government to determine compliance with city regulations and laws. Each department notified shall submit a report within 20 business days of receipt of the application to the city manager which states whether there are any objections to the application.

(3) Within 20 business days from the date the city manager or his/her designee receives all department notifications, the city manager shall render a written determination as to whether the application complies with the requirements of this chapter.

(4) The written determination shall be sent by certified mail to the applicant whose application was considered.

(5) If the decision of the city manager is to deny the requested license, then the letter to the applicant shall set forth in reasonable detail the grounds upon which the license is being denied. The letter shall further advise the applicant of the right to appeal the decision to the mayor and city council within 20 business days of the date on which the written decision of the city manager is sent by certified mail.

(6) The city manager or his designee may deny a city license or renewal thereof under this article on any of the following grounds:

- a. Failure to meet state requirements for state license;
- b. Failure to pay all required fees and taxes;
- c. Failure to provide valid information, documents and the like required by this article;
- d. False information in the application or attached documents;
- e. Improper residency of applicant, owner or registered agents;
- f. Failure to post and maintain proper signs and advertisements required in this article;
- g. Failure to meet distance, location or number of business requirements;
- h. Prior convictions as herein provided; or
- i. Failure to meet any other requirements in this article for a license or any other requirement in any other provision of this Code or the Charter.

(7) If the city manager determines that the applicant meets the criteria for a license to sell distilled spirits by the package within the Snellville city limits, but there are more qualified applicants than available licenses, then the city manager shall send a letter by certified mail to the applicant notifying him or her that a licensee or licensees to sell distilled spirits by the package shall be selected by lottery at a meeting of the city council and of the date, time and place of said meeting. The Mayor and Council shall appoint an independent third party that resides outside the city limits to conduct the lottery.

(8) The letter shall further advise the applicant of the right to appeal the decision to the mayor and city council within 20 business days of the date on which the lottery takes place.

Sec. 6-50. - Both retail sale of package malt beverages and wine and package distilled spirits.

For licensees who wish to operate a business which conducts both the retail sale of package distilled spirits and the retail sale of package malt beverages and wine, in the case of conflict, the provisions of this article regulating the retail sale of package distilled spirits shall prevail, and compliance with those provisions, rather than the provisions applicable to the license permitting the retail sale of package malt beverages and wine, is required

Section 3. Article II of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended as follows:

Section 6-36 - Requirement to publish notice of application to sell distilled spirits by consumption on-premises, is hereby amended by deleting the Section in its entirety and replacing the deleted language with the following:

Section 6-36 - Requirement to publish notice of application to sell distilled spirits by package or consumption on-premises,

A notice of each application to sell distilled spirits, whether by a retail package dealer or by consumption on-premises, shall be advertised in the official newspaper of the city, once a week for two weeks immediately preceding consideration of the application.

Section 4. Article II of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended by deleting the following language:

Sec. 6-43. - License fee and amount to defray investigative costs to accompany application to sell packages of malt beverages and wine for off-premises consumption.

and replacing the deleted language with the following:

Sec. 6-43. - License fee and amount to defray investigative costs to accompany application to sell packages of distilled spirits, malt beverages and wine for off-premises consumption.

Section 5. Article VII of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended as follows:

Section 6-231 - Type of retail establishment, is hereby amended by deleting the following language:

No beer or wine shall be sold at retail except in establishments located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use.

and replacing the deleted language with the following:

No distilled spirits, beer or wine shall be sold at retail except in establishments located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use.

Section 6. Article VII of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended as follows:

Section 6-233 - Hours and days of sale, is hereby amended by deleting the following language:

(a) No retail license holder holding a license under this article for sale of beer/malt beverages, wine, or both shall furnish, sell or offer for sale any beer/malt beverage or wine except between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and 12:30 p.m. until 11:30 p.m. on Sunday.

(b) No retail license holder shall furnish, sell, or offer for sale any beer/malt beverage or wine at any time in violation of state law, local ordinance or regulation, or special order of the mayor and council.

and replacing the deleted language with the following:

(a) No retail license holder holding a license under this article for sale of beer/malt beverages, wine, or both shall furnish, sell or offer for sale any beer/malt beverage or wine except between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and 12:30 p.m. until 11:30 p.m. on Sunday.

(b) No retail license holder holding a license under this article for sale of distilled spirits shall furnish, sell or offer for sale distilled spirits, or any other alcoholic beverages, except between the hours of 9:00 a.m. until 10:00 p.m. Monday through Saturday and 12:30 p.m. until 7:00 p.m. on Sunday.

(c) No retail license holder shall furnish, sell, or offer for sale any distilled spirits/beer/malt beverage or wine at any time in violation of state law, local ordinance or regulation, or special order of the mayor and council.

Section 7. Article IV of Chapter 6 of the Code of Ordinances of the City of Snellville is hereby amended by deleting the following section in its entirety:

Section 6-123 - Excise tax requirements for distilleries selling packaged distilled spirits directly to consumers

There is hereby levied an excise tax computed at the rate of \$0.22 per, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter, which shall be paid to the governing authority on all packaged distilled spirits sold by distilleries directly to consumers in the City of Snellville. Such tax shall be paid to the planning and development department with a summary of all retail sales on or before the tenth day of the month following. Excise taxes received in the planning and development department after the 20th day of the month shall be charged a ten percent penalty. It shall be unlawful and a violation of this chapter for any distillery to sell or deliver in any manner any distilled spirits to a consumer without collecting said tax.

and replacing the deleted language with the following:

Section 6-123 - Excise tax requirements for retail package sellers and distilleries selling packaged distilled spirits directly to consumers,

There is hereby levied an excise tax computed at the rate of \$0.22 per liter, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter, which shall be paid to the governing authority on all packaged distilled spirits sold by retail package sellers or distilleries directly to consumers in the City of Snellville. Such tax shall be paid to the planning and development department with a summary of all retail sales on or before the tenth day of the month following. Excise taxes received in the planning and development department after the 20th day of the month shall be charged a ten percent penalty. It shall be unlawful and a violation of this chapter for any retail package sellers or distillery to sell or deliver in any manner any distilled spirits to a consumer without collecting said tax.

Section 8. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 9. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

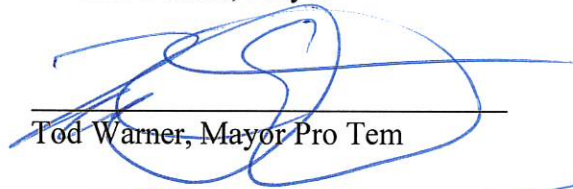
Section 10. This Ordinance was adopted Feb. 27, 2023. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

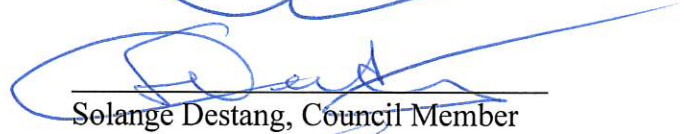
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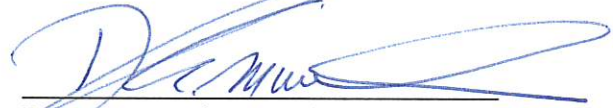
Barbara Bender, Mayor



Todd Warner, Mayor Pro Tem

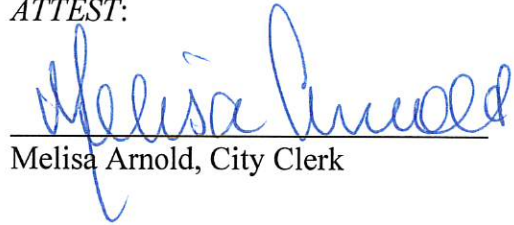


Solange Destang, Council Member



Dave Emanuel, Council Member

ATTEST:

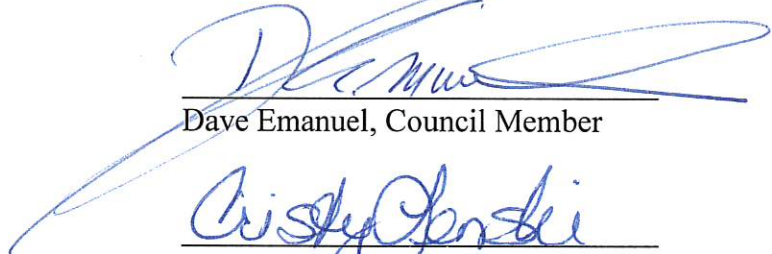


Melisa Arnold, City Clerk

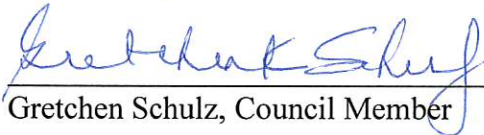
APPROVED AS TO FORM:



W. Charles Ross, City Attorney
Powell & Edwards, P.C.



Cristy Lenski, Council Member



Gretchen Schulz, Council Member