

# **2018 CODE AMENDMENTS**

## **Official Code of Cobb County Part I. - Chapters 6, 54, & 134**

Package II

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Board of Commissioners Work Session  
February 26, 2018 – 1:30 pm

Board of Commissioners Public Hearing Dates  
February 27, 2018 – 7:00 pm  
March 27, 2018 – 7:00 pm

Delivery of Planning Commission Recommendations  
March 13, 2018 – 9:00 am

Planning Commission Public Hearing Date  
March 6, 2018 – 9:00 am

Cobb County Community Development  
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# **PART 1. – OFFICIAL CODE OF COBB COUNTY, GA**

## **Chapter 6 – ALCOHOLIC BEVERAGES**

### **Article III. – LICENSES**

#### **Division 1. - Generally**

Section 6-90 shall be amended as follows:

#### **Sec. 6-90. - License review board.**

...

(b) The license review board established by this section shall have the following duties:

...

~~(2) To hear appeals with regard to issuance or renewal of work permits.~~

~~(3)~~ (2) To hear matters involving any revocation, suspension or other disciplinary action against the holder of any work permit or alcoholic beverage license.

~~(4)~~ (3) To consider and act upon any other matters specifically delegated to the license review board by any other county ordinance or resolution or action of the board of commissioners.

...

(e) The license review board other than as hereinafter authorized in section 6-147 shall have no authority or jurisdiction to hear, consider or render decisions of any kind with respect to the suspension, revocation, probation or other disciplinary action against a license or licensee, ~~except for the authority given it in this article with regard to work permits.~~

~~(f) A decision of the license review board related to work permits shall be final and may be appealed in accordance with 6-207(i). Other decisions of the license review board shall be final unless appealed to the board of commissioners within ten days of the date of decision by the license review board. The board of commissioners shall review a summary of the hearing before the license review board within 30 days of the date of the license review board's recommendation to waive the distance requirements of section 6-124 or 6-125 or direct the business license division manager to place the matter down for a hearing and take any authorized action concerning the applicant's requested license. If the board of commissioners opt to review a summary of the hearing before the license review board it may, after such review, place the matter down for a hearing and take any authorized action concerning the applicant's requested license or licenses. No license shall be issued until the board of commissioners has reviewed the summary and made a decision on whether to place the matter down for hearing. In the event the board of commissioners affirms the decision of the license review board to issue a license, the appropriate license or licenses shall be issued. Reserved~~

**Cross reference—** Boards, commissions and authorities, § 2-191 et seq.

### **Article III. – LICENSES**

#### **Division 3. – Fee, Suspension, Revocation, or Transfer**

Section 6-147 shall be amended as follows:

#### **Sec. 6-147. - Procedure for fee, suspension and revocation.**

...

(d) No alcoholic beverage license which has been issued or which may hereafter be issued shall be suspended or revoked except for due cause as defined in this section, after a hearing and upon written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held.

...

- (3) Due cause hearing. The license review board at such hearing shall hear evidence of the circumstances of the possible due cause and after said hearing may recommend that the license to sell alcoholic beverages be suspended for a maximum of 12 months or revoked. The license review board, and the board of commissioners, if applicable, may consider mitigating and aggravating circumstances in considering sanctions, including but not limited to, attendance of a responsible alcohol sales and service (RASS) workshop, implementation and components of written policies, that employees attend responsible alcohol sales and service (RASS) workshop ~~have or do not have alcoholic beverage work permits,~~ implementation and results of mystery shopper program, implementation and components of a training program, number of violations of business, number of violations of licensee, number of stores, length of time in business, compliance check was due to a complaint, identification was not checked, and any other facts deemed relative by the fact finder.

...

## **ARTICLE IV. – OPERATING REGULATIONS FOR LICENSED ESTABLISHMENTS**

### **DIVISION 1. – GENERALLY.**

Section 6-179 shall be amended as follows:

#### **Sec. 6-179. - Requirements for sale of alcoholic beverages at an amusement park.**

...

- (c) The amusement park may sell or dispense alcoholic beverages in areas that are open to the general public, but have been designated as adult concession areas on a plan that shall be approved by both amusement park management and the board of commissioners. Areas designated as adult concession areas must have a clearly defined entrance for adults only (and minors within their care who will not be served alcohol beverages) to include methods for verifying identification as well as an exterior barrier or partition that reasonably deters minors (not within the care of an adult visiting the concession area) from entering the area. ~~No alcoholic beverages sold or dispensed in areas designated as adult concession areas may be removed from such area.~~ All operations and personnel associated with serving alcoholic beverages within adult concession areas must be in compliance with all applicable provisions of this Code.

Section 6-180 shall be amended as follows:

#### **Sec. 6-180. – Alcoholic beverage caterers**

- (a) *License requirements—Resident caterers.*

...

- (4) Bartenders and/or servers for licensed alcoholic beverage caterers must meet all state and local laws, and age restrictions, ~~and must obtain an alcohol permit pursuant to sections 6-206, 6-207, and 6-208.~~

...

### **DIVISION 3. – EMPLOYEES.**

Section 6-206 shall be amended as follows:

#### **Sec. 6-206. - Employment of persons with prior convictions.**

No licensee shall employ, for compensation or otherwise, in any premises for the sale of alcoholic beverages or the operation of a bottle house under this chapter any person ~~in a capacity requiring a work permit under section 6-207~~ who is not a citizen of the United States or an alien admitted for

permanent residence or a person who has otherwise been granted employment authorization by the United States Citizenship and Immigration Services or who has been convicted within three years immediately prior to the application for employment of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, one or more under 21 DUIs or any charge relating to the sale or furnishing of alcoholic beverages, or who has been convicted within five years immediately prior to the application for employment of any felony of two or more convictions of driving under the influence, of two or more convictions of possession, consumption, or attempt to purchase alcohol by an underage person, of any charge relating to the unlawful possession, use or manufacturing of an authentic or fraudulent driver's license or ID or for whom there exists any outstanding warrant charging such person with any crime described in this section, provided that this section shall not apply to private clubs as defined in this chapter. It is the responsibility of the licensee to ensure compliance with the employment requirements outlined in 6-206. ~~If at the time of application the applicant is charged with any of the offenses prescribed in this subsection, consideration of the application shall be suspended until entry of a verdict or dismissal. The omission or falsification of any material information in an application for an alcoholic beverage permit shall be a violation of this chapter and grounds for the denial, suspension or revocation of any such permit; however, any employees excluded from employment under the terms of this section shall have the right to appeal such exclusion to the license review board.~~

Section 6-207 shall be amended as follows:

**Sec. 6-207. - ~~Work permits.~~ Reserved.**

~~(a) For whom required.~~ It is the responsibility of the licensee and designee as stated in ~~section 6-92(g)~~ to ensure that the employees required under this Code section obtain and possess the required work permit issued by the county police department prior to working. ~~Employees for the purposes of this section shall include independent contractors. Failure of an employee to possess a work permit while selling or serving alcoholic beverages, as required by this section, shall be unlawful and will subject the employee and licensee to prosecution as provided in this chapter and shall be grounds for suspension or revocation of the license. A permit to work in any of the following establishments shall be required of the following:~~

- ~~(1) All employees of package stores.~~
- ~~(2) All employees of convenience stores.~~
- ~~(3) All employees of businesses with a pouring license who serve or sell alcohol, which shall include waitresses, waiters, and bartenders.~~
- ~~(4) In all businesses for which an alcohol license has [been] issued, except as provided in section 6-207(b), all managers, employees serving in a managerial capacity, and any employee providing security whether or not any such persons sell or serves alcohol.~~

~~(b) Not required.~~ A work permit is not required of the following:

- ~~(1) The licensee to whom an alcoholic beverage license has been issued under this chapter.~~
- ~~(2) An approved substitute licensee, as approved by the business license division.~~
- ~~(3) Any person authorized by law to serve alcoholic beverages and is working at a temporary, non-profit fundraising event for which an alcoholic beverage license has been issued under this chapter.~~
- ~~(4) Any person authorized by law to serve alcoholic beverages and is working at a temporary trade show event for which a temporary alcoholic beverage license has been issued under this chapter~~

~~(c) *Application, issuance, denial.* Except as otherwise provided, no person requiring a work permit may be employed by an establishment holding a license under this chapter until such person has been issued a work permit from the county police department indicating the person is eligible for employment. All applications required by this section shall be filed with and investigated by the police department, and such investigation shall include, among other things, an investigation of the criminal record, if any, of the applicant. No work permit shall be issued by the police department if the applicant has violated any of the provisions of section 6-206 hereof. Any applicant who is denied an alcoholic beverage work permit shall have the right to appeal such decision to the license review board. Appeals to the license review board regarding the denial of an alcoholic beverage work permit must be filed with the business license division within 30 days of the denial. After a hearing, the license review board may approve or deny the work permit. The decision shall be final unless appealed in accordance with 6-207(i). In addition, after the hearing, the license review board may approve or recommend to the board of commissioners approval of a work permit to an employee whose application was originally denied based upon any conditions deemed appropriate by the license review board, pursuant to section 6-207(i). Denied applicants who fail to file a timely appeal shall not be authorized to reapply for an alcoholic beverage work permit for 12 months from the date of the denial.~~

~~(d) *Training of permit holders.*~~

- ~~(1) Licensees are required to provide information to all permit holders on provisions of the law of this state and ordinances regarding the sale of alcoholic beverages to intoxicated and underage persons and the penalties for violating such laws and ordinances.~~
- ~~(2) Licensees shall provide regular information, company alcohol sale/service policies and training to all permit holders on the methods, procedures and measures to be taken in order to request, obtain and examine proper identification of patrons to be certain that such patrons are of legal age to purchase alcoholic beverages. Training shall include the methods, procedures and measures to be taken in order to refuse sale/service to underage or intoxicated patrons. Training shall provide permit holders with the opportunity to demonstrate and practice skills required in order to comply with company policies for responsible alcohol sale/service. Training shall include a discussion of how permit holders alcohol sale/service practices shall be monitored and enforced by management as well as law enforcement. Training shall include a discussion of the management and law enforcement consequences for violations. Training shall include a pre/post test to determine whether training objectives were met and by whom. Evidence of such training records shall be made available upon request for inspection by the county.~~
- ~~(3) Detailed records of such training, including the content, date, time, persons attending and copy of any pre/post test, shall be maintained for a minimum of 36 months after the training. Evidence of such training records shall be made available upon request for inspection by the county.~~
- ~~(4) The failure of the licensee to comply with this subsection regarding the training of permit holders shall be grounds for due cause to suspend and/or revoke the license to sell alcoholic beverages.~~

~~(e) *Permit term.* Any work permit issued under this section shall expire 12 months from the date of issuance unless earlier suspended or revoked as provided in this section.~~

~~(f) *Possession of permits by employees.* Employees holding permits issued pursuant to this section shall at all times during their working hours have the permits available for inspection.~~

~~(g) *Exclusion.* This section shall not apply to private clubs.~~

- ~~(h) *Work permit requirement.* At all times that the business is open the licensee shall have at least one person on the premises who has a valid work permit.~~
- ~~(i) *Grounds for suspension, revocation.* No permit which has been issued or which may hereafter be issued under this section shall be suspended or revoked except for due cause as defined in this subsection, and after a hearing and upon written notice to the holder of such permit of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. A minimum of three days' notice shall be provided to the applicant or permit holder. "Due cause" for the suspension or revocation of the permit shall consist of the violating of any laws or ordinances regulating the sale of alcoholic beverages or for the violation of any state, federal or local ordinances set out in section 6-206; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the license review board and shall be conducted in the manner provided in section 6-147.~~

After the hearing, the license review board may decide to:

- ~~(1) Approve the work permit by an affirmative vote by a supermajority of the license review board. In such cases, the approval shall be final;~~
- ~~(2) Approve the work permit by an affirmative vote of less than a supermajority of the license review board. In such cases the board of commissioners shall, within 60 days of the license review board's decision, review a summary of the appeal or show cause hearing before the license review board wherein the work permit was considered for issuance and the board of commissioners after such review will either concur with recommendations of the license review board or choose to place the matter down for a hearing; or~~
- ~~(3) Deny, suspend or revoke the work permit, when it is determined that due cause exists. The employee whose work permit was denied, suspended, or revoked may appeal the license review board decision to the board of commissioners. The board of commissioners shall, within 60 days of the license review board's decision, review a summary of the appeal or show cause hearing before the license review board wherein the work permit was considered for issuance, suspension or revocation (the summary shall be prepared by the business license division manager) and the board of commissioners after such review will either concur with recommendations of the license review board or choose to place the matter down for a hearing.~~

~~Should the board of commissioners place the matter down for hearing the board of commissioners, after such hearing, may issue or deny the work permit, or suspend or revoke the work permit. After the final determination by the license review board or board of commissioners, a representative of the business license office will notify the Cobb County Police Department Permits Unit of the decision. If the permit was approved for issuance, the Cobb County Police Department Permits Unit will notify the applicant that the permit has been approved. The employee whose work permit was not issued or whose work permit was denied, probated, suspended or revoked may appeal the board of commissioners decision pursuant to section 6-147 hereof. The decision of the board of commissioners may be appealed by filing a petition for writ of certiorari to the Superior Court of Cobb County within 30 days of the decision of the board of commissioners.~~

~~(j) Notwithstanding any of the provisions in this section, any permits issued through administrative error or an error in the completion of a background investigation may be terminated by the director of public safety or his/her designee.~~

Section 6-208 shall be amended as follows:

**Sec. 6-208. - Employment of minors.**

- (a) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages. It shall be unlawful for any person under the age of 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages.
- (b) This section shall not prohibit persons under 18 years of age who are employed in supermarkets or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises if there is, at all times during which any person under 18 years of age is working, during hours within which alcoholic beverages are sold, either the licensee or at least one employee ~~who has a valid work permit and~~ who is serving in a managerial capacity on the premises inside the building within which the alcoholic beverages are sold.

**State Law reference**— Employment of minors, O.C.G.A. § 3-3-24.

**Secs. 6-209—6-220. - Reserved.**

## **Chapter 54 – FIRE PREVENTION AND PROTECTION**

### **ARTICLE VII. – OUTDOOR BURNING**

Section 54-114 shall be amended as follows:

**Sec. 54-114. - Burning prohibitions.**

The prohibitions listed in 54-114 are intended to promote and safeguard the public health, safety, comfort, air quality, and living conditions of the citizens of unincorporated Cobb County relative to outdoor burning.

- (a) Burning of petroleum-based products, such as tires, plastics, and roof shingles, which produce black smoke, is prohibited.
- (b) Burning of garbage of any kind is prohibited.
- (c) Burning of any material in a barrel is prohibited. An incinerator or combustion unit is not a barrel.
- (d) No burning is allowed on windy days (ten miles per hour sustained or higher) or on days when the atmospheric conditions (cloudy, overcast, or raining) would cause the smoke to remain low to the ground.
- (e) Burning of yard waste, large or small, on property other than that which it fell or from which it was cut from is prohibited.
- (f) Burning is prohibited on the surface of county or private roads and streets.
- (g) The fire chief shall be authorized to ban any or all forms of outdoor burning when atmospheric or local conditions make outdoor fires hazardous.
- (h) The fire chief shall be authorized to require the extinguishment of any fire if it adversely interferes with the enjoyment of life, use of property.
- (i) The fire chief shall be authorized to ban outdoor burning in a limited geographical area upon receipt of medical documentation from a resident that the resident has a medical condition(s) adversely affected by smoke.

## Chapter 134 – ZONING

### ARTICLE IV. – DISTRICT REGULATIONS

Section 134-201.1 of the Official Code of Cobb County, Georgia, is amended to read as follows:

#### Sec. 134-198.1. - Open space community overlay (OSC) district.

##### Option 1

(a) *Purpose and intent.* The OSC overlay district is established to encourage the preservation of natural resources within residential development. ...It is not the intent of this overlay district to significantly increase overall development densities, but to allow for the stipulated densities ~~(and potential minor bonus)~~ of the underlying zoning district. ...

...

(b) *Definitions.*

...

(6) *Net buildable area.* For the purposes of this section, the net buildable area is calculated by subtracting the floodplain, wetland, ~~cemetery and impervious community area (pools, clubhouses, tennis courts and parking facilities)~~ acreage from the total project tract acreage. The resulting acreage number is the net buildable area.

##### Option 2

(a) *Purpose and intent.* The OSC overlay district is established to encourage the preservation of natural resources within residential development. ...It is not the intent of this overlay district to significantly increase overall development densities, but to allow for the stipulated densities ~~(and potential minor bonus)~~ of the underlying zoning district. ...

(f) *Review criteria.*

...

(3) The minimum lot size shall be 10,000 square feet for R-15 OSC; 13,000 square feet for R-20 OSC; and 15,000 square feet for R-30 OSC.

(4) ~~{Reserved.}~~ Developer may reduce lot size up to 1,000 square feet per lot in order to create active recreational space, common areas, or other active community uses that are not part of the mandated open space such as playgrounds, community centers, all purpose sports field, swimming pool, etc.