

Chapter 4 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

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State Law reference— Use of proceeds of alcoholic beverage tax for prevention, education and treatment, Ga. Const. art. 3, § 9, ¶ 6; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; furnishing to, purchase of or possession by persons under 21 years of age, use of false identification, O.C.G.A. § 3-3-23; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under 21 years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

ARTICLE I. - IN GENERAL

Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in a comparable provision of the Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.

Alcohol means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means and includes all alcohol, malt beverages, distilled spirits, wine and fortified wines defined in this section.

Brown bag establishment means any restaurant, supper club or other establishment providing food or entertainment in the normal course of business, and in which the owners or their agents knowingly allow patrons to bring in and consume the patrons' alcoholic beverages.

Chief of police means the chief of police of the city.

Church means any permanent place of public religious worship.

Craft beer means beer produced by a brewer with an annual production of 6,000,000 barrels or less, and no more than 25 percent of the brewery is owned or controlled by an alcoholic beverage industry member who is not a craft beer brewer.

Designated Manager is the primary employee responsible for managing the premises which possesses a license under this ordinance.

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

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term "fortified wine" includes, but is not limited to, brandy.

Interest includes any pecuniary interest and any ownership interest, whether present or future, whole or partial, legal or beneficial, contingent or vested, direct or indirect, and any right, power, or authority of control.

Licensed premises includes not only the room wherein alcoholic beverages are sold or served but also the outdoor area within the property lines as approved by the mayor and council for sales and consumption of alcoholic beverages

Licensee includes an individual licensee and in the case of a partnership or corporation includes both the partnership and corporation and the named licensee.

Majority stockholder means the person, if any, who owns more than 50 percent of the voting stock of a corporation; if no person owns more than 50 percent of the voting stock of a corporation, the majority stockholder is the person owning more of the voting stock than any other person; and if two or more persons each own the same amount of the voting stock of a corporation and each own more of the voting stock than any other person, then any one of such persons may act as the majority stockholder.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

Mixed drink means any distilled spirits served for consumption on the premises, whether or not diluted by water or any other substance.

Named licensee means the person acting as such for a partnership or corporation pursuant to section 4-26.

Package means a bottle, can, keg, barrel, or other original consumer container.

Wholesaler or *wholesale dealer* means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained herein.

Wine and craft beer boutique means an establishment selling Georgia wine products and other fine wines and craft beer under a limited pouring license by the taste, drink, original package or growler for the purposes of promoting tourism in certain designated areas of the city.

Unless a contrary intention is clearly apparent from the context, any term used in this chapter shall have the same meaning as when used in a comparable provision of the Georgia Alcoholic Beverage Code, O.C.G.A. §3-1-1 et seq.

Sec. 4-2. - Penalty.

Any person who violates any provision of this chapter shall upon conviction be punished as provided in section 1-8. Any such punishment, if imposed, shall be in addition to and not in lieu of any license suspension or revocation under this chapter.

Sec. 4-3. - Confidentiality of information.

For the purpose of protecting the individual business interests or the person making returns as provided for in sections 4-104 and 4-206, the city licensing authorities shall treat such returns as being of a strictly confidential nature and will not divulge such information unless called for by a court order and/or for city, county, state or federal tax purposes. Any clerks and/or city personnel found guilty of violating such confidence shall be subject to disciplinary action at the discretion of the city manager.

Secs. 4-4—4-24. - Reserved.

ARTICLE II. - LICENSING

Sec. 4-25. - Required, classifications, fee, duration.

- (a) *Required.* It shall be unlawful for any person to sell or offer for sale any alcoholic beverages within the city except under a valid license issued under this chapter and in compliance with the provisions of this article.
- (b) *Classification, fee.* Classes of licenses issued under this chapter, activities permitted and regulated thereunder, and the annual license fees, shall be as follows:
- (1) *Retail package licenses.*
 - a. Package malt beverage license: retail sale of malt beverages in the original package, \$200.00.
 - b. Package wine license: retail sale of wine in the original package, \$100.00.
 - (2) *Retail consumption on the premises licenses.*
 - a. Distilled spirits, wine, and malt beverages pouring license restaurant: retail sale of distilled spirits, wine, and malt beverages by the drink, \$3,500.00.
 - b. Wine and malt beverage pouring license restaurant: retail sale of wine and malt beverages by the drink, \$500.00.
 - c. Distilled spirits, wine, and malt beverages pouring license supper club as defined in section 4-203: retail sale of distilled spirits, wine and malt beverages by the drink, \$5,000.00.
 - d. Wine and malt beverage pouring license supper club as defined in section 4-203: retail sale of wine and malt beverages by the drink, \$3,000.00.
 - e. Distilled spirits, wine and malt beverages pouring license, private club as defined in section 4-204: retail sale of distilled spirits, wine and malt beverages by the drink, \$3,500.00.
 - f. Wine and malt beverage pouring license private club as defined in section 4-204: retail sale of wine and malt beverages by the drink, \$500.00.
 - g. Ancillary growler license: \$200.00.
 - h. Limited pouring license wine and craft beer boutique as defined in section 4-205; retail sale of wine and craft beer by the drink, \$500.00.
 - (3) *Wholesale licenses.* Resident wholesale dealer's license, wholesale of distilled spirits, wine, and malt beverages by a wholesale dealer having a place of business in the city, \$5,000.00.
- (c) *Duration, proration.* All licenses issued under this chapter shall be issued on a calendar-year basis; and all licenses shall expire at 12:00 midnight on December 31 of the year in which they are issued. The license fees set forth in this section shall be prorated on a 12-month basis, so that the license fee for a partial calendar year shall reflect only those months for which the license actually is issued. For example, the fee for a license issued in January shall be the entire annual fee set forth in this section; the fee for a license issued in February shall be 11/12 of said annual fee; the fee for a license issued in March shall be 10/12 of said annual fee; and so on. Notwithstanding the month in which a license is issued, the license shall still expire at the time and date set forth above.
- (d) *Application fees.* Each application for a license under this chapter shall be accompanied by a nonrefundable application fee in the following amount:
- (1) Package malt beverage license, \$100.00.
 - (2) Package wine license, \$100.00.

- (3) Distilled spirits, wine and malt beverages pouring license restaurant, \$100.00.
 - (4) Wine and malt beverage pouring license restaurant, \$100.00.
 - (5) Distilled spirits, wine and malt beverages pouring license supper club, \$500.00.
 - (6) Wine and malt beverage pouring license supper club, \$500.00.
 - (7) Resident wholesale dealer's license, \$500.00.
 - (8) Distilled spirits, wine and malt beverages pouring license private club, \$500.00.
 - (9) Wine and malt beverage pouring license private club, \$500.00.
 - (10) Limited pouring license wine and craft beer boutique, \$100.00.
 - (11) Ancillary growler license: \$100.00.
- (e) *Payment of fees.* Application fees shall be paid at the time the application is filed and shall not be refunded under any circumstances. An applicant may pay the annual license fee at the time that the application is filed; and in such event the annual license fee shall be refunded if the license applied for is not issued. If the annual license fee is not paid at the time of application, the annual license fee shall be paid prior to the issuance of the license by the mayor and council and no later than 14 days after notification of approval of the license by the mayor and council.

Sec. 4-26. - Procedure for issuance.

- (a) A license issued to an individual under this article shall be issued in the name of the individual. A license issued to a partnership shall be issued in the name of the partnership and in the name of one of the partners or a designated manager of the premises who shall be named licensee. A license issued to a corporation having as its principal business the sale of alcoholic beverages (wholesaler) shall be issued in the name of the corporation and in the name of the the designated manager of the premises who shall be the named licensee. A license issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages shall be issued in the name of the corporation and in the name of the designated manager of the premises who shall be the named licensee.
- (b) In the case of a corporation having as its principal business the sale of alcoholic beverages (wholesaler), officer or designated manager of the corporation shall join as applicants for the license; and each such person must meet the qualifications of an individual licensee, as provided in section 4-27 except for the residency requirement which shall be required only for the named licensee.
- (c) In the case of a corporation having as its principal business an activity other than the sale of alcoholic beverages, the officer or designated manager who is to be the named licensee shall be the applicant and must meet the qualifications of an individual licensee, as provided in section 4-27, provided, however, that the mayor and council may require the fingerprinting and investigation of officers and shareholders of the corporation if it deems it necessary in making its investigation.
- (d) In the case of a partnership, each partner shall be responsible for the actions of the named licensee and the conduct of the licensed business. In the case of a corporation, the corporation shall be responsible for the actions of the named licensee and the conduct of the licensed business.

Sec. 4-27. - Qualifications.

- (a) A licensee must be at least 21 years of age, of good moral character and a citizen of the United States.
- (b) A licensee shall not have been convicted of any felony, any misdemeanor involving moral turpitude, or any criminal offense related to gambling, payment of taxes, sale of alcoholic beverages, DUI, or violation of the Georgia Controlled Substances Act within the past ten years. A licensee shall not have been convicted of any other misdemeanor or violation of a city ordinance, excluding minor traffic offenses, within the past six years. This subsection shall apply with respect to the laws of this

state, other states, the United States, and other countries. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection. The mayor and council may, at its discretion, waive the conviction of a misdemeanor for purposes of this subsection if the mayor and council determine that the misdemeanor does not have a bearing on the applicant's fitness for a license.

- (c) A licensee shall not have been denied or had revoked, within the seven years preceding his application, any license to sell alcoholic beverages issued by any governmental entity.
- (d) A licensee shall be the owner of the premises to be licensed or the holder of a lease thereon for substantially the same period to be covered by the license.
- (e) Any person having two convictions for selling alcohol to a minor within a three-year period shall not be eligible for a license.
- (f) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant who does not meet the requirements of a private club, restaurant, supper club, or wine and craft beer boutique.

Sec. 4-28. - Application.

- (a) Forms, contents. All applications for licenses shall be made upon application forms provided by the mayor and council. All applications shall contain a full and complete and sworn and notarized statement by each applicant of all material facts relevant to the requirements of this chapter. Each applicant and any corporate officers or shareholders otherwise required to be fingerprinted shall submit themselves to the police department, where a complete set of fingerprints shall be taken. Each application shall include, in addition to all other application fees, a certified check or money order in the amount charged by the state bureau of investigation made payable to the state bureau of investigation to cover the cost of fingerprinting analysis and investigation.
- (b) Each applicant authorizes the city and its agents to secure from any court, law enforcement agency, or other public agency his criminal and civil history and to use such information in determining whether the license applied for shall be issued. Each applicant further authorizes the city and its agents to use such information in any public hearing with respect to the license applied for, either before or after the issuance of the license. Each applicant waives any right which he would otherwise have to preclude the city or its agents from obtaining and using such information; and each applicant further waives any liability of the city or its agents from obtaining and using such information.
- (c) Each application shall be accompanied by:
 - (1) In the case of a partnership, a copy of the partnership agreement;
 - (2) In the case of a corporation, a copy of the articles of incorporation; and
 - (3) A current stamped certificate from a registered surveyor which shows a scale drawing of the premises and the location at which the applicant desires to operate an alcoholic beverage outlet and which shows, with linear foot measurements where appropriate, such location's compliance or noncompliance with the provisions of section 4-70.
- (d) When a license application is for premises not yet constructed or not yet completed, a license may be issued if the application includes the plans for the premises and a surveyor's stamped certificate clearly showing that the premises will, when completed, meet all applicable requirements of section 4-70.

Sec. 4-29. - Investigation; hearing.

- (a) A copy of each application for a license under this article shall be referred within two business days after filing to the police department. The police department shall make a thorough investigation concerning any applicants hereunder if individuals, and the officers and the designated agent or

manager, if the applicant is a corporation, and shall submit the results of the investigation promptly to the mayor and council.

- (b) No application for an original license shall be considered by the city manager until after a public hearing has been held thereon by the mayor and council, after notice as provided in subsections (c) and (d) of this section.
- (c) The applicant for an original license shall, at his own expense, post on the premises to be licensed a notice. The notice shall be posted for at least 15 days prior to the date of the hearing.
 - (1) The notice shall be on a board or metal sign having a surface of not less than 12 square feet.
 - (2) The sign shall include the following:
 - a. That an application for a license to sell alcoholic beverages on the premises has been filed with the city;
 - b. The type of license applied for;
 - c. The time and place of the public hearing to be held on such license application;
 - d. The name of the proposed licensee; and
 - e. The name and telephone number of the city staff member where additional information may be obtained.
 - (3) Such sign shall be placed at least three feet above the ground and facing the most traveled street.
- (d) The applicant for an original license shall at his own expense publish in the official legal organ of the county at least 15 days prior to the hearing, a notice containing the same information as required in the posted notice under subsection (c) of this section. This notice shall be printed in letters no smaller than ten-point capital and lower case with at least a one-inch, two-column arrangement.
- (e) Prior to the date of the hearing, the applicant shall furnish to the mayor and council a copy of the advertisement required by subsection (d) of this section and a sworn statement of the size of, location of, and information on the sign required by subsection (c) of this section.
- (f) The mayor and council may require additional investigations, reports and information from city departments and other public agencies as may be deemed necessary to evaluate compliance with the provisions of this article.
- (g) Following the filing of a complete application, the submission of the police department's report and any other reports deemed necessary by the mayor and council, the notice and advertisement required by subsections (c) and (d) of this section, and the public hearing required by subsection (b) of this section, the mayor and council shall act on the application after considering the standards and guidelines set forth in section 4-38.
- (h) Any applicant aggrieved by the decision of the mayor and council regarding a license application may request that the mayor and council reconsider its decision after another hearing in which the applicant shall have the opportunity to present evidence and cross examine opposing witnesses. Such request for reconsideration must be in writing and must be made within 30 days of the date of the decision prompting such request.
- (i) Any person making a false statement in any application for a license, or false statement in connection with renewal thereof, shall be guilty of an offense and punished as provided by state law relating to false swearing; and further, a license if previously granted or renewed, may be revoked for the violation. It shall be an offense for any person to give other than the true and correct legal name of the intended licensee; and a conviction for violation thereof shall be punished as provided for in this chapter.

Sec. 4-30. - Renewals.

- (a) Except as otherwise provided in this chapter, applications for renewal of licenses shall be made and considered in the same manner as applications for original licenses.
- (b) No fingerprints shall be required in the case of an application for renewals.
- (c) No posting of premises and publication of notice by the applicant shall be required in the case of an application for renewal.
- (d) An application for renewal may, if such is the case, be in the form of a sworn and notarized statement by the named licensee, on a form provided by the city manager, stating that there have been no changes in any of the information contained in the original application. If there have been any such changes, the application for renewal shall be in the same form as an original application.
- (e) An application for renewal shall be filed during the month of October. If an existing licensee fails to file for renewal during the month of October, then the licensee shall be required to make application as for an original license. Existing licensees whose renewal application is filed in October as required in this subsection and approved by the mayor and council, shall pay the appropriate licensing fee required by this chapter on or before January 1 of the year for which the renewal license has been approved.
- (f) In making a determination regarding the renewal of a license, the mayor and council shall consider the standards and guidelines set forth in section 4-38.
- (g) At the discretion of the mayor and council, a public hearing may be required for the renewal of a license if written objections are filed thereto with the city manager at least 15 days before the end of the renewal period. If any such objection is filed, a public hearing shall be held. Prior to such hearing, the city shall publish at public expense a notice in substantially the same form and manner required under section 4-29(d). The applicant shall be given written notice of any objection which is filed and such notice shall be served within 48 hours of the filing of the objection by personal service by a city police officer or by registered or certified mail to the named licensee at the licensed premises. In the circumstances referred to in this subsection, the license under which renewal was applied for shall continue to be valid until the mayor and council acts on the application for renewal if the applicant deposits the amount of the annual license fee for the renewal with the mayor and council, not later than five days after being notified of the filing of the objection.
- (h) An applicant for renewal whose application is denied may request reconsideration as provided for in section 4-29(h).

Sec. 4-31. - Transfer.

- (a) Except as provided in this section, no license issued under this article shall be transferable to any other person or location.
- (b) If a licensee seeks to move his place of business from the licensee's premises to another place within the city, application shall be made as for an original license.
- (c) In the case of death of an owner of a license or financial interest therein, such license or interest therein may be transferred to the administrator, executor, or adult heir of the deceased unless the mayor and council determines that it would otherwise violate this chapter. If the transferee cannot meet all requirements of this chapter, when the time comes to renew the license, it shall not be renewed.
- (d) Nothing in this section shall prohibit one or more partners in a partnership from retiring therefrom in favor of one or more of the other partners; provided such withdrawal shall not, without application for an issuance of a new license, introduce any new partner or result in any new person acquiring an interest in the licensed business.
- (e) Where a license is issued to a corporation having as its principal business an activity other than the sale of alcoholic beverages, a change in the named licensee may be permitted by the mayor and council if the new named licensee meets the requirements of new license applicants. If a designated manager of a licensed premises terminates employment then the corporation or partnership licensee

must submit an application for a new designated manager to be the named licensee within seven (7) days of the termination.

- (f) In the circumstances described in subsections (c), (d), and (e) of this section, the license may be revoked if the mayor and council determines that the change results in a failure to meet the requirements of this chapter.

Sec. 4-32. - Change in business ownership.

- (a) If any licensee withdraws from, sells, or otherwise transfers the licensee's interest in the licensed business, the licensee shall immediately notify the city manager and surrender the license.
- (b) In the case of such a withdrawal, transfer, or sale, a new application shall be made as for an original license.

Sec. 4-33. - Temporary licenses.

- (a) A temporary license may be issued by the city manager if in his judgment, the denial of a temporary license would create an undue hardship such as the closing of an existing business or a delay in the opening of a new business.
- (b) A temporary license may be revoked, with or without cause, by the city manager at any time, and the grant or denial of a temporary license shall not affect or have any bearing upon the grant or denial of a permanent license.

Sec. 4-34. - Suspension, revocation.

- (a) The violation of any of the provisions of this chapter shall be grounds for suspension or revocation of any retail or wholesale license issued hereunder.
- (b) Notwithstanding final disposition of a case by any court of competent jurisdiction, a license may be suspended or revoked by the mayor and city council for any violation of this and/or another chapter, for any violation of state or federal law, for any material misrepresentation or omission in the application for the license, or if the licensee or the licensed business ceases to meet the eligibility requirements for licensure.
- (c) The city manager is authorized to suspend the sale of alcoholic beverages under any license for any emergency situation that the city manager deems such suspension necessary for the protection of the public health, safety, or welfare. Such suspension may be made effective immediately and may remain in force until the city manager determines that the emergency is over or until the next meeting of the mayor and city council, at which time the suspension shall cease unless it is extended by the mayor and city council.
- (d) Prior to suspending or revoking a license, except as noted in emergency situations in subsection (c) of this section, the mayor and city council shall give at least five days prior written notice to the licensee of the time, place, and purpose of the hearing at which such suspension or revocation will be considered. Service of such notice shall be perfected by personal service at the licensed premises on the named licensee or an employee of the licensee by a city police officer; or, if personal service may not be so effected, by tacking a copy of the notice to the door of the licensed premises and mailing the original to the named licensee at the licensed premises with a copy mailed to any other address of the named licensee contained in the most recent license application on file with the city.

Sec. 4-35. - Automatic revocation.

A license issued under this article shall be automatically revoked by operation of law if:

- (1) The licensee's state alcoholic beverage license is revoked;

- (2) Payment of the annual license fee is not received by the city with 14 days after notification that the issuance of a license has been approved by the mayor and council;
- (3) Operation of the licensed activity is not commenced within six months after the license is issued;
- (4) Operation of the licensed activity is commenced and then discontinued for a period of 30 days unless extended by the mayor and council for good cause;
- (5) The licensed business declares bankruptcy or receivership, is the subject of levy or legal process, or fails to properly account for, file, report and pay any excise tax levied under this chapter;
- (6) The licensed business fails to properly account for, file, report and maintain any records or remit any license fee imposed or taxes required under this chapter;
- (7) Payment of the annual renewal license fee is not received by the city within the time prescribed in section 4-30;
- (8) The named licensee is convicted of a felony by a court of competent jurisdiction.

Sec. 4-36. - Wholesale licenses required.

Any wholesale dealer in alcoholic beverages who is licensed by the state and who has a place of business in the city shall procure a license under the same provisions applicable to retail licensees.

State Law reference— Permit or license from governing authority required for wholesale or retail sales of alcoholic beverages, due process guidelines; fingerprints, O.C.G.A. § 3-3-1(a).

Sec. 4-37. - Special use permit.

A licensed establishment may request a special use permit for the vending and consumption of alcoholic beverages for outdoor events. A special use permit may only be approved for the licensed premises. Special use permits shall be granted upon approval of the mayor and council after considering the standards and guidelines set forth in section 4-38.

Sec. 4-38. - Temporary permit for special event sales.

- (a) 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:

City council approval means a majority vote of a quorum of the city council at a duly scheduled or called meeting.

Special event means an event approved and sanctioned by the city occurring on city or public property, or an event in which the city's personnel oversees such event.

Structure means an area that can be contained by a secured, contiguous structure including walls, sturdy fencing or other similar approved structures. The structure must be approved by the chief of police or his designee.

- (b) Any entity maintaining an alcohol beverage license in good standing with the state may obtain a temporary special event permit for the sale of beer and/or wine at a city special event under the following terms and conditions:
 - (1) Such applicant must complete in a timely manner, the respective application and submit the fee of \$250.00. The applicant shall submit a plan or rendering, and detailed procedures in compliance with subsection (b)(3) of this section. The city manager shall review such application and make recommendations to the city council.

- (2) The application must be duly approved by the city council after considering the standards and guidelines set forth herein and in section 4-39.
- (3) The area in which sales and consumption are to occur must be enclosed by some structure providing the public ingress/egress through only one main entrance. When safety considerations and/or effective traffic circulation issues exist, more than one but no more than three entrance/exits may be allowed in certain circumstances as approved by the chief of police or his designee. No individual shall be permitted to leave this confined area with an open drink. The applicant must provide its own staff and procedures to ensure compliance with this section.
- (4) Notwithstanding the provisions of subsections (b)(1) through (3) of this section, nothing in this section shall relieve applicants from complying with all other provisions of this chapter and state law.

Sec. 4-39. - Standards and guidelines for granting or denying licenses.

In addition to all other requirements stated in this chapter, the mayor and council shall consider the following standards and guidelines in reaching its decision on whether to grant or deny an application for an alcoholic beverage license:

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the neighborhood is predominantly residential, industrial or business;
- (2) The proximity of churches, schools, college campuses, housing authority properties, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein, as required by section 4-70;
- (3) The proximity of hospitals, public libraries, children's centers, public parks and playgrounds, and private residences;
- (4) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons;
- (5) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom;
- (6) The criminal record, general good character and reputation, and financial responsibility of the applicant and manager of the premises, provided that nonpayment of federal, state, county or municipal taxes shall be prima facie evidence of lack of financial responsibility;
- (7) The report of the police department on its investigation as required by section 4-29, and any other reports that may be required by the mayor and council;
- (8) Whether the applicant has satisfied all requirements pertaining to the application process and all requirements as to notice and advertisement;
- (9) Consideration of the health, safety, and welfare of the citizens and preservation of surrounding neighborhoods, with reference to such factors as light, noise, pollution, traffic and loitering;
- (10) The number of licenses already granted for similar businesses within the city limits and in the trading area of the location for which a license is sought;
- (11) The history or reputation of the location for criminal activity, including but not limited to prostitution or other sex offenses, crimes of violence, gambling, and illegal dealing in alcoholic beverages or drugs; and
- (12) Any circumstance that may cause minors to frequent the immediate area, even if the location meets the distance requirements set forth in this chapter.

Sec. 4-40. - Decisions.

All decisions approving, denying, suspending, or revoking the license required by this chapter shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.

Secs. 4-41—4-68. - Reserved.

ARTICLE III. - LOCATION AND ZONING

Sec. 4-69. - Zoning restriction.

No retail license shall be granted under this chapter unless the premises to be licensed are, at the time the application is approved by the mayor and council, located under the planning and zoning ordinance of the city in a nonresidential zoning district subject to the specific limitation of the respective districts.

Sec. 4-70. - Proximity restrictions.

- (a) No premises shall be licensed under this chapter whose location is within the following distances:
- (1) For the sale of any wine or malt beverage, within 300 feet of any church building, school building, school grounds, or college campus.
 - (2) For the sale of any distilled spirits, within 300 feet of any church building and within 600 feet of any school building, educational building, school grounds, or college campus.
 - (3) For the sale of any distilled spirits, wine, malt beverage, within 300 feet of an alcoholic treatment center owned and operated by the state or any county or municipal government therein.
 - (4) For the sale of any alcoholic beverage for consumption on the premises, within 300 feet of any housing authority property. For the purpose of this subsection, the term "housing authority property" means any property containing 300 housing units or fewer owned or operated by a housing authority created by O.C.G.A. title 8, ch. 3, art. 1.
- (b) No consumption-on-the-premises license shall be issued for any place of business which is located within 200 feet of a private single-family or two-family dwelling, the measurement for which shall be by direct measurement from property line, using the closest property lines of the parcels of land involved (the term "parcel of land" means any quantity of land capable of being described by location and boundary, designated and used or to be used as a unit); provided, however, that this prohibition shall not apply with respect to such a private dwelling which is located in a zoning district in which alcoholic beverage outlets are authorized or in the Downtown Overlay District.
- (c) For the purpose of this section, distances shall be measured by the most direct route of travel on the ground.
- (d) No license shall be revoked and no application for a license or renewal shall be denied by any reason of the method of measurement set out in this subsection, if such license or license application or renewal application is for premises for which a license was granted prior to the enactment of this chapter in reliance on other methods of measurement or prior to establishment of churches, schools or alcohol treatment center.

State Law reference— Sales of alcoholic beverages near churches, schools or college campus, O.C.G.A. § 3-3-21.

Sec. 4-71. - Sale, service in public places.

It shall be unlawful for any person to sell or serve any alcoholic beverage in a street, alley, or parking lot commonly used by the public or in any other public place or on public property except as otherwise provided herein

Secs. 4-72—4-100. - Reserved.

ARTICLE IV. - SALES

DIVISION 1. - GENERALLY

Sec. 4-101. - Responsibility of named licensee.

The named licensee shall be active in the operation of the licensed business and shall be personally present on the licensed premises sufficiently to assure compliance with the provisions of this chapter.

Sec. 4-102. - Rental paid restricted.

- (a) Except as otherwise provided in this section, it shall be unlawful for a licensee to enter into any agreement whereby the rental paid for licensed premises is based in whole or in part on the volume of sales of alcoholic beverages by the licensed business or whereby the lessor otherwise shares in the profits or receipts from the licensed business' sale of alcoholic beverages.
- (b) Subsection (a) of this section shall not apply where the primary business of a package licensee is an activity other than the package sale of alcoholic beverages, for example, a grocery store selling package beer and wine.

Sec. 4-103. - Display of license.

Each license issued under this chapter shall at all times be kept plainly exposed to view upon the licensed premises.

Sec. 4-104. - Retention of records; filing reports.

- (a) All consumption-on-the-premises licensees shall keep and preserve records of all alcoholic beverages purchased and sold by the licensee and shall keep and preserve records of all food and nonalcoholic beverages purchased and sold by them. Such records shall at all times be open for inspection by an authorized agent of the city. Such records shall be maintained for a period of at least three years, provided that the mayor and council may authorize the disposal of records prior to the expiration of three years if the maintenance of such records is no longer required by the city.
- (b) All consumption on the premise licensees shall file with the city manager the following reports at the time and in the form prescribed by the city manager:
 - (1) Monthly on-premises consumption report.
 - (2) A certified copy of the licensee's monthly state sales tax report as filed with the state department of revenue for the period coinciding with on-premises consumption report.
 - (3) Any other documents, reports, records or books as shall be required by the city manager.

Sec. 4-105. - Knowledge of chapter provisions.

Every licensee under this chapter shall, prior to applying for a license, read and familiarize himself with the provisions of this chapter, and an application shall constitute a certification by the applicant that he has done so. Every licensee shall maintain a copy of this chapter on the licensed premises and shall instruct each employee engaged in the sale or handling of alcoholic beverages concerning the relevant provisions of the chapter.

Sec. 4-106. - Sales to underage persons prohibited.

- (a) Except as otherwise provided in this section:
 - (1) No person, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.
 - (2) No person under 21 years of age shall purchase or possess any alcoholic beverage.
 - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatever for the purpose of obtaining unlawfully any alcoholic beverage.
 - (4) No person shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
 - (5) No person under 21 years of age shall misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in subsections (a)(1), (2), and (4) of this section shall not apply to the following with respect to the sale, purchase, or possession of alcoholic beverages for consumption:
 - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;
 - (2) At a religious ceremony;
 - (3) When the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person under 21 years of age and when possession is in the home of the parent or guardian and such parent or guardian is present.
- (c) The prohibition contained in subsection (a)(1) of this section shall not apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification, driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. The term "proper identification" shall not include a birth certificate identification.
- (d) This section shall not prohibit employment of a person less than 21 years of age in licensed premises if such employment is lawful under section 4-134.
- (e) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished actually is 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and be furnished with proper identification as provided in subsection (c) of this section in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1) of this section.
- (f) In any case where a person selling or otherwise furnishing alcoholic beverages checks for a proper identification, such person shall carefully inspect such identification. If a reasonable and prudent person could determine that such identification has been altered and if such person sells or otherwise furnishes alcoholic beverages to the holder of such altered identification, then such may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so in violation of subsection (a)(1) of this section.

State Law reference— Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification; proper identification for sale of alcoholic

beverages; dispensing, serving, etc., of alcoholic beverages by persons under 21 years of age in the course of employment, seller's duty to request proper identification, O.C.G.A. § 3-3-23.

Sec. 4-107. - Sales permitted.

- (a) No licensee shall permit the sale of alcoholic beverages on any day or at any time when such sales are prohibited by state law.
- (b) Licensees may permit the sale of retail package malt beverages and wine during the following hours:
 - (1) Monday—Saturday: 7:00 a.m.—1:30 a.m.
 - (2) Sunday: 12:30 p.m.—midnight.

Sec. 4-108. - Sales to intoxicated persons; gambling; disorderly conduct.

- (a) No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.
- (b) No licensee shall permit any gambling, betting, illegal lottery, or other device for the hazarding of any money or other thing of value on the licensed premises, except that this prohibition shall not apply with respect to a properly licensed bingo game.
- (c) No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or noise or activity which is disturbing to the surrounding neighborhood.
- (d) Adult entertainment.
 - (1) No holder of a license for the sale of alcoholic beverages issued pursuant to this article shall knowingly allow any performance or entertainment or act on the licensed premises which, when applied to contemporary community standards, the dominant theme taken as a whole appeals to the prurient interests or is licentious or obscene.
 - (2) It shall be prohibited to permit on the premises so licensed any contest or form of entertainment which consists of the wetting or soaking of the upper torso of a female or the pelvic area of a male or female.
 - (3) No retail licensee for on-premises consumption shall cause, suffer or permit any person to appear on its licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, nor shall cause, suffer or permit any person to appear on its licensed premises in any such manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.

State Law reference— Sale of alcoholic beverages to intoxicated persons, O.C.G.A. § 3-3-22; restriction on enforcement of local ordinances relating to drinking, being a common drunkard or being found in an intoxicated condition, O.C.G.A. § 37-8-11.

Sec. 4-109. - Containers, storage, illumination.

- (a) Alcoholic beverages shall be delivered to and received at licensed premises only in the original container and only in a conveyance owned and operated by a licensed wholesale dealer (or a licensed common carrier acting for a wholesaler). Alcoholic beverages shall be sold at retail only on the licensed premises.
- (b) A retail licensee shall store alcoholic beverages only on the licensed premises and at no other place. All stock shall be available at all times for inspection by any authorized agent of the city. Any alcoholic beverages found in any retail licensee's stock which were not received from a wholesaler licensed to make deliveries in the city shall be subject to immediate confiscation.

- (c) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building and all entrances thereto are clearly visible at all times.

Sec. 4-110. - Cleanliness of premises; inspections.

All licensed premises shall be kept clean and in proper sanitary condition and in full compliance with all regulations governing the condition of premises used for the storage and sale of food for human consumption. All licensed premises shall be open at all times for inspection by authorized agents of the city.

Secs. 4-111—4-133. - Reserved.

DIVISION 2. - SALES TO AND BY UNDERAGE PERSONS

Sec. 4-134. - Prohibited employment, exceptions.

- (a) Except as provided in subsection (d) of this section, no wholesale dealer or package licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (b) No consumption-on-the-premises licensee shall allow any employee under the age of 18 years to dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (c) This section shall not prohibit the employment of persons under the above ages on licensed premises where such persons do not dispense, sell, serve, take orders for, or handle alcoholic beverages.
- (d) This section shall not prohibit persons 16 years of age or older from selling or handling alcoholic beverages in grocery stores or supermarkets. For purposes of this subsection, the term "grocery stores" or "supermarkets" shall include convenience stores.

Sec. 4-135. - Activity in grocery stores.

For the purposes of this article, the bagging or carrying out of wine or malt beverages in the original package in the course of employment by a grocery store, convenience store or similar establishment shall not constitute handling of alcoholic beverages.

Secs. 4-136—4-153. - Reserved.

ARTICLE V. - EMPLOYEE IDENTIFICATION CARDS

Sec. 4-154. - Required; issuance; revocation.

- (a) An employee identification card shall be required for any employee of a consumption-on-the-premises licensee who handles alcoholic beverages on the licensed premises or for any employee filling a growler, handling a growler, or offering growler samples.
- (b) Any person required to obtain an employee identification card shall apply to the city police department for such a card, which card when issued shall be valid for a period of two years and shall be renewed on or before its expiration. A fee of \$10.00 shall be paid with each card application. Persons applying for cards shall make themselves available for photographing, fingerprinting, and such other investigation as may be required by the police department. The police department may

provisionally grant an employee identification card to a person applying for a card, pending investigation and report.

- (c) Where such report, when received, is unfavorable, the chief of police may revoke the card and demand its return.
- (d) The chief of police may revoke an employee identification card and demand its return where the employee violates the provisions of this chapter or becomes one who adversely affects the public health, safety, or welfare.
- (e) It shall be unlawful for an employee whose employee identification card has been revoked and upon whom demand for return of the card has been made to refuse to return the card or to alter, conceal, deface, or destroy the card.
- (f) When a person applies for an employee identification card, the chief of police or his designee shall have a complete and extensive search made to determine if there is a police record of such person. The conviction of a felony within the past ten years, a second conviction of an alcohol-related misdemeanor, or a record of other conduct prohibited by this chapter, or evidence that the person's employment would adversely affect the public health, safety, or welfare shall preclude issuance of an identification card.
- (g) A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this section.
- (h) A new search may be conducted on any person issued an employee identification card if the chief of police receives information which warrants such a new search. If the new search reveals evidence that warrants revocation of the card, the card may be revoked.
- (i) When any employee identification card is denied or revoked, the chief of police shall issue to the applicant or card holder a letter stating that the person does not meet the requirements of this chapter.
- (j) All employees required to obtain an employee identification card shall be required to display same in a manner readily visible to customers and authorized agents of the city at all times while on duty status at the premises of his employer, including breaks. For purposes of this section the term "break" shall include all temporary relief from duty status during the employee's work period. No employee required to obtain an employee identification card shall display same at any time except on duty status at the premises of his employer.
- (k) Employees of licensees in good standing on the effective date of the ordinance from which this article was derived who will be required to obtain an employee identification card shall be issued such a card without charge or investigation as required by this section. The card shall be valid for a period of two years and shall be renewed on or before its expiration.

Sec. 4-155. - Continuation of existing cards.

All licensees for consumption on the premises in good standing on the effective date of the ordinance from which this article was derived shall submit to the police department a list of the names, addresses and telephone numbers of present employees who will be involved in selling, serving, taking orders for or handling alcoholic beverages and therefore requiring an employee identification card.

Sec. 4-156. - Employees restricted.

No licensee shall knowingly employ on any licensed premises, in any capacity whatsoever, any person who has been convicted within the preceding ten years of any crime involving moral turpitude.

Secs. 4-157—4-180. - Reserved.

ARTICLE VI. - BREAKING PACKAGE OR DRINKING ON PREMISES²¹

Footnotes:

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State Law reference— Breaking of packages or drinking of contents on premises prohibited, O.C.G.A. § 3-3-26.

Sec. 4-181. - Prohibited.

It shall be unlawful for any person to open or consume any alcoholic beverages on premises licensed for the sale of alcoholic beverages by the package.

Secs. 4-182—4-200. - Reserved.

ARTICLE VII. - CONSUMPTION ON THE PREMISES

Sec. 4-201. - Eligibility for license—Restricted.

Any type consumption-on-the-premises license may be granted only to a restaurant, as defined under section 4-202; a supper club as defined under section 4-203; a private club, as defined under section 4-204; a wine and craft beer boutique as defined under section 4-205; and a farm winery as defined under section 4-215.

Sec. 4-202. – Eligibility for license —Restaurant.

In order to be eligible for a pouring or limited pouring consumption-on-the-premises license, a restaurant shall be defined as follows:

- (1) Be used and held out to the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;
- (2) Contain one or more public dining rooms, with adequate and sanitary kitchen facilities and staff to prepare, cook and serve suitable food for its guests;
- (3) Have staff available to serve meals prepared on the premises during any time the establishment is open for business;
- (4) Have a valid county health department food service permit and any other applicable local, state or federal permits, licenses, etc., required for food service establishments;
- (5) Have at least 50 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other nonfood or nonalcoholic beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;
- (6) Have a permanent seating capacity, at tables, not counting bar stools, of at least 50 persons;
- (7) Provide live entertainment, including, but not limited to, bands, orchestras, singers, dancers, actors, performers, musicians or related live entertainment no more than two days in any week.

Sec. 4-203. – Eligibility for license —Supper clubs.

In order to be eligible for a pouring or limited pouring consumption-on-the-premises license, a supper club shall be defined as follows:

- (1) Be used and held out to the public as a place where meals prepared on the premises are regularly served to the public for adequate pay each day the establishment is open for business;
- (2) Have adequate and sanitary kitchen facilities and staff to prepare, cook, and serve suitable food for its patrons;
- (3) Have staff available to serve meals prepared on the premises during any time the establishment is open for business;
- (4) Have a valid county health department food service permit and any other applicable local, state or federal permits, licenses, etc., required for food service establishments;
- (5) Have at least 50 percent of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises, and for this purpose, if a supper club make a minimum charge, cover charge, or admission charge, or any other nonfood charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale;
- (6) Have a permanent seating capacity, at tables, not counting bar stools, of at least 100 persons;
- (7) Be arranged and maintained such that all seating is open and unobstructed to the view of other persons in the facility;
- (8) Provide live entertainment including, but not limited to, bands, orchestras, singers, dancers, actors, performers, musicians or related live entertainment for more than two days in any week.

Sec. 4-204. – Eligibility for license —Private clubs.

- (a) In order to be eligible for a pouring or limited pouring consumption-on-the-premises license, a private club must be a veterans organization, fraternal organization or other nonprofit organization all of which must be nationally chartered and maintaining a tax exempt status under either the United States Internal Revenue Code or the state income tax law and:
 - (1) The local chapter has been in existence at least one year prior to the filing of its application for a license;
 - (2) Have at least 75 regular dues-paying members;
 - (3) Be organized and operated exclusively for pleasure, recreation, and other non-profitable purposes;
 - (4) Own, hire, or lease a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment;
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
 - c. Has no member, officer, agent, or employee directly or indirectly receiving in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed salary.
- (b) For purposes of subsection (a)(4)c of this section, the term "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages.
- (c) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

- (d) Private clubs licensed under the provisions of this section shall not be required to maintain the percentage sale of food/nonalcoholic beverages as compared to alcoholic beverages, however, any such organization shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises.
- (e) Records supporting the organization's nonprofit tax exempt status shall, at all times, be open for inspection by an authorized agent of the city.

Sec. 4-205. – Eligibility for license - Wine and craft beer boutique.

In order to eligible for a limited pouring consumption-on-the-premises license a wine and craft beer boutique shall be defined as follows:

An establishment within the specific districts within the city designated by ordinance open to the public offering sales under a limited pouring license and not required to offer meals prepared on the premises. The purpose of the establishment will be to promote tourism through the sales and promotion of Georgia and other fine wines as well as craft beer. The establishment must meet all the following requirements:

- (1) The designated districts include:
 - a. The Downtown Overlay Zoning District;
 - b. The designated Commercial Area of the Mirror Lake Planned Unit Development;
 - c. Other districts which may be designated by the mayor and council to promote tourism in the city.
- (2) An establishment in the specified districts, with only one such facility located within 750 feet of another such facility.
- (3) No distilled spirits may be offered for sale in any form.
- (4) Must have a seating capacity of table seating for a minimum of 25 people not including bar seating and must have seating that is open and unobstructed to the view of other persons in the facility.
- (5) Smoking shall not be permitted inside the boutique.
- (6) Must be located in a commercial space, no residential buildings.
- (7) Hours of operation on Friday and Saturday shall not exceed 12:00 midnight with the last service by 11:30 p.m. On Sunday through Thursday hours of operation shall not exceed 11:00 p.m. with the last service by 10:30 p.m.

Sec. 4-206. - Ratio of alcoholic, nonalcoholic sales, statement of sales.

- (a) Should the total sales from food and nonalcoholic beverages reported by any licensee for consumption on the premises not equal those from the sale of all alcoholic beverages for any two consecutive reporting periods, the license may be suspended or revoked by the mayor and city council after a hearing, as provided for in section 4-34.
- (b) In addition to the reporting requirements detailed in section 4-104, the city manager may require that a licensee furnish a statement from a certified public accountant that reports the percentage of the licensee's total sales derived from the sale of food and nonalcoholic beverages sold on the premises compared to the sale of all alcoholic beverages sold on the premises in the licensee's most recent reporting period.

Sec. 4-207. - Illumination of premises, location of sale restricted.

- (a) All restaurants and supper club areas, including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well illuminated so that they may be viewed by those inside the premises.
- (b) The sale of alcoholic beverages in any back room or side room, which is not open to the general public, is prohibited, except that this prohibition shall not apply with respect to:
 - (1) Private parties which have been scheduled in advance.
 - (2) Room service to hotel guests in their hotel rooms, provided a properly licensed restaurant or supper club is located on the premises.
 - (3) Private clubs.

Sec. 4-208. - Prohibited activities by employees.

- (a) It shall be unlawful for any employee of a restaurant, supper club, or private club to engage in the following:
 - (1) Dance or sit with customers on the premises while on duty status, including "breaks" as defined in section 4-154(j);
 - (2) Allow any customer to purchase food or drink, alcoholic or nonalcoholic, for an employee while on duty status, including "break periods" as defined in section 4-154(j);
 - (3) For an employee to consume or simulate the consumption of any alcoholic beverage while on duty status at the premises of his employer, including "breaks" as defined in section 4-154(j);
 - (4) Require, permit, suffer, encourage or induce any employee or person to solicit at the licensed premises for himself or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic or nonalcoholic; or money with which to purchase same; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for himself, or for any other, the purchase by the patron of any drink, whether alcoholic or nonalcoholic.
- (b) For purposes of this section the term "employee" shall also apply to performers, dancers, entertainers, musicians engaged in temporary work, as well as regular employees.

Sec. 4-209. - Purchase of stock limited.

Licensees under this article shall purchase distilled spirits in sizes of one liter or larger unless a particular brand is not packaged in these size containers in which case the licensee may purchase such brand in the nearest size to such containers.

Sec. 4-210. - Hours of sale.

Consumption on the premises licensees may engage in the sale and service of alcoholic beverages only between the hours of 7:00 a.m. and 1:30 a.m., Monday through Saturday, and between the hours of 12:30 p.m. and 12:00 midnight on Sunday. Alcoholic beverages purchased and served prior to 1:30 a.m., Monday through Saturday, may be consumed on the premises until 2:00 a.m. Alcoholic beverages purchased and served prior to 12:00 midnight on Sunday may be consumed on the premises until 12:30 a.m.

Sec. 4-211. - Dancing on premises restricted.

Patron dancing shall be permitted at facilities licensed for consumption-on-the-premises sales only where:

- (1) Adequate space exists;
- (2) All fire and safety regulations are met;

(3) Prior approval of the chief of police and the chief of the fire department have been obtained.

Sec. 4-212. - Removal of beverages prohibited.

- (a) Except as may be specifically permitted by state law [O.C.G.A. § 3-6-4], all alcoholic beverages sold by consumption-on-the-premises licensees shall be consumed only on the licensed premises. It shall be unlawful for any person to remove from the licensed premises any alcoholic beverages sold for consumption on the premises. Each licensee shall be responsible for ensuring that no person so removes any alcoholic beverages from the premises in any type of container.
- (b) Each consumption-on-the-premises licensee shall post in a prominent place at each exit from the licensed premises a sign in substantially the following form:

"It is a violation of city ordinance to take any type alcoholic beverage from this outlet."

Such sign shall be printed in uniform letters not less than one inch in height.

- (c) Unless permitted by City Ordinance, it shall be unlawful for any person to drink or have in his possession an open container of any alcoholic beverage:
 - (1) On any public street, sidewalk, park or other public place within the city, or upon or within any motor vehicle on the streets, sidewalks, parks and public places of the city; or
 - (2) While on private property, open to public view, without the express permission of the owner, agent or person in lawful possession thereof.

Sec. 4-213. - Prohibited practices.

- (a) No consumption-on-the-premises licensee shall engage in any of the following practices:
 - (1) The giving away of any alcoholic beverages in conjunction with the sale of any other alcoholic beverages;
 - (2) The sale of two or more alcoholic beverages for a single price or the sale of all the alcoholic beverages a customer can or desires to drink;
 - (3) The sale or serving of two or more alcoholic beverages at substantially the same price customarily charged for one such alcoholic beverage;
 - (4) Requiring or encouraging the purchase of second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed;
 - (5) Sponsoring, conducting, or allowing contests or promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages on the premises.
- (b) This section shall not apply with respect to private functions not open to the public with respect to which the licensee has agreed to the use of the licensee's establishment by a person for a set period of time for a valuable consideration.

Sec. 4-214. - Brown bag establishments prohibited.

Brown bag establishments as defined in this chapter shall be prohibited within the city.

Sec. 4-215. Sale by Farm Wineries.

A farm winery may sell its wine and the wine of any other state farm winery licensee at retail in a tasting room or other facility on the premises of the winery for consumption on the premises and in closed packages for consumption off the premises and to sell its wine and the wine of any other state farm

winery licensee at retail for consumption on the premises and in closed packages for consumption off the premises in tasting rooms at a location within the city that is one of the five additional locations in the state authorized by O.C.G.A. § 3-6-21.1(b), but only if the annual production of wine by the farm winery is made in state in accordance with the source of berries, fruits or grapes as provided by the laws of the state and the rules and regulations of the state department of agriculture.

Sec. 4-216. Licenses for Farm Wineries.

The alcoholic beverage licenses which may be issued to farm wineries under this chapter are:

- (1) *Wholesaler of farm winery production.* A farm winery shall be granted a wholesale license for sale and distribution as provided by O.C.G.A. § 3-6-21.1. Such license shall be issued upon application and payment of established fees and upon presentation of a receipt for payment of the state annual license tax as provided by the referenced code provisions in this section.
- (2) *Retail package sales of wine.* Each retail package sales license shall require that all sales shall be by and through the farm winery tasting room at the site for which said license is issued.
- (3) *Retail sales of wine.* Each license for retail sales of wine and malt beverages for consumption on the premises shall require that all consumption shall be at the farm winery site for which said license is issued. This site shall include any wedding or dining facilities associated with the farm winery.
- (4) *Multiple farms winery licenses.* A farm winery may apply for and, if approved, may be issued multiple farm winery licenses. At the primary farm winery facility where the wine is produced, such site may be licensed for wholesale, package retail sales and on-premises consumption. For any site other than the primary farm winery facility where the wine is produced, up to the maximum number of such sites as may be permitted by state statute, such site may be licensed for package retail sales and on-premises consumption. The license created in accordance with this article shall be limited to farm winery tasting rooms licensed by the state in accordance with O.C.G.A. § 3-6-21.1 et seq., and the licensee shall be permitted to perform only acts allowed in accordance with such statutes. No license is hereby created authorizing any other use.
- (5) *Alternate provision.* The first license at any site shall have a cost equal to the cost of a city alcoholic beverage license at the time of the application. Any license for two or more categories of sale shall require payment of the additional license fees as provided in the city fee schedule.
- (6) *Ratio of sales.* There shall be no specified or required ratio of alcohol sales to any other income for winery operations. Farm wineries shall operate on such days and hours as are provided by the Georgia Farm Winery Act., O.C.G.A. § 3-6-21.1 et seq., as amended from time to time and by the terms of this Ordinance for sale by consumption on the premises.
- (7) *Renewals.* All applications for renewal of a farm winery license or licenses shall be accompanied by a copy of the current state license. Failure to present a valid copy of a current and valid state license will result in a refusal to renew license. Timely application

for renewal is determined by the date on which a complete and proper application has been submitted.

(8) *Premises consumption.*

(a) A farm winery may apply for a license for on-premises consumption of distilled spirits under the terms as provided under this chapter, retail sales of distilled spirits for consumption on the premises.

(b) A farm winery may apply for a license for on-premises consumption of wine and malt beverages (not produced under the Georgia Farm Winery Act O.C.G.A. § 3-6-21.1 et seq.) under the terms as provided under this chapter, retail sales of malt beverages and wine for consumption on the premises.

(9) *Compliance with article.* All alcoholic beverage sales other than farm winery sales shall be in accordance with all terms of this chapter.

Secs. 4-217—4-236. - Reserved.

ARTICLE VIII. - GROWLERS

Sec. 4-237. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Ancillary growler license means the document issued by the city which allows under certain conditions, the filling of reusable containers commonly referred to as growlers on the premises of the licensee directly or vicariously through employees (permittees) who have proper permits issued hereunder or under the city alcoholic beverage code.

Approved closure means a cork, stopper or twist-type closure.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six percent alcohol by volume and including but not limited to ale, porter, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer, which is made by fermentation of any infusion or decoction of barley, malt, hops or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

Growler means a properly sanitized reusable non-plastic container capable of holding no less than 32 fluid ounces nor no more than 64 fluid ounces and which shall be capable of being sealed with an approved closure type at the time of purchase for off premises consumption of the contents thereof.

License or *primary license* means the document issued by the city pursuant to section 4-25 which allows under certain conditions, the package sale of beer or wine on the premises of the licensee directly or vicariously through employees.

Licensee means the individual to whom a license for the package sale of beer or wine is issued under section 4-25. In the case of a partnership, limited liability company or corporation, all partners, officers and directors of the partnership or corporation are licensees.

Permittee means any individual to whom a pouring permit is issued for the dispensing of malt beverages or beers in establishments licensed for the filling of reusable containers commonly referred to as growlers on the premises of the licensee.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi public.

Pouring permit means an authorization granted by the city to fill reusable containers commonly referred to as growlers on the premises of the licensee. Valid pouring permits issued under section 4-154 shall also be valid for the purposes of this article.

Premises means one room or more all contiguous in nature operating under the same trade name and which share a common entrance.

Sec. 4-238. - Ancillary growler license required.

Any applicant for or holder of a valid retail package beer and wine license (primary license) in the city shall also be eligible for an ancillary growler license upon approval of the primary license and payment of an additional regulatory fee in the amount of \$200.00 annually. The regulatory fee shall be paid upon original application and upon each renewal application and shall be in addition to any other fees associated with the applicant's mandatory primary license.

Sec. 4-239. - Regulations.

- (a) Growlers may only be filled by individuals possessing valid city pouring permits and may only be filled with malt beverages or craft beers from kegs procured from duly licensed wholesalers.
- (b) It shall be the responsibility of the individual or entity filling the growler to sanitize such growler prior to filling. The licensee must comply with the state department of agriculture's General Rules 40-7-1-.40 requiring a "contamination free" transfer process for beverages and the use of washed, rinsed and sanitized growler fill tubes, which must be cleaned between each use and must comply with the state department of agriculture's Best Management Practices for Growler Refilling.
- (c) Each growler must be securely sealed and removed from the premises in its original sealed condition utilizing an approved closure. At the time of the sale and/or refilling, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container and extend over the top of the approved closure forming a tamper evident seal that must be broken upon opening of the container. The adhesive band, strip, or sleeve shall bear the name and address of the business filing the growler and the container must be displayed prominently on the container.
- (d) The licensee must comply with all federal and state laws and regulations regarding packaging and labeling alcoholic malt beverages. Each growler filled with a malt beverage or craft beer must contain the following warning which may be printed on the paper or plastic adhesive band, strip or sleeve that is applied to the container after filling or which may be affixed separately to the container on a preprinted label as follows:
"GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems."
- (e) Establishments licensed to fill growlers shall be authorized to offer without charge, samples of malt beverage or craft beer to patrons over the age of 21 years. Samples shall not exceed two ounces in volume nor shall any one individual be offered more than four samples within a 24-hour period. It shall be the responsibility of the licensee and any employee of the licensee to comply with the identification requirements of this chapter prior to filling a growler or supplying a sample to a patron to ensure the patron is of legal age to purchase and consume alcohol.

- (f) The filling of growlers by means of a tapped keg when properly dispensed by a permitted employee of a licensed retailer under the provisions of this article shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or any other provision of any ordinance regulating the sale of package beer and wine in the city.

Secs. 4-240—4-260. - Reserved.

ARTICLE IX. - EXCISE TAXES

DIVISION 1. - GENERALLY

Sec. 4-261. - Tax imposed.

- (a) There is imposed by the city an excise tax on the first sale or use of malt beverages in the city, as follows:
 - (1) 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 containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons.
 - (2) 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.
- (b) There is imposed by the city an excise tax on the first sale or use of wine in the city at a rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (c) There is imposed by the city an excise tax on the first sale or use of distilled spirits in the city at the rate of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (d) The excise taxes provided for in this section shall be imposed upon and paid by the licensed wholesale dealer. Such taxes shall be paid on or before the 20th day of the month following the month in which the alcoholic beverages are sold or disposed of by the wholesaler within the city. The tax shall be remitted on forms prescribed by the City Manager.

Secs. 4-262—4-280. - Reserved.

DIVISION 2. - MIXED DRINKS

Sec. 4-281. - Imposition.

There is imposed upon the sale of mixed drinks in the city a tax in the amount of three percent of the purchase price of the mixed drinks to the consumer. Each licensee shall be allowed a deduction of three percent of the amount of taxes collected as reimbursement for the collecting of such taxes, provided that such tax is not delinquent at the time of payment. A record of each sale will be made in writing and maintained for inspection by any authorized agent of the city.

Sec. 4-282. - Collection.

Every consumption-on-the-premises licensee shall collect the tax imposed by this article from purchasers of mixed drinks. The licensee shall furnish such information as may be required by the city manager to facilitate the collection of the tax. In all cases where the purchase is deferred payment or

credit, the licensee becomes liable for the collection and payment of the tax at the time of delivery of the mixed drink to the purchaser. The tax shall be remitted on forms prescribed by the City Manager.

Sec. 4-283. – Dealers' returns as to gross proceeds of sales and purchases; granting of extensions

- (a) Each dealer, on or before the twentieth day of each month, shall transmit returns to the City Manager showing the gross sales and purchases arising from all sales and purchases taxable under this article during the preceding calendar month. The returns required by this subsection shall be made upon forms prescribed, prepared, and furnished by the City Manager.
- (b) The City Manager, in his discretion, may grant extensions, upon written application, to the end of the calendar month in which any return is due under this Code section.
- (c) (1) Failure to file a timely return shall result in the loss of vendor's deduction for collection. There shall be a penalty of 5% per month and a 1% per month charge for interest until the debt is paid in full.

(2) Delinquent returns over 30 days shall result in a revocation of the alcohol license issued by the City of Villa Rica.

Secs. 4 284—4 299. Reserved.

ARTICLE X. - WINE TASTING

Sec. 4-300. - Permit required; regulations.

A wine-tasting permit for purposes of this section shall be limited to a person possessing a current license from the city for the sale of wine by the package and a valid current wine license from the state.

- (1) No wine tasting shall be conducted on the premises of any place of business licensed to sell distilled spirits in the unbroken container. Any wine tasting occurring on the premises of a business possessing a license to sell wine by the package shall be limited to an area that is separated from the retail area of the premises by walls or other partitions that prohibit pedestrian traffic through the wine tasting area.
- (2) An eligible licensee may petition the city for a wine-tasting permit provided it meets all requirements of this chapter and presently maintains a valid license for the sale of wine by the package issued by the city. A wine-tasting permit shall allow the permittee to offer or sell wine samples in connection with an instructional or educational promotion. A wine-tasting permit is intended to allow such activity on a limited basis and shall not be a part of the core operations of such establishment or occur on a daily basis.
- (3) A wine tasting permittee shall be subject to all laws, rules and regulations of the city and state, including rule 560-2-5-.05 of the state department of revenue, alcohol and tobacco division, and shall be subject to permit revocation for violation thereof.
- (4) Said wine tasting permit need only be applied for once and shall automatically renew when said license to sell wine by the package is renewed; provided, however, that the city may revoke or suspend such wine-tasting permit and/or impose such conditions on its operation at the city's discretion for violation of this Code or in furtherance of the health, safety, and welfare of the city's inhabitants.
- (5) The one-time fee for application for the wine tasting permit shall be equal to the established fee for applications for wine package sales. The wine tasting permit shall be approved by the city manager or his designee.

Secs. 4-301—4-317. - Reserved.

ARTICLE XI. - ALCOHOL CATERING

Sec. 4-318. - Authority to sell; license required.

It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off-premises and in connection with a catered event or function without first having obtained an alcoholic beverage catering license.

Sec. 4-319. - Eligibility for license.

- (a) Applicants for an alcoholic beverage caterer's license to sell wine and/or beer and malt beverage and/or distilled spirits for consumption off-premises in conjunction with an authorized catered function at facilities authorized for special event activities must also possess a valid license issued by the city and the state for the retail sale for consumption on-premises of the same alcoholic beverages.
- (b) A licensed alcoholic beverage caterer may only sell that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may only sell malt beverages at the authorized catered event or function.
- (c) Those employed by a licensed alcoholic beverage caterer to dispense, serve, sell or handle alcoholic beverages must adhere to employee regulations as stated in this article.

Sec. 4-320. - License fees.

- (a) Each applicant shall pay a license fee of \$500.00 per year.
- (b) The license will be valid for the period of no longer than one year. The alcoholic beverage caterer shall apply for a new license annually in the same manner as the original period.

Sec. 4-321. - Copy of license; sale without licenses; separate application and separate license required for each place of business.

- (a) A copy of the license shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function, and shall be available for inspection at the catered event or function during the duration of such event or function.
- (b) No alcoholic beverage caterer may distribute or sell alcoholic beverages during any hours prohibited in the city.

