

FIRST READING July 13, 2023

SECOND READING August 15, 2023

PASSED August 15, 2023

**AN ORDINANCE NO. BR2023-18**

**AN ORDINANCE TO AMEND CHAPTER 16 (“OFFENSES”), SECTION 16-16 (“NOISES PROHIBITED”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO REGULATE LIVE AMPLIFIED MUSIC ON OUTDOOR PATIOS AT BREWERIES, WINERIES, AND DISTILLERIES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Chapter 16 (“Offenses”), Section 16-16 (“Noises prohibited”) of the Code of the City of Blue Ridge, Georgia (“Code”) provides for the prohibition and regulation of certain noises within the City of Blue Ridge (“City”); and

**WHEREAS**, certain businesses – namely, breweries, wineries, and distilleries – desire to have live amplified music on outdoor patios or open areas adjacent to the business; and

**WHEREAS**, staff has recommended allowing breweries, wineries, and distilleries who currently possess an alcohol license issued by the City to have live amplified music on outdoor patios or open areas adjacent to the business, subject to certain regulations.

**WHEREAS**, the City Council finds it in the public interest to allow breweries, wineries, and distilleries who currently possess an alcohol license issued by the City to have live amplified music on outdoor patios or open areas adjacent to the business, subject to certain regulations.

**NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED** by the authority of the City Charter and general law, that Chapter 16 (“Offenses”), Section 16-16 (“Noises prohibited”) of the Code of the City of Blue Ridge, Georgia, is hereby amended as set forth herein:

**SECTION 1.**

**CHAPTER 16 (“OFFENSES”)**

Chapter 16 (“OFFENSES”) of the Code of the City of Blue Ridge, Georgia, is hereby amended by adding the following to Section 16-16 (“Noises prohibited”):

**Sec. 16-16. Noises Prohibited**

(a) It shall be unlawful for any person to make or continue, or cause to be made or continued, any loud, unnecessary or unusual sound or noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the city, and which is audible to a person of normal hearing ability more than 50 feet from the point of origin of the sound or noise.

(b) The following acts among others are declared to be loud, disturbing and unnecessary sounds or noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

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- (18) *Live amplified music on outdoor patios at breweries, wineries, and distilleries.* Breweries, wineries, and distilleries who currently possess an alcohol license issued by the city who wish to have live amplified music on patios/open areas adjacent to their business shall first obtain a permit from the City and adhere to the following regulations: (i) hours and days live amplified music shall be permitted shall be Thursday, Fridays Saturdays, Holidays and days of City recognized festival events from 4pm to 7pm; (ii) the volume of sound must be controlled so that it is not audible more than 150 feet from the property line of the business; (iii) the owner of the business as well as the owner of the building/patio area shall sign the permit application provided by the city, and the permit shall be in plain view of the business; and (iv) amplified sound may not be unreasonably loud, raucous, jarring or disturbing to persons with normal sensitivities within the area of audibility. The Police Department will be responsible for the enforcement of these regulations. The following enforcement process shall be utilized: the first offense shall be a verbal warning; the second offense shall be a written warning; and on the third offense, the City Administrator is authorized to revoke the amplified music permit. The business owner may appeal the decision of the City Administrator to the City Council. The City Council will consider the appeal at the next Council meeting.

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## **SECTION 2. SEVERABILITY.**

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

## **SECTION 3. REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.**

All parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

**SECTION 4.**

**EFFECTIVE DATE.**

The effective date of this ordinance shall be upon its passage by the City Council.

**SO ORDAINED** this 15 day of August, 2023.

MAYOR AND CITY COUNCIL OF BLUE RIDGE

  
Mayor, City of Blue Ridge

  
Clerk, City of Blue Ridge



## Chapter 6 ALCOHOLIC BEVERAGES

### ARTICLE I. IN GENERAL

#### Sec. 6-1. Definitions.

All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. title 3) and state regulations, as amended, are adopted by this chapter. 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 (and with the definitions of state statutes and regulations controlling, in the event of a conflict):

*Adequate parking* means the parking spaces for each premises of each package store and each consumption on the premises location required under the zoning and developmental ordinances of the city. Such off-street parking shall have vehicular access to streets and shall be constructed of all-weather surface.

*Adult entertainment establishments* means any of the following: adult bookstores, adult dancing establishments, adult mini-motion theaters, adult motion picture arcades, adult motion picture theaters, adult video stores, erotic dance establishments, escort bureaus or introduction services, lingerie modeling studios, or nudist or naturalist facilities, campgrounds, restaurants, parks or recreational areas.

*Adult bookstore* means an establishment having a substantial or significant portion of its stock in trade, merchandise, books, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section comprising ten percent of its net sales consisting of printed material and/or merchandise which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Adult dancing establishment* means a business that features dancers displaying or exposing specified anatomical areas.

*Adult mini-motion picture theater* means an enclosed building with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other impact producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theater* means an enclosed building with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult video store* means an establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specified anatomical areas or an establishment with a segment or section comprising of five percent of its total floor space devoted to the sale or display of such material or which derives more than five percent of its net sales from videos which are characterized or distinguished or relating to specified sexual activities or specified anatomical areas.

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

*Alcoholic beverage* means any beverage containing alcohol and shall include but shall not be limited to all distilled spirits, alcohol, beer, malt beverages, wines, and fortified wines.

*Ancillary growler tasting* are samples of craft beer provided to customers of licensed malt beverage only package stores with ancillary growler malt beverage tasting under conditions set forth in section 6-111.

*Ancillary wine tasting* means samples of wine provided to customers of licensed wine-only package stores under the conditions set forth in section 6-118.

*Authorized catered function* means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this chapter.

*Bed and breakfast* means any establishment where five or more rooms used for sleeping accommodations are offered for pay to guests, which regularly prepares and serves breakfast, where there exists one or more dining rooms serving prepared meals, whether public or for the use of guests, with a seating capacity of at least ten, with a kitchen that has been approved by the health and fire departments.

*Bona fide nonprofit civic organization* means an entity which is exempt from federal income tax pursuant to the provisions of 26 USC 501(c), (d), or (e).

*Business* means any person, corporation, partnership, limited liability company, or other legal entity which exerts substantial efforts within the city, engages in, causes to be engaged in, and/or represents or holds out to the public to be engaged in any occupation or activity with the object of gain or benefit, either directly or indirectly.

*Church* means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship, which shall be publicly designated as a church, but does not include a residence or place of business also used for religious purposes, and also does not include an administrative building or office for a church or religious organization. The term "church" shall also not include store front sites within retail shopping centers that are also used as a place of regular assembly for religious worship.

*Convenience store* means a small store or shop that sells, but is not limited to, such items as candy, ice cream, soft drinks, water, lottery tickets, tobacco, produce, newspapers, magazines, a selection of processed foods, sandwiches, a few items of groceries, and ATM and money order services, as well as fuel, motor oils, etc., such as are typical in the city.

*Craft beer* means any malt beverage that is produced by a small, independent and traditional brewery. Flavored malt beverages are not considered craft beer. Small is any brewery with an annual production less than 6,000,000 barrels per year. Independent means less than 25 percent of the craft brewery is owned or controlled by an alcoholic beverage industry member who is not themselves a craft brewer. A traditional brewer is one that has either an all malt flagship or has at least 50 percent of its volume in either malt beverages or in beverages which use adjuncts to enhance rather than lighten flavor. Craft beer is typically produced by small brewers, and is made with both traditional and non-traditional ingredients added for distinctiveness. Craft beer is often historic, unique, and innovative malt beverages that often have no stylistic precedent.

*Distilled spirits* means any beverage containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including, but not limited to, all fortified wines. Distilled spirits cannot be sold by the package within the city.

*Erotic dance establishment* means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dances, go-go dancers, strippers or similar entertainers, which such

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performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Escort bureau or introduction services* means any business, agency or person who, for a fee, commission, hire, reward or profit furnishes or offers to furnish names or persons, or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with other about any place of public resort or within any private quarters.

*Event* means the gathering of people at an event center and not at a private residence, for the purpose of honoring a person or engaging in an infrequent business or social activity, and where alcoholic beverages can be consumed on the premises, by the drink, by persons in attendance, and includes, but is not limited to, weddings, wedding receptions, retirement parties, birthdays, holiday parties, banquets, conventions, anniversary parties, civic or social organization meetings or award dinners, funerals, wakes, fundraisers, reunions, or similar functions organized in connection with a central cause, or purpose.

*Event center* means and is limited to an establishment:

- (1) Which is a commercial facility, and not a private residence, hotel, motel, restaurant (there shall be a rebuttable presumption that any facility open to the public for the service of at least one meal per day for three or more days per week is a restaurant and not an event center), or lounge, and which has as its primary commercial enterprise and activity the holding of events and in which the sale of food and alcoholic beverages is only incidental to the holding of events;
- (2) In which food may be served by meals prepared by the event center or by an authorized caterer, and having an adequate and sanitary full-service kitchen (a full-service kitchen will consist at a minimum of a three-compartment pot sink, commercial grade stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments, and capable of preparing, cooking and serving meals for events), and dining room equipment, and a sufficient number and kind of permanent and temporary employees to handle events held at the event center. Said establishments shall be prepared to serve food every hour they are open;
- (3) Which is an enclosed building with a minimum seating capacity of 300 persons for a seated meal and which is primarily devoted to the holding of events, but not including any adult entertainment establishments or activities;
- (4) Which is available to public or private groups of persons, but attended by invited or selected guests or paying patrons as a closed function which is not open to the general public and must have a specific guest list that is prepared in advance of the date on which the event is to occur. No pay-at-the-door guests or drop-ins are to be permitted. The consideration for the alcoholic beverages served at the event may be paid by the person or organization that contracted with the event center for the event, and the alcoholic beverages may be served without charge and consumed at the event by guests, or by way of cash bar sales. The person or organization contracting with the event center for the event may charge in advance a general admission fee permitting attendance at the event;
- (5) With at least 12,000 square feet of enclosed heated space;
- (6) With an occupant capacity of at least 300; and
- (7) Which is located off of a major thoroughfare or a major road corridor.

*Farm winery* means a domestic winery as defined and regulated by O.C.G.A. § 3-6-21.1, which is licensed as a farm winery by the state.

*Farm winery tasting room* means an outlet for the promotion of a farm winery's wine by providing complementary samples of such wine to the public and for retail sale of such wine as provided and regulated by O.C.G.A. § 3-6-21.1.

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*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.

*Fuel* means any petroleum product, including, but not limited to, gasoline, diesel, kerosene, ethanol, and propane.

*Grocery store* means a store established primarily for the retailing of food. The term "grocery store" includes large grocery stores, such as supermarkets, that also stock products other than food, such as paper goods, cleaning supplies and household items in addition to food items. The term "grocery store" shall also include those grocery stores operated as a part of a large retail commercial center, such as those operated by Walmart.

*Growler* means reusable, resealable, and professionally sanitized container made of either glass, plastic or other material that may be considered as a bottle not to exceed two liters and not less than 12 ounces that is filled with craft beer from a keg and sealed airtight by a licensee, or an employee of a licensee, holding a malt beverage package license with ancillary growler malt beverage tasting issued by the city.

*Hotel, motel or resort* means every building or structure, or combination of buildings and structures, that is kept, used, maintained, advertised and held out to the public as a place where sleeping accommodations are offered for pay to travelers and guests, whether transient, permanent or residential, which contains ten or more rooms used for the sleeping accommodations of such guests, has one or more public dining rooms with kitchen and a seating capacity of at least 25, contains one or more conference/meeting/banquet rooms in either the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel, motel or resort operations.

*Licensed alcoholic beverage caterer* means any person licensed for the sale of alcoholic beverages by the state and who possesses a license by a local government in the state authorizing such person to sell or dispense alcoholic beverages by the drink off licensed premises and in connection with an authorized catered function.

*Lingerie modeling studio* means any place or commercial establishment wherein the patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling swim suits, lingerie or similar undergarments.

*Lounge* means a separate room connected with, a part of or adjacent to a restaurant or eating establishment, as defined in this section, provided that the seating capacity of the lounge shall not exceed that of its connected restaurant or eating establishment.

*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 "malt beverage" does not include sake, known as Japanese rice wine.

*Manufacturer* means any maker, producer, or bottler of an alcoholic beverage or distilled spirits. The term "manufacturer" also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits made from perishable fruits grown in the state or agricultural products, other than perishable fruits, grown in the state;
- (2) In the case of malt beverages and beer, any brewer; and
- (3) In the case of wine, any vintner.

The manufacturer of alcoholic beverages and distilled spirits is not allowed in the city, except for a brew pub which must meet the requirements of section 6-151, or a farm winery which must meet the requirements of section 6-196, or an authorized brewer which must meet the requirements of section 6-241

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*Non-profit community theatre* means an enclosed building with a minimum seating capacity of one hundred fifty (150) persons, and which is primarily devoted to theatre performances but not including any adult entertainment establishments. A non-profit community theatre must be primarily devoted to theatre performances and the performances of any such theatre shall be held on a regular basis with a minimum of 32 theatre shows or performances per year. The seating of the non-profit community theatre must be so arranged that a body of spectators can have an unobstructed view of the stage upon which theatrical, vaudeville, live concert or similar performances are given, and in which the serving of beer or wine, or both, is clearly incidental to such performances, and where the revenue derived from the sale of beer or wine, or both, is not more than 25% of the gross quarterly revenue of the non-profit community theatre when compared to all other sources of gross quarterly revenue. The non-profit community theatre shall be a bone fide non-profit civic organization. In order for a non-profit community theatre to qualify for a beer or wine, or both, license for consumption on the premises by the drink, the non-profit community theatre must have been actively and continuously in operation within the City of Blue Ridge as a non-profit community theatre and as a bone fide non-profit civic organization for at least one year immediately prior to the application for a license. All applications for either a new or renewal license to sale beer or wine, or both, by a non-profit community theatre for the year 2012 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent form 990 Return of Organization Exempt from Income Tax as signed by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the three years prior to the application of the new or renewal license and shall make such documents available for inspection upon request by any designated agent of the City of Blue Ridge, Georgia, during all hours during which the non-profit community theatre is open for business. In the event that a corporation licensed as a non-profit community theatre for any given year loses its federal income tax exemption, such non-profit community theatre must inform the City Administrator or his/her designee in writing of such change in status within fifteen days of the change in status. The failure to provide in writing notification of such change in status within fifteen days, in addition to the violation of any other provisions of the alcoholic beverage ordinance, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine up to the maximum penalties allowed under this Code. The non-profit community theatre shall be operated exclusively for the non-profit purposes of the community theatre, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of beer or wine, or both. No member, director, officer, agent, or employee of the non-profit community theatre shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of beer or wine, or both, but nothing herein shall prohibit the governing authority of the non-profit community theatre from establishing salaries for employees out of the general revenue of the non-profit community theatre. Prior to the date of application, no non-profit community theatre shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the non-profit entity or its assets (other than in the ordinary course of operating the non-profit entity), or the right to manage the non-profit community theatre in order to obtain its license to sell beer or wine, or both, nor shall any non-profit community theatre transfer, during the time that the non-profit community theatre holds a license pursuant to this chapter, any such interest or right.

*Non-profit public art gallery* means an enclosed building with a minimum seating capacity of one hundred fifty (150) persons and which is primarily devoted to the public display of art of any media, but not including any adult entertainment establishments. A non-profit art gallery must be primarily devoted to the public display of art of any media and the displays of any such gallery shall be held on a regular basis with a minimum of 32 art displays per year. The seating of the non-profit art gallery must be so arranged that a body of spectators can have seating from place to place that allows an unobstructed view of the art, and in which the serving of beer or wine, or both, is clearly incidental to the display of said art, and where the revenue derived from the sale of beer or wine, or both, is not more than 25% of the gross quarterly revenue of the non-profit art gallery when compared to all other sources of gross quarterly revenue. The non-profit art gallery shall be a bona fide non-profit civic organization. In



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order for a non-profit art gallery to qualify for a beer or wine, or both, license for consumption on the premises by the drink, the non-profit art gallery must have been actively and continuously in operation within the City of Blue Ridge as a non-profit art gallery and as a bona fide non-profit civic organization for at least one year immediately prior to the application for a license. All applications for either a new or renewal license to sale beer or wine, or both, by a non-profit art gallery for the year 2012 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent form 990 Return of Organization Exempt from Income Tax as signed by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the three years prior to the application of the new or renewal license and shall make such documents available for inspection upon request by the City Administrator or his/her designee during all hours during which the non-profit art gallery is open for business. In the event that a corporation licensed as a non-profit art gallery for any given year loses its federal income tax exemption, such non-profit art gallery must inform the City Administrator or his/her designee in writing of such change in status within fifteen days of the change in status. The failure to provide in writing notification of such change in status within fifteen days, in addition to the violation of any other provisions of the alcoholic beverage ordinance, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine up to the maximum penalties allowed under this Code. The non-profit art gallery shall be operated exclusively for the non-profit purposes of the art gallery, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of beer or wine, or both. No member, director, officer, agent, or employee of the non-profit art gallery shall be paid, or directly or indirectly receive, in the form of salary or other compensation, any profits from the sale of beer or wine, or both, but nothing herein shall prohibit the governing authority of the non-profit art gallery from establishing salaries for employees out of the general revenue of the non-profit art gallery. Prior to the date of application, no non-profit art gallery shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the non-profit entity or its assets (other than in the ordinary course of operating the non-profit entity), or the right to manage the non-profit art gallery in order to obtain its license to sell beer or wine, or both, nor shall any non-profit art gallery transfer, during the time that the non-profit art gallery holds a license pursuant to this chapter, any such interest or right.

*Nudist or naturalist facilities, campgrounds, restaurants, parks or recreational areas* means any facility that has a formal or informal policy or allowing participants, guests, invitees, licensees or any natural person the option of or requiring said persons to not wear clothing which covers specified anatomical areas as defined herein.

*On-premises consumption dealer* means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages, or any combination thereof, for consumption on the premises. A bona fide nonprofit organization may sell alcoholic beverages for consumption on the premises, or auction wine, pursuant to a special use temporary permit issued pursuant to this chapter and conditioned upon compliance with the requirements of this chapter.

*Package dealer* means any person engaged in selling, at retail only to consumers and not for resale, any wine or malt beverages in unbroken packages. The sale of distilled spirits by the package is not allowed in the city.

*Person* means any individual, limited liability company, any legal entity, 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.

*Pour* and *pouring* mean the sale of alcoholic beverages by the drink for consumption on the premises.

*Pouring outlet* means any place where alcoholic beverages are poured or proposed to be poured.

*Premises*, when used in conjunction with package sales, means the floor space on and from which the package sale of alcoholic beverages is conducted, and when used in conjunction with consumption on the

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premises sales, means the premises licensed for such sales. The term "premises" also means the space or area owned, leased and/or controlled by the licensee and used by him for the purposes of operating under the license. The term "premises" is further defined as one physically identifiable place of business consisting of one room, or two or more contiguous rooms operating under the same trade names where alcoholic beverages are sold. Any premises outlets which cannot be determined as one identifiable place of business shall require additional licenses regardless of such establishments having the same trade name, ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars, or portable bars used exclusively for the purpose of preparing drinks when such bars are accessible only to employees of the licensed establishment and from which drinks are prepared to be served in the licensed premises. As used within the context of the provisions of this chapter, premises can also mean the entire building and lot, including parking area.

*Residence* means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

*Resident* means a person whose primary residence is within the territorial limits of the county.

*Restaurant* means an eating establishment that is any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests, and which derives at least 50 percent of its total annual gross food and beverage sale from the sale of prepared meals or food (not including the sale of alcoholic beverages). At least one meal and food service for four hours per day shall be served at least five days a week during the months of April through October, and shall be served at least three days a week during the months of November through March, except that restaurants that open for business more than five days a week, shall be required to serve at least one meal per day each day that the restaurant is open, with the exception of holidays, vacation and periods of redecoration, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least 25 seats for customers. All types of eating establishments, in order to sell alcoholic beverages for consumption on the premises, by whatever name, including, but not limited to, pubs, taverns, bakeries, or otherwise, must meet the requirements of the term "restaurant" except as provided herein in order to receive an alcoholic beverage license for consumption on the premises.

*Specified anatomical areas* means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals or pubic region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia area in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means and includes any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of sexual relations, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoerasty;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (5) Masochism, erotic or sexually oriented torture, beating or the inflicting of pain;

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- (6) Erotic or lewd touching, fondling or other sexual contact with an animal by a human being; or
  - (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

*School* means an organized source of education or training as an institution for the teaching of children with the presence of full-time faculty and full-time curriculum in which the traditional subjects and learning processes associated with the grades of the common public schools are taught.

*Wholesaler* means any person who sells alcoholic beverages to other wholesale dealers, or to package 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, combination 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 in this section.

(Ord. No. 04-12-2011(1), § 110.45-1, 4-12-2011; Ord. No. 2013-09-10, § 1, 9-11-2013; Ord. No. 2014-03-03, § 1, 3-3-2014; Ord. No. 2015-08-11, § 1, 8-11-2015)

### **Sec. 6-2. Purpose of chapter.**

This chapter is enacted in furtherance of the police powers of the city to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by consumption on the premises of alcoholic beverages and by the package of malt beverages and wine; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell alcoholic beverages; to ensure that only qualified persons obtain licenses for the sale or distribution of alcoholic beverages; and to provide that bona fide nonprofit civic organizations may receive a special use temporary permit allowing the sale of alcoholic beverages for consumption on the premises or as otherwise provided by this chapter on a temporary basis and as a part of promotional events or fundraisers by said organizations.

(Ord. No. 04-12-2011(1), § 110.45-2, 4-12-2011)

### **Sec. 6-3. Compliance with chapter.**

- (a) No person shall sell or offer for sale any alcoholic beverages at wholesale, or by the package, or for consumption on the premises, within the city without first having complied with the provisions of this chapter. Bona fide nonprofit civic organizations, as defined herein, shall not offer to sell alcoholic beverages for consumption on the premises or otherwise without first having complied with the provisions of this chapter and receiving a special use temporary permit from the city.
- (b) In addition to any other requirements set forth in this chapter, the city may annually require any license holder subject to a ratio requirement to produce a statement prepared by a certified public account setting forth proof of compliance with the ratio and that consumable items are at least 50 percent of a licensee's business volume.

(Ord. No. 04-12-2011(1), § 110.45-3, 4-12-2011; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

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**Sec. 6-4. Violations; penalty.**

Any person found guilty of or entering a plea of guilty or nolo contendere to the offense of failing to pay the tax due pursuant to this chapter, either in whole or in part, shall, upon conviction thereof, be punished up to the maximum penalties allowed by the city Charter or under general law, and as assessed by a court of appropriate jurisdiction, including, but not limited to, the municipal court of the city. Violations of this chapter by the license holder or by agents of the license holder, or both, shall also be grounds for suspension, revocation, or denial of renewal of the license of the license holder, as provided herein.

(Ord. No. 04-12-2011(1), § 110.45-4, 4-12-2011)

**Sec. 6-5. Violations.**

Any person violating any of the provisions of this chapter shall be punished up to the maximum penalties allowed by the city Charter or under general law, and as assessed by a court of appropriate jurisdiction, including, but not limited to, the municipal court of the city. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, and shall be punished accordingly. Violations of this chapter by the license holder or by agents of the license holder, or both, shall also be grounds for suspension, revocation, or denial of renewal of the license of the license holder, as provided herein.

(Ord. No. 04-12-2011(1), § 110.45-5, 4-12-2011)

**Secs. 6-6—6-28. Reserved.**

**ARTICLE II. LICENSES**

**Sec. 6-29. Required.**

- (a) No person shall engage in the sale or distribution of alcoholic beverages in the city without first having obtained a license therefor, provided that wholesalers and distributors maintaining no fixed place of business, warehouse or other facility in the city and possessing a valid state license may make sales and deliveries to licensed package dealers, to licensed consumption on the premises dealers/licensees and to bona fide nonprofit civic organizations holding a special use temporary permit pursuant to the requirements of this chapter.
- (b) Except as specifically authorized in this chapter, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefore.
- (c) Bona fide nonprofit civic organizations shall not be required to hold a license for the sale or distribution of alcoholic beverages, but must receive from the city a special use temporary permit issued pursuant to this chapter and in compliance with the rules and regulations of the state department of revenue. For the limited purposes as allowed by this chapter, a special use temporary permit shall be deemed to be a valid license for the sale or distribution of alcoholic beverages by a bona fide nonprofit civic organization.

(Ord. No. 04-12-2011(1), § 110.45-6, 4-12-2011)

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## **Sec. 6-30. Types of licenses to be issued.**

Only the following alcoholic beverage licenses shall be issued under this chapter:

- (1) Malt beverages for sale by the package;
- (2) Wine for sale by the package;
- (3) Malt beverages for consumption on the premises;
- (4) Wine for consumption on the premises;
- (5) Distilled spirits for consumption on the premises;
- (6) Combination licenses:
  - a. Malt beverages and wine for sale by the package;
  - b. Malt beverages and wine for consumption on the premises;
  - c. Malt beverages and distilled spirits for consumption on the premises;
  - d. Wine and distilled spirits for consumption on the premises;
  - e. Malt beverages, wine and distilled spirits for consumption on the premises;
  - f. Malt beverage only by the package, with ancillary growler malt beverage tasting;
- (7) Farm winery licenses (which includes a tasting room of a farm winery);
- (8) Special use temporary permit issued only to bona fide nonprofit civic organizations;
- (9) Wholesale dealer licenses;
- (10) Authorized caterer license;
- (11) Authorized brewer license;
- (12) Authorized event center;
- (13) Malt beverages for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery;
- (14) Wine for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery;
- (15) Combination license of malt beverages and wine for consumption on the premises by the drink by a non-profit community theatre or a non-profit public art gallery.

(Ord. No. 04-12-2011(1), § 110.45-7, 4-12-2011; Ord. No. 2013-9-4, § 1, 4-9-2013; Ord. No. 2013-09-10, § 1, 9-11-2013; Ord. No. 2014-03-03, § 1, 3-3-2014; Ord. No. 2015-08-11, § 1, 8-11-2015)

## **Sec. 6-31. Qualifications of applicants.**

- (a) No license shall be granted under this chapter to any applicant who is not at least 21 years of age and each applicant must be a citizen or resident legal alien of the United States. The applicant must be a person of good moral character and a resident of the county for one year preceding the filing of the application (the residency requirement may be met by a managing agent for applicant). Honorably discharged members of the U.S. military services may have their service count for residency requirements, but must be a county resident at the time of application.

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- (b) Corporations or limited liability companies shall apply for a license in the name of the corporation or the limited liability company and a managing agent for the corporation or limited liability company, and the license shall be issued to the corporation or the limited liability company and the managing agent. Corporate or limited liability company applicants shall attach to the application a certificate showing compliance with the annual registration requirements from the secretary of state, corporate division, and showing the name and address of a registered agent for service within the state. Partnerships shall apply for a license in the name of one of the partners (and a managing agent for the partnership), and the license shall be issued in the name of the applicant. Where the applicant is a corporation or a limited liability company, a managing agent involved in the active management of the business to be licensed, as designated by corporate or limited liability company resolution, shall meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. If the applicant is a partner in a partnership, the requirements of this section shall apply to the managing agent for the partners at the time of application, and at all times during which the license is in effect. Owners, partners, members, and shareholders must meet all requirements under this chapter to be issued a license, unless the entity has a managing agent who meets all requirements, and in which event, the residency requirement will not apply to owners, partners, members, and shareholders.
- (c) In addition to meeting all qualifications for a license under state law, all applicants for licenses, whether original or renewal, must attach to their applications evidence of their good character. In addition to meeting state qualification standards, no license, whether original or renewal, shall be issued to any person, partnership, limited liability company or corporation organized for pecuniary gain if any individual having an interest either as owner, partner, member, or stockholder, directly or indirectly, beneficial or absolute, or such person's spouse shall have been convicted of or shall have taken a plea of guilty or nolo contendere to, once, within ten years immediately prior to filing, any felony or any violation of any law or administrative regulation regulating the sale, manufacture or distribution of alcoholic beverages, sex offense or narcotics. No license, whether original or renewal, shall be issued to any person, partnership, limited liability company, or corporation where an individual having an interest as owner, partner, member, or stockholder, directly or indirectly, beneficial or absolute, shall have been convicted of or shall have taken a plea of guilty or nolo contendere to, once within ten years immediately prior to the filing of the application, the offense of driving a motor vehicle under the influence of intoxicating liquor or drugs. The restrictions of this subsection as to members or stockholders shall apply only to members or stockholders of privately owned limited liability companies or corporations and to stockholders of publicly owned corporations who hold in excess of ten percent of outstanding stock.
- (d) Corporations, partnerships and other types of legal organizations shall have the license jointly issued in the entity's name and an individual who meets the requirements of subsection (a) of this section and who does in fact have managerial authority over the business conducted on the licensed premises, including the sale of alcoholic beverages, and who is employed full-time by the entity. Said individual shall be known as the managing agent. In the event the managing agent changes, the licensee shall notify the city license clerk within five days of the change. A fee, as established by the mayor and council from time to time, will be charged for the processing of an application for the change of the managing agent
- (e) Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal.

(Ord. No. 04-12-2011(1), § 110.45-8, 4-12-2011)

### **Sec. 6-32. Application submission; basic information.**

- (a) Every applicant for a license under this chapter shall make written application to the city license clerk on forms furnished by the city. The applicant shall answer all questions on the application, under oath, and shall

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supply all information and furnish all certificates, affidavits, bonds and other supporting data or documents as required by this chapter.

- (b) Each application shall state the name and address of each applicant (including the managing agent); the place where the proposed business is to be located; and the type license applied for, whether for distilled spirits, malt beverages or wine, or any combination thereof, and whether for wholesale, for consumption on the premises (pouring) or package sale or other license or permit allowed by this chapter. The application shall also contain a beginning balance sheet showing the proposed original capitalization of the business and its source. If an applicant is a corporation, the application shall state the names of all officers and stockholders of the corporation and the percentage ownership of each. If the applicant is a partnership, the application shall state the names of all partners therein, whether general or limited. If the applicant is a limited liability company, the application shall state the names of all members therein. All applications shall include the names of all persons that have or will have a direct or indirect beneficial interest in the business for which the license is sought. Each application shall also contain such additional information as the city or designated agent prescribes, shall be verified as true by the applicant before filing and shall be accompanied by a nonrefundable deposit of \$350.00 to cover the cost of investigating the applicant and processing the application. Criminal background checks by fingerprinting shall also be performed of the applicant and the managing agent with the fingerprinting included as a part of the application fee.
- (c) Applications for a consumption on the premises (pouring) license shall only be made by eating establishments that meet the definition of a restaurant, as defined herein, except for special use temporary permits issued to bona fide nonprofit civic organizations and except as to bed and breakfasts and hotels, motels or resorts as provided herein. Consumption on the premises licenses shall be required to maintain at least 50 percent of their business volume from the sale of food. Food sales shall include all consumable items sold on the premises except alcoholic beverages. Each application for a consumption on the premises (pouring) license shall demonstrate that the applicant at the requested premises has an adequate and sanitary kitchen and dining room, air conditioning, adequate space for the minimum number of seats for customers, and the anticipated days of the week that applicant shall be serving meals to the general public. The serving of meals to the general public shall be the principal business conducted by an applicant for a consumption on the premises (pouring) license, with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. Eating establishments may operate a lounge upon the premises, so long as the eating establishments meet the food requirements under this chapter, and the operation of the lounge is only incidental to the operation of the eating establishment. A licensed hotel or resort meeting the other requirements of this chapter may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full-service eating establishment in the hotel/resort which shall meet all of the requirements of this chapter. This provision specifically does not allow a standalone bar, but rather allows a snack bar or smaller café on the premises with alcohol service together with food service. A bed and breakfast meeting the other requirements of this chapter except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full-service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for non-alcohol sales which may include revenue from the sale of rooms.

(Ord. No. 04-12-2011(1), § 110.45-9, 4-12-2011)

### **Sec. 6-33. Distance prohibitions.**

- (a) Package sales.
- (1) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by the package within 300 feet of the premises of any school building, college building, school grounds or college grounds.

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- (2) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by the package within 300 feet of any church.
  - (3) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by the package within 300 feet of any alcohol treatment center or housing authority property.
- (b) Sales by consumption on the premises (pouring).
- (1) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 250 feet of the premises of any school building, college building, school grounds or college grounds.
  - (2) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 250 feet of any school building, educational building, school grounds or college campus.
  - (3) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 250 feet of any church.
  - (4) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 250 feet of any church.
  - (5) No malt beverage or wine, or both, shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 300 feet of any alcohol treatment center or housing authority property.
  - (6) No distilled spirits shall be offered for sale, sold or dispensed by consumption on the premises (pouring) within 300 feet of any alcohol treatment center or housing authority property.
- (c) In order to demonstrate the location meets all distance prohibitions imposed by this chapter, each application for a license to sell alcoholic beverages shall be accompanied by a scale drawing of the premises for the proposed business, showing its location with respect to all streets within 600 feet in every direction. Such drawing shall also depict the distance from the premises (being the front door) to each premise (being the front door) of each church, school building, or other pertinent facility. All such distances shall be measured by the most direct route of travel on the ground.
- (d) The distances provided for herein shall not apply:
- (1) To any premises or location where an alcoholic beverage license was issued or approved prior to July 1, 2005, so long as alcoholic beverages were being sold or dispensed in compliance with the other provisions of this chapter.
  - (2) To any premises or location where alcoholic beverages are being sold or dispensed in compliance with the other provisions of this chapter and a school, church or other pertinent facility is built or erected within the minimum distances provided for in this section.

(Ord. No. 04-12-2011(1), § 110.45-10, 4-12-2011)

### **Sec. 6-34. Review of application.**

In reviewing an application under this chapter, the city license clerk or designated agent of the city may utilize the chief of police and other city officials with respect to matters within their areas of expertise. All applicants shall furnish such additional data, information and records as may be requested of them by the city license clerk, chief of police or his designee such as would be useful in determining whether to approve or reject such application. Copies of all form ATT-17, Personnel Statements, filed with the state shall be submitted with the application. By filing an application, the applicant agrees to produce for oral interrogation any person who is to have a beneficial interest in the business for which the license is sought or who is to be employed by such business.



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The failure to provide requested data, information and records or to make those persons specified available for interrogation within a reasonable time shall be grounds for denial of an application.

(Ord. No. 04-12-2011(1), § 110.45-11, 4-12-2011)

### **Sec. 6-35. Ownership of premises.**

Unless the applicant under this chapter will own the premises from which the business will be conducted, the application shall also disclose the name of every person owning a beneficial interest in the premises and shall state the manner in which the rental is to be determined, and to whom and at what intervals the rent is to be paid. The applicant shall also attach a copy of the proposed lease with the verified statement of the applicant that such lease contains the entire agreement between the parties. No license shall be issued to an applicant who leases premises under a variable rent system whereby the landlord shares in the profits from the business.

(Ord. No. 04-12-2011(1), § 110.45-12, 4-12-2011)

### **Sec. 6-36. Limitations regarding licenses held.**

- (a) No person shall have an interest in more than five alcoholic beverage licenses, regardless of the degree of such interest. A combination license from the city, allowing the sale of more than one type of alcoholic beverage shall be considered as one alcoholic beverage license.
- (b) Beneficial interest in a license.
  - (1) For the purpose of this section, a person shall be deemed to have a beneficial interest in a license when he:
    - a. Holds a license to sell by the package.
    - b. Has any ownership interest, whether legal, equitable or other, in or control over a package license.
    - c. Holds a license to sell by consumption on the premises (pouring).
    - d. Has any ownership interest, whether legal, equitable or other, in or control over a consumption on the premises (pouring) license.
  - (2) Under the de minimis concept, a person who owns less than five percent of the shares of a corporation which has more than 35 shareholders or whose stock is publicly traded shall not, on the fact of stock ownership alone, be deemed to have a beneficial interest in a license held by a corporation. Likewise, a five percent interest in a limited liability company shall not be deemed to be a beneficial interest in a licensee held by the limited liability company.
  - (3) With regard to this section, a person will not be deemed to have an interest in more than one alcoholic beverage business when separate malt beverage and wine licenses are held by the same licensee at the same business premises conducted as a single operation.
- (c) Nothing contained in this section is intended to prohibit the child of the holder of an alcoholic beverage license from also owning such a license if such child is emancipated and holds no business or financial interest or vested interest in the parent's operation.
- (d) No person shall have, own or enjoy any ownership interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage license unless a full description of such interest shall have been furnished to the city at the time of making application for the license. It shall be the continuing duty of an alcoholic beverage licensee to report to the city license clerk, in writing, within ten days, any

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change in any interest in such licensee's business. Failure to report to such change in interest shall be grounds for suspension or revocation of the license.

- (e) No alcoholic beverage license shall be issued by the city under this chapter to any person holding a city, vehicles for hire, taxicab license or taxi driver's permit.
- (f) No alcoholic beverage license shall be issued at a premises where an adult entertainment establishment is operating, or is to be operated.
- (g) The sale of distilled spirits by the package is not allowed within the city.

(Ord. No. 04-12-2011(1), § 110.45-13, 4-12-2011)

### **Sec. 6-37. Sale, distribution and other dealing in alcoholic beverages within the city by officials and employees; exemptions.**

- (a) No member of the city council who holds any interest, directly or indirectly, in any establishment licensed by the city to sell, distribute or otherwise deal in alcoholic beverages shall vote on any matter involving or relating to said establishment. For purposes of this subsection, a member shall be deemed to have or hold a beneficial interest if the license is issued in the name of the person's spouse, child, parent or sibling, or in a partnership or corporation or limited liability company in which such persons owns more than ten percent controlling interest.
- (b) No officer or employee of the city, whose official duties involve issuance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws, shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the city or in any establishment licensed by the city to engage in the sale or distribution of alcoholic beverages. The mayor, upon advice and consent of the city council, may exempt officers and employees of the city from the provisions of this subsection, upon written finding that such officer or employee's involvement, direct or beneficial, in any business licensed by the city to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the city.
- (c) No officer or employee of the city shall be permitted to engage in employment with any person, firm or corporation licensed by the city to sell or distribute alcoholic beverages. The city council may, in writing, exempt those officers or employees from the prohibition of this subsection, upon finding that such employment would pose no conflict of interest or interference with the performance by the officer or employee of his official duties for the city; provided, however, no certified police officer shall be permitted employment by any establishment that deals in alcoholic beverages without first obtaining the written consent of the chief of police.

(Ord. No. 04-12-2011(1), § 110.45-14, 4-12-2011; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

### **Sec. 6-38. Standard for new license at existing location.**

An application for a new alcoholic beverage license for an existing licensed location shall be subject to all the requirements for the granting of an original application for a new license.

(Ord. No. 04-12-2011(1), § 110.45-15, 4-12-2011)

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## Sec. 6-39. Special provisions for wholesalers.

- (a) No person or entity shall sell any alcoholic beverage at wholesale unless the person or entity holds a valid and current wholesale license from the state and from the city or county where the principle place of business of the wholesaler is located.
- (b) A person or entity desiring to engage in the wholesale sale of alcoholic beverages in this city shall obtain a license in accordance with the provisions of this chapter and pay the license fees as set by this chapter.
- (c) No person or entity that has any financial interest, either direct or indirect, in any license for the retail sale of any alcoholic beverages in the county or in the city shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the state.
- (d) Farm wineries acting as wholesalers under the provisions of O.C.G.A. § 3-6-21.1 are exempt from this provision and may, upon proper application, approval, and permitting, hold licenses as on premises, bulk, or package sales and wholesale operations at a single location.
- (e) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided however, that this subsection shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (f) No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- (g) Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a licensed wholesaler.
- (h) Licensed wholesalers shall only engage in the sale of alcoholic beverages during regular business hours of the retailer, Monday through Saturday, excluding Christmas Day.
- (i) All provisions of this chapter, including those regarding licenses, qualifications, audits, records, and penalties, shall also apply to wholesalers.
- (j) No wholesaler's license under this chapter shall be issued except for premises located within an industrial zoning classification and meeting all requirements of the city zoning and developmental ordinances.

(Ord. No. 04-12-2011(1), § 110.45-16, 4-12-2011)

## Sec. 6-40. Location restrictions.

- (a) *Package sales.*
  - (1) Package sales of malt beverages and/or wine may be conducted only in conjunction with package stores or the business operation of a supermarket, convenience store, or drugstore meeting the requirements of this section. For the purpose of this subsection, the term "supermarket" means a grocery retailer carrying a full selection of food and grocery items, including fresh produce and meats. For the purpose of this subsection, the term "convenience store" means a retail store carrying a limited selection of canned, packaged or prepared food and grocery items and at which fuel may be regularly available for sale, provided that no service or mechanical work is performed on motor vehicles. General merchandise department stores with floor space open to the public in excess of 25,000 square feet having the inventory of a supermarket may be licensed as a supermarket. For the purpose of this subsection, the term "drugstore" means a retail store at which prescription drugs and medications are dispensed under the control of a licensed pharmacist, and which sells at retail various personal health-related items for which prescriptions are not required.

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- (2) Licenses for the package sale of malt beverages and/or wine will be issued only for premises located within a commercial zoning classification under the city zoning ordinance.
  - (3) All premises at which the package sale of malt beverages and/or wine is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.
  - (4) Premises licensed on July 1, 2005 for the package sale of malt beverages and/or wine and lying outside the locations authorized for package sales in subsection (a)(2) of this section may continue such operation, provided they are in compliance with all other provisions of this chapter. Cessation of any such business for 90 days creates a rebuttable presumption of abandonment and may result in loss of grandfather status and serve as grounds for revoking any current license. Except as provided herein, no new licenses shall be issued for a location not meeting the location requirements of subsection (a)(2) of this section.
- (b) *Consumption on the premises (pouring).*
- (1) Except as provided otherwise herein this chapter, consumption on the premises (pouring) sales of distilled spirits, malt beverage and/or wine may be conducted only in conjunction with an eating establishment which has as its principal business conducted being the serving of meals, and with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. The eating establishment, by whatever name called, must meet the definition of a restaurant as defined in section 6-1. Consumption on the premises (pouring) licensees shall maintain at least 50 percent of their business volume from the sale of food, which shall not include the sale of alcoholic beverages. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The 50 percent ratio shall be determined on a calendar quarter basis pursuant to monthly reports that will be submitted under oath (and subject to all penalties for false swearing) by each licensee to the administrative office of the city. In the event food sales fall below 50 percent of the business volume of the license holder in any quarter, then the license holder shall be placed on probation for the next succeeding quarter. The city license clerk or other designated agent of the city shall notify the license holder in writing of the probation. At the end of the next succeeding quarter, if food sales have not attained 50 percent of business volume, then the city administrator, or other designated agent of the city, shall suspend such license for a period of six months in accordance with section 6-50. After the period of suspension, should the license holder fail to meet the 50 percent food sales ratio for any quarter during the year following suspension, then the pouring license shall be revoked following the procedures of section 6-50. Nothing herein provided shall prevent the city council or other duly designated agent of the city from suspending or revoking such licenses for any other violations of this chapter. Authorized agents of the city may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this chapter are met. Licensees for consumption on the premises (pouring) licenses shall provide a monthly report, under oath (and subject to all penalties for false swearing) by the 15th day of the following month, to the administrative office for the city, that demonstrates that the food sale requirements of this chapter have been met. Such licensees, upon request by the city or its designated agent, shall provide to the administrative office of the city, any and all backup documentation to demonstrate that the food sale requirements of this chapter have been met. Failure to provide any of the reports or documentation required under this chapter by the licensee to the city may result in the city council or other designated agent of the city suspending the pouring license until the reporting requirements are met, and may result in revocation of the pouring license by following the revocation procedures provided within this chapter.
  - (2) Licenses for consumption on the premises sale of alcoholic beverages will be issued only for premises located within a commercial zoning classification under the city zoning ordinance.

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- (3) All premises at which the consumption on the premises sale of alcoholic beverages is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.
  - (4) Notwithstanding the provisions of subsection (b)(1) of this section, the following provisions shall apply to hotels, motels or resorts and to bed and breakfasts, and said businesses shall be governed as follows for pouring licenses:
    - a. A licensed hotel or resort meeting the other requirements of this chapter may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as there is also a full-service eating establishment in the hotel/resort which shall meet all of the requirements of this chapter. This provision specifically does not allow a standalone bar, but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.
    - b. A bed and breakfast meeting the other requirements of this chapter except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full-service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for non-alcoholic sales which may include revenue from the sale of rooms.

(Ord. No. 04-12-2011(1), § 110.45-17, 4-12-2011)

#### **Sec. 6-41. Compliance with city ordinances and regulations.**

No license under this chapter shall be issued to any applicant if any person holding a beneficial interest in the business to be licensed owes any delinquent taxes, assessments, fees, water charges, sewer charges, or other fees to the city. No license under this chapter shall be issued to any applicant if any person holding a beneficial interest in the business is currently in violation of any ordinance or regulation of the city, and the applicant has not cured the violation and come into compliance with the ordinances and regulations of the city. No license under this chapter shall be issued as to any premises where an adult entertainment establishment operates or is to be operated.

(Ord. No. 04-12-2011(1), § 110.45-18, 4-12-2011)

#### **Sec. 6-42. Investigation of application; issuance.**

Every application filed pursuant to this chapter shall be thoroughly reviewed by the chief of police, who shall make a formal written report and recommendation to the city administrator. The city administrator shall review the chief's report and make such further investigation as it or he deems appropriate. All applications shall be investigated and acted upon within 90 days of the date of submission of a completed application, unless consent of the applicant to extend the investigative period has been obtained in writing. Inability of the city administrator or its designated agent of the city to obtain the good faith cooperation of the applicant in the investigation process within the time period specified shall constitute grounds for denial of the license.

(Ord. No. 04-12-2011(1), § 110.45-19, 4-12-2011)

#### **Sec. 6-43. Considerations for granting of licenses.**

- (a) It shall be the duty of the city administrator or his designated agent of the city to issue or refuse to issue a license under this chapter to any applicant. In determining whether or not any application shall be granted

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and a license issued, the city administrator or its designated agent of the city shall consider all mandated standards of this chapter and the following information in the public interest and welfare:

- (1) If the applicant and/or any holder of an interest in the license has ever violated any federal, state, county or municipal law, ordinance or administrative regulation regarding alcoholic beverages, their possession, sale, manufacture, distribution, handling, or dealing therein.
  - (2) The manner in which the applicant and/or any holder of an interest in the license has conducted any business within the city as to the necessity for excessive police intervention.
  - (3) The reasonably anticipated effect on the immediately surrounding neighborhood for which the license is sought as to traffic congestion, noise and/or light pollution.
  - (4) Whether the applicant and/or any holder of an interest in the license has ever had any alcoholic beverage or business license suspended or revoked by any state or any political subdivision thereof, or whether any alcoholic beverage business with which the applicant and/or any holder of an interest in the license has been associated has been cited for a violation of the laws or regulations of any state or any local ordinance pertaining to alcoholic beverages, and the outcome of such proceedings.
  - (5) A person, as determined by the city administrator or his designated agent, by reason of such person's business experience, financial standing, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
  - (6) A person who has been convicted under any federal, state or local law of any felony involving moral turpitude.
  - (7) A person who has been convicted under any federal, state or local law of any felony not involving moral turpitude within ten years immediately preceding the filing of application for such license.
  - (8) A person convicted under any federal, state or local law of a misdemeanor, particularly, but not limited to, those involving alcoholic beverages, gambling or tax law violations, if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
  - (9) A location within an area where, in the judgment of the city administrator or his designated agent the number of alcoholic beverage licenses already granted makes it contrary to the public interest or welfare.
  - (10) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the agent (or city council, as applicable) the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.
  - (11) Which the granting of such license would constitute a violation of state law or regulations.
  - (12) Applicant is not in compliance with, or cannot comply with any of the terms of this chapter.
- (b) If, upon investigation of an application for renewal of an existing license, the city administrator or his designated agent of the city determines the applicant or any of its employees have been convicted, or entered a plea of guilty or nolo contendere to, any felony, any law, regulation or ordinance involving alcoholic beverages, gambling, narcotics, or tax laws, sufficient to warrant denial, the city council or its designated agent of the city shall have the option of issuing a probationary license conditioned upon levy and payment of a probation fee in the amount as established by the mayor and council from time to time.

(Ord. No. 04-12-2011(1), § 110.45-20, 4-12-2011)

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### **Sec. 6-44. Grant of application; notice of denial.**

- (a) All applications for alcoholic beverage licenses meeting this chapter shall be granted by the city administrator or his designated agent of the city for a period of up to one year, expiring on December 31 in each year, unless some specific cause regarding location, traffic or environmental conditions or the specific causes set out in section 6-43 justifies a refusal. In the event of denial for location, traffic or environmental conditions, the applicant shall be entitled to file a new application of like kind for a different location without the loss of any part of the application fee. In the event the city requests additional documents during the application review, the 90-day review period shall be stayed until production of the additional documents is completed.
- (b) If the city administrator or other designated agent of the city denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reasons therefore. The applicant shall have the right to appeal to the city council (including the mayor) by filing a request for a hearing with the city clerk no more than ten days following receipt of the denial notice. A hearing shall be held not more than 30 days from the date the city clerk receives the written notice of appeal. Within ten days from the date of conclusion of the hearing, the city council (including the mayor) shall notify the applicant and the city clerk, in writing, of their decision.

(Ord. No. 04-12-2011(1), § 110.45-21, 4-12-2011)

### **Sec. 6-45. False information in application.**

Any material omission from, or untrue or misleading information in, an original, renewal or transfer application for a license under this chapter shall be cause for the denial or refusal of a license, or for the revocation of a license previously granted. Any failure to notify the city clerk of the change in any relationship as specified in section 6-36(d) within ten days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

(Ord. No. 04-12-2011(1), § 110.45-22, 4-12-2011)

### **Sec. 6-46. Fees.**

- (a) There is hereby imposed a license fee, payable at the time of issuance of the license under this chapter and each annual renewal license, except as provided herein, as established by the mayor and council from time to time.
- (b) The license fees imposed by this section are regulatory fees intended to offset the city's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax in accordance with chapter 10.
- (c) When a new license is issued on or after July 1, the license fee shall be reduced by one half.

(Ord. No. 04-12-2011(1), § 110.45-23, 4-12-2011; Ord. No. 2013-09-10, § 1, 9-11-2013; Ord. No. 2014-03-03, § 1, 3-3-2014; Ord. No. 2015-08-11, § 1, 8-11-2015; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

### **Sec. 6-47. Payment of fee; renewal.**

All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses shall apply to the city license clerk for renewal for the next calendar year between September 1 and December 15 by filing a renewal application in proper form and tendering the required fee. The city license clerk shall request a recommendation from the Police Chief regarding his recommendation to renew,

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which shall be based on the number of alcohol related incidents that occurred in that establishment. If the location has created a public nuisance, the Police Chief can recommend to the City Administrator that the location not be renewed. The decision of the City Administrator not to renew a permit may be appealed to the City Council. Renewal applications will be accepted also from December 15 through December 31, but shall bear a ten percent penalty. Annual license fees are due upon renewal filing and shall be past due if not paid by that date. After December 15, there shall be imposed a penalty of twenty percent of the amount of the license fee, which together with the license fee shall be paid before a new license is issued. The state department of revenue shall be promptly notified of all licenses which were not renewed on or before January 1, and all privilege to carry on and conduct a business governed by this chapter shall be immediately suspended due to license expiration.

(Ord. No. 04-12-2011(1), § 110.45-24, 4-12-2011)

#### **Sec. 6-48. Privilege nature of license and signage.**

- (a) All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by the city Charter, this chapter and other applicable ordinances of the city and the constitution, laws and regulations of the state and of the United States applicable thereto.
- (b) All licenses issued under this chapter shall have printed on the face the following words: "This license is a privilege conditional on the holder meeting all standards for such license and operating regulations applicable thereto set out in city ordinances and state law. Failure to meet such standards or to comply with such operating regulations shall subject the holder to civil penalties which may include the license being revoked following notice and hearing."
- (c) All licenses shall be conspicuously posted in the place of business.
- (d) At any establishment subject to this chapter there shall be posted conspicuously at or near each entrance of the establishment, a sign which shall state the following: "The city and the state require you to be 21 years of age in order to purchase and consume alcoholic beverages, and to provide proper proof of age prior to purchase. Please have your identification ready to present to the server, manager or cashier, persons providing false identification will be prosecuted."
- (e) Further, retail consumption and retail dealers who sell at retail any alcoholic beverages for consumption on the premises shall post, in a conspicuous place, a sign which clearly reads: "Warning, drinking alcoholic beverages during pregnancy can cause birth defects."

(Ord. No. 04-12-2011(1), § 110.45-25, 4-12-2011)

#### **Sec. 6-49. Transferability of licenses.**

- (a) *Generally.* Licenses issued pursuant to this chapter shall not be transferable except as otherwise provided in this section.
- (b) *Death.* In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the city administrator or his designated agent of the city and subject to the terms of this chapter, be transferred to the administrator, executor or personal representative of the deceased person, or to the devisees or heirs at law of the deceased person, if such devisees or heirs meet the qualifications contained in this chapter. The license of a deceased person shall be held by his administrator, executor, or personal representative only for the time necessary to complete administration of his estate and to dispose of the license or interest therein. One transfer may be made by the administrator, executor, or personal representative of a deceased license holder to a person meeting the qualifications of this chapter.



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- (c) *Partnerships.* Nothing in this section shall prohibit a partner in a partnership holding a license to withdraw from the partnership and to assign his interest to one or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not serve to bring any new ownership into the partnership, unless such new owner shall apply for a license and comply with all provisions of this chapter, and then only upon the approval of the city administrator or his designated agent of the city.
  - (d) *Increased capitalization.* A partnership or corporation holding a license may take on additional partners or shareholders or members, as the case may be, where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanded facilities of the business or for building new facilities and where it further appears that the other partners or shareholders or members will not receive any of the additional capital investment. Such additional partner or new stockholder or member must apply for a license and meet all requirements of a licensee, including approval by the city council or its designated agent of the city before he shall be permitted to acquire such interest.
  - (e) *Transfer of locations.* No city license may be transferred from one location to another without permission and approval of the city administrator upon receipt of a written application made. Approvals as to any change shall be at the discretion of the city administrator pursuant to the provisions of this chapter.
    - (1) Any licensee desiring to discontinue business at one location and commence business at some other new location must make a complete new application for such new location. Upon proper application and provided that there has been no change of ownership or interest in the business, the city council may permit the license to be transferred upon payment of a fee required in section 6-46 for a change of location, provided that the licensee and the new location meet all qualifications required by this chapter. The fee for a change of location shall be in addition to the original license fee paid by the licensee for the calendar year.
    - (2) Upon the sale of an existing business, the city license issued for that business location shall remain in effect pending approval or denial of a new application by the city administrator, provided that the buyer or transferee meets all the qualifications required by this chapter, and provided that the buyer or transferee has immediately upon the date of sale or prior to the date of sale made proper written application and has paid the original license fee required by section 6-46.
    - (3) All licenses issued pursuant to this chapter shall be valid only so long as the licensee is actively engaged in such business, with the exception of holidays, vacations, and periods of redecoration, and in the event the licensee shall cease to be actively engaged in such business such license shall be invalid and the licensee of such business shall immediately notify the city administrator and return his license thereto.

(Ord. No. 04-12-2011(1), § 110.45-26, 4-12-2011)

### **Sec. 6-50. Suspension and revocation; grounds and procedure.**

- (a) Except as provided in sections 6-52 and 6-53, no license which has been issued or which may be issued pursuant to this chapter shall be suspended or revoked except for due cause and after hearing and upon prior three-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
- (b) The term "due cause," for the purposes of this section, shall include, but not be limited to:
  - (1) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws involving the premises, the license, or occurring upon the premises.

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- (2) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense.
  - (3) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.
  - (4) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.
  - (5) Failure to meet or maintain any standard prescribed by this chapter as a condition or qualification for holding a license. Included within this subsection, but not limited thereto, is the failure of a on the premises (pouring) license holder to meet the food sale requirements and the other requirements of this chapter, and which shall be a continuing condition for the validity of said license.
  - (6) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances. With respect to this section, it shall be rebuttably presumed that the violative act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.
- (c) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as it appears in the records of the city. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service.
  - (d) The hearing shall be conducted by the city council or a hearing officer appointed by the city council.
  - (e) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney or other designated agent shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing, the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the city, and may call witnesses and present evidence on its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the city council or the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
  - (f) The city council or the hearing officer shall make his final determination within ten days of the completion of the hearing. The decision shall be placed in writing and contain the city council or the hearing officer's findings of fact, conclusions of law, and decision as to penalty, if any. Such penalty may include one or more of the following: suspension of the license for no more than 12 months, revocation of the license, imposition of a probationary period not to exceed 12 months, and/or a civil penalty not to exceed the amount allowed by the city Charter or general state law. In the assessment of any penalties, the city council or the hearing officer can consider evidence presented by the licensee of any training program for employees instituted by the licensee, or to be instituted, to prevent further violations.

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- (1) Notwithstanding the foregoing, in the event that a license holder, including, but not limited to, any employee of the license holder while acting in the employment of said license holder, furnishes or causes to be furnished, sells, or permits any person in such employer's employ to furnish any alcoholic beverage to any person under 21 years of age, then for a first offense, the minimum penalty shall be a civil fine of \$500.00 and a 30-day suspension of the right of the license holder to sell alcoholic beverages.
  - (2) In the event that a license holder has been found guilty of a second offense of an underage sale within one year of the first offense, then the minimum civil fine shall be \$1,000.00 and the right to sell alcoholic beverages by said license holder shall be suspended for 90 days.
  - (3) In the event of a third offense, within one year of the first offense, then the license holder shall have a minimum fine of \$1,000.00, the alcoholic beverage license shall be revoked, and the license holder shall be unable to reapply for the alcoholic beverage license for one year from the date of the revocation of the original license.
- (g) The city council or the hearing officer's decision shall be mailed by first class mail or hand delivered to the licensee and the city attorney or other designated agent of the city within ten days of the close of the hearing.
- (h) A total of four separate and unrelated violations within 24 months, whether or not within the probationary period, shall constitute grounds for permanent revocation.
- (Ord. No. 04-12-2011(1), § 110.45-27, 4-12-2011)

#### **Sec. 6-51. No refunds following suspension or revocation.**

If a license issued under this chapter is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application or license fees previously remitted.

(Ord. No. 04-12-2011(1), § 110.45-28, 4-12-2011)

#### **Sec. 6-52. Short-term emergency suspension for violation involving licensed business.**

- (a) The mayor and/or city administrator has authority to suspend a license for a short-term period not to exceed ten days. The mayor/city administrator's decision shall be in writing, with the term of the suspension and the reasons therefor stated, and shall be mailed or delivered to the licensee as provided in section 6-50.
- (b) A short-term suspension by the mayor/city administrator must be for an emergency cause. Emergency cause for the short-term suspension of a license shall consist of a third or subsequent violation by the same licensee or the licensee's agents on the same premises within a one-year period of any state or federal laws, administrative regulations of the state or city ordinances regulating such business holding a license, including those prohibiting gambling, regulating the sale, manufacture, distribution, handling, dealing in, and possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in an unlawful manner, and the manufacture, sale, or distribution of any controlled substance which puts the city and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for in section 6-50 can be held.

(Ord. No. 04-12-2011(1), § 110.45-29, 4-12-2011)

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**Sec. 6-53. Emergency suspension of all alcoholic beverage licenses.**

The city council is authorized to suspend the sale of alcoholic beverages under all licenses issued pursuant to this chapter during any state of emergency declared by the governor or any local emergency as defined by O.C.G.A. § 36-69-2, or for any other serious emergency situation when the city council deems such immediate suspension necessary for the protection of the health and welfare of the citizens of the city. Such suspension may be made effective immediately and shall remain in force until the city council determines the emergency is over or until the next meeting of the city council, at which time the suspension shall cease unless the same is extended by affirmative action of the city council.

(Ord. No. 04-12-2011(1), § 110.45-30, 4-12-2011)

**Sec. 6-54. Acceptance of application after rejection or revocation.**

When any license or permit to operate a package store or a pouring license is rejected or revoked by the city council or its designated agent, no new application shall be accepted from the same applicant for a license within 12 months from the time of such rejection or revocation. Submission of a new application by another applicant, which application shows the applicant was previously rejected or revoked as a holder of an interest in the desired license, shall result in rejection of the new application.

(Ord. No. 04-12-2011(1), § 110.45-31, 4-12-2011)

**Secs. 6-55—6-81. Reserved.**

***ARTICLE III. REGULATIONS FOR ALL ESTABLISHMENTS AND OTHER PROPERTY  
OPEN TO PUBLIC***

**Sec. 6-82. New buildings; expiration of license for failure to commence or operate business.**

- (a) Where a building in which a licensee proposes to operate under the provisions of this chapter is, at the time of application for such license, not in existence, or not yet completed, a license may be issued for such location, provided the plans and specifications for the proposed building are filed with the city license clerk and show a compliance with the other provisions of this chapter and other applicable ordinances of the city. No sales shall be allowed in such establishment until it has been completed in accordance with plans and specifications and is in conformity with all other provisions of this chapter and other applicable ordinances of the city. If the building is not completed during the year in which the license fee was paid, such fee shall apply to the year in which the building is completed and the business commences.
- (b) All holders of licenses under this chapter must open for business within six months after issuance of the license; failure to do so shall serve as an automatic forfeiture and cancellation of such license unless an extension of the time is granted by the city administrator or his designated agent before the expiration of the six-month period for good cause shown. No refund of the license fee shall be made in the event of such forfeiture.
- (c) Any holder of a license under this chapter who shall begin the operation of the business authorized in the license, but who shall thereafter cease to operate the business as authorized in the license for six months, shall thereupon forfeit such license, which license shall be automatically canceled without the necessity of any further action of the city, unless an extension of time is granted by the city administrator or his

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designated agent before the expiration of the six-month period for good cause shown. No refund of license fee shall be made in the event of such forfeiture.

(Ord. No. 04-12-2011(1), § 110.45-32, 4-12-2011)

### **Sec. 6-83. Inspection authority of city.**

The city administrator, the chief of police, any police officer of the city or other duly designated agent of the city may enter upon the premises operated under the provisions of this chapter during operating hours for the purpose of inspecting the premises and enforcing this chapter, and shall have access during the inspection of all books, records, and supplies relating to the sale, storage or possession of alcoholic beverages, and also such records and documents regarding food sales by each licensee licensed for consumption on the premises (pouring).

(Ord. No. 04-12-2011(1), § 110.45-33, 4-12-2011)

### **Sec. 6-84. Employees.**

- (a) No licensee under this chapter shall permit any person under the age of 18 within his employment to sell or dispense alcoholic beverages. Furthermore, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not sell any alcoholic beverage. This provision shall also not prohibit eating establishments from employing persons under the age of 18, so long as such employees under age 18 do not sell any alcoholic beverages.
- (b) No licensee under this chapter shall permit any person to sell, dispense, serve or take orders for alcoholic beverages while that person is currently serving a sentence, including probation or parole, based upon a conviction in any state or federal court or the United States or in any foreign country for any felony, or any misdemeanor ordinance violating relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, sexual offenses, or crimes of moral turpitude. No licensee shall employ within its business for the purpose of selling or dispensing alcoholic beverages any person convicted within three years immediately prior to the application for employment of any felony or within two years immediately prior to the application for employment of any misdemeanor or ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, sexual offenses, or a crime of moral turpitude. This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.
- (c) It shall be the duty of the licensee to train all employees whose duties shall include the sale, dispensing, serving or taking of orders for alcoholic beverages in the requirements of this chapter and applicable state laws and regulations. Each licensee shall establish written policies, a copy of which shall be posted within the licensed premises, governing the sale and dispensing of alcoholic beverages in accordance with state law and this chapter. Licenses are encouraged to adopt disciplinary sanctions for employees who fail to meet the standards of law as violations by employees may constitute grounds for revocation, suspension or denial of a license under this chapter. The degree of training, supervision and discipline of employees by the licensee may be considered by the city administrator in determining action on any license.
- (d) It shall be the duty of the licensee and licensee's employees and agents to exercise reasonable discretion as to requiring customers to produce proper identification (e.g., state driver's license; U.S. passport; birth

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certificate) that indicates the customer is age 21 or older, prior to furnishing or causing to furnish, sell, distribute, or permit any person in the licensee's employ to furnish alcoholic beverages to said customer. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100. Notwithstanding the foregoing, it is a violation of this chapter in accordance with section 6-86 hereinafter, to knowingly, directly or through another person, 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.

(Ord. No. 04-12-2011(1), § 110.45-34, 4-12-2011; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

#### **Sec. 6-85. Days and hours of operation.**

- (a) No package dealer of malt beverages or wine, or both, including licensees of divided stores meeting the requirements of applicable state laws and regulations, shall furnish, sell, or offer for sale any packaged malt beverages or wine at any time on Christmas Day. Sales are permitted on Election Day; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 50 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No package dealer of malt beverages or wine, or both, shall furnish, sell or offer for sale any malt beverages or wine during Monday through Saturday prior to 9:00 a.m. or after 11:59 p.m., and on Sundays may only between the hours of 12:30 p.m. and 11:30 p.m. This provision shall also apply to licenses for wine only by the package, conducting a wine tasting (but which must end at 9:00 p.m.) and to tasting rooms of farm wineries except as provided differently herein.
- (b) No consumption on the premises dealer of alcoholic beverages, shall furnish, sell or offer for sale alcoholic beverages for consumption on the premises at any time on Christmas Day. Sales are permitted on Election Day; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 50 feet of any polling place or the outer edge of any building within which such polling place is established during the hours the polls are open. No consumption on the premises dealer of alcoholic beverages shall furnish, sell or offer for sale any alcoholic beverages during Monday through Saturday prior to 9:00 a.m. or after 11:59 p.m., Labor Day, Memorial Day, July 4 and New Year's Eve, and sales shall be allowed until 11:59 p.m. Consumption on the premises dealers of alcoholic beverages, shall also be allowed to furnish, sell or offer for sale any alcoholic beverages on Sunday from 12:30 p.m. until 11:30 p.m. in any licensed establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging.
- (c) Any person or entity holding a temporary special event license shall be allowed to furnish, sell or offer for sale alcoholic beverages until 11:59 p.m., only on holidays listed in this section.

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(Ord. No. 04-12-2011(1), § 110.45-35, 4-12-2011; Ord. No. 2014-03-11, § 2, 3-11-2014; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

**Sec. 6-86. Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification.**

- (a) Except as otherwise authorized by law:
- (1) No person knowingly, 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, drink, or possess alcoholic beverages.
  - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.
  - (4) No person knowingly or intentionally 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 subsection (a) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.
- (c) It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee within the city to furnish, upon request, proper identification showing that the person 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 physical description of the person, such person's photograph, and such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.
- (d) It shall be a violation of this chapter for any licensee, or any agent, officer or employee of a licensee, to fail to check the proper identification of any patron when selling or otherwise providing any alcoholic beverage, which failure results in an underage person being sold or served, or to have in such underage person's possession while on the licensee's premises, any alcoholic beverage.

(Ord. No. 04-12-2011(1), § 110.45-36, 4-12-2011)

**Sec. 6-87. Open containers and partially consumed bottles of wine purchased with a meal.**

- (a) As used in this section, the term "open container" means any container containing alcoholic beverages which is immediately capable of being consumed from or the seal of which has been broken.
- (b) No person shall possess an open container of any alcoholic beverage within the passenger compartment of a motor vehicle. Closed containers of alcoholic beverages or distilled spirits may be transported in any part of a vehicle. Open containers shall be placed in a locked glove box, locked trunk or locked storage container.
- (c) No person shall possess an open container of any alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public parking lot, or other property owned or leased by the city.

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- (d) No person shall possess an open container of any alcoholic beverage on the premises of any package dealer, including parking lots adjacent thereto.
  - (e) Sale, distribution, or service of any distilled spirits by the package is hereby expressly banned and prohibited, and accordingly no package licenses for distilled spirits shall be issued by the city.
  - (f) Any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises.
    - (1) A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises.
    - (2) The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container.
    - (3) If transporting in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk. Licensee or its employees shall inform the customer or patron of this requirement of securing the resealed wine in this manner, when the customer or patron is exiting the restaurant with the resealed bottle of wine.

(Ord. No. 04-12-2011(1), § 110.45-37, 4-12-2011)

### **Sec. 6-88. Brownbagging.**

- (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:

*Brownbagging* means the bringing, taking or carrying of any alcoholic beverage into a business lawfully operating within the city, provided that bringing an alcoholic beverage into a house, apartment, room or other unit designed for private residential occupancy for consumption by the residents and invited guests thereof shall not fall within this definition. The term "brownbagging" shall include the following prohibited acts:

- (1) Any person who brownbags;
  - (2) Any person participating in consumption of any alcoholic beverage being brownbagged;
  - (3) Any person who consumes an alcoholic beverage on any premises lawfully operating in the city, except for those exempted from the definition of brownbagging by virtue of the private residential character of the occupancy;
  - (4) Any employee of the business establishment in whose presence brownbagging knowingly or with reckless indifference occurs;
  - (5) Notwithstanding any other provision of this chapter, nothing contained in this chapter shall be interpreted as banning or prohibiting the serving of wine as part of a religious sacrament or ceremony (including weddings and wedding receptions) at the premises of any church or house of worship.
- (b) Brownbagging is prohibited within the city. The term "brownbagging" does not include the sale or distribution of alcoholic beverages by a bona fide nonprofit civic organization pursuant to a special use temporary permit issued in accordance with section 6-171. A wine and cheese party and/or wine tasting held by a bona fide nonprofit civic organization pursuant to a special use temporary permit is allowed in accordance with the terms and conditions of said permit, and shall not be deemed to be brownbagging. A



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wine tasting and/or a wine and cheese party by a package dealer, farm winery or a licensed caterer pursuant to a city license or an event permit, or both, is allowed in accordance with the terms and conditions of said license or permit, and shall not be deemed to be brownbagging.

(Ord. No. 04-12-2011(1), § 110.45-38, 4-12-2011)

**Sec. 6-89. Purchases to be made only from licensed wholesalers.**

Dealers in alcoholic beverages shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the state department of revenue.

(Ord. No. 04-12-2011(1), § 110.45-39, 4-12-2011)

**Sec. 6-90. Storage of alcoholic beverages at retail.**

All licensees shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the city. Any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the city shall be subject to immediate confiscation.

(Ord. No. 04-12-2011(1), § 110.45-40, 4-12-2011)

**Sec. 6-91. Prohibition of adult entertainment establishments having alcoholic beverage licenses.**

Adult entertainment establishments shall not be entitled to have any type of alcoholic beverage license. Further, no alcoholic beverage license shall be issued to a premises where an adult entertainment establishment is operating, or is to be operated. Brownbagging is expressly prohibited within any adult entertainment establishment. If an employee of an adult entertainment establishment who knowingly allows or, with reckless indifference, permits any brownbagging within the adult entertainment establishment, then such action or omission shall be cause for the revocation of any occupational tax license issued to the adult entertainment establishment, as well as a revocation of the occupancy permit of any adult entertainment establishment for the premises.

(Ord. No. 04-12-2011(1), § 110.45-41, 4-12-2011)

**Secs. 6-92—6-110. Reserved.**

***ARTICLE IV. ADDITIONAL REGULATIONS FOR PACKAGE DEALERS***

**Sec. 6-111. Merchandise restrictions.**

(a) Except as provided in sections 6-40(a) and 6-118, no package dealer shall operate such business in connection with any other mercantile establishment, except that a package dealer may sell or display or keep in stock for retail sale the following inventory:

(1) Wines and malt beverages, provided the dealer is licensed for each.

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- (2) Tobacco products, limited to tobacco, cigarettes, cigars, chewing tobacco, snuff, cigarette papers, lighters and matches which do not carry or refer to the name of any licensed dealer or the location of his place of business.
  - (3) Beverages containing no alcohol.
  - (4) Ice and ice chests.
  - (5) Paper, styrofoam or plastic cups.
  - (6) State-approved lottery tickets and related lottery materials, but only if the dealer is a state-approved retail lottery dealer location.
  - (7) Bar supplies, limited to corkscrews, openers, straws, swizzle sticks, and bar-related glassware and ceramic ware, cocktail olives, onion, cherries, lemons and limes.
  - (8) Cooking demonstrations and/or wine and cheese parties in conjunction with a wine tasting permit pursuant to section 6-118.
- (b) Beverages containing no alcohol may be dispensed through the use of vending machines or in association with a wine tasting permit, but no alcoholic beverage shall be dispensed through such vending machines.
  - (c) No retail package alcoholic beverage license shall be issued to any place of adult entertainment within the city limits.
  - (d) It is prohibited for customers of a retail package alcoholic beverage license holder to gather outside the establishment and consume alcoholic beverages. It is prohibited for the manager or any employee of a retail package alcoholic beverage license holder to allow persons to gather outside the establishment and consume alcoholic beverages.
  - (e) Persons holding a license to sell malt beverage by the package shall be permitted to sell them only at retail, and not for consumption on the premises. This subsection shall not apply with respect to tasting pursuant to an ancillary growler malt beverage tasting license.
  - (f) Malt beverage package licensees whose retail beverage sales are 100 percent derived from the sale of craft beer must meet the following requirements:
    - (1) Licensees must meet all requirements and be approved for malt beverage by the package sales and ancillary growler tasting combination license; and
    - (2) The licensee must maintain and display an up-to-date list of domestic non-craft brewers that may not be sold on the premises for inspection by customers, citizens, and the council of the city and its agents.
  - (g) Malt beverage by the package with ancillary growler tasting licensees specializing in the retail of craft beer as defined in section 6-1 shall be permitted to sell craft beer malt beverages by the growler and other unique, special, nonconforming alternate bottle styles of original craft beer packaging intended for single sale in bottles typically not larger than 750 ml and not less than ten ounces.
  - (h) Malt beverage by the package and ancillary growler tasting licensees may not display malt beverages, signs, or promotional banner outside of the building except for a business name sign.
  - (i) Ancillary craft beer sampling for customers shall be limited to two ounces within any eight-hour period.
  - (j) Malt beverage by the package with ancillary growler tasting licensees may fill growlers with draft beer that is defined as craft beer, at the licensee's location from kegs lawfully procured by the licensee, subject to the following requirements:
    - (1) The filled growler must be securely sealed on premises with a tamper proof plastic cap or tamper proof seal;

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- (2) At least 75 percent of the licensee's total gross sales are from the packaged sale of malt beverages;
  - (3) The licensee complies with all state, federal and local packaging and labeling laws regarding alcoholic beverages; and
  - (4) Each filled growler must be removed from the premises in its securely sealed condition.
- (k) No open containers of malt beverages shall be removed from the premises.
- (l) Holders of an ancillary growler tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.
- (Ord. No. 04-12-2011(1), § 110.45-42, 4-12-2011; Ord. No. 2015-08-11, § 1, 8-11-2015)

**Sec. 6-112. Merchandise and sales restrictions in supermarkets and convenience stores.**

- (a) Where malt beverage or wine sales are licensed in conjunction with a supermarket or convenience store, no licensee shall sell or offer to sell any firearms, ammunition, or weapons of any character. Large commercial retail centers that retail sell many types of consumer items such as clothing, electronics, groceries, toys, sporting equipment, household items and other such products, and have a retail area of 50,000 square feet or more, and operate a supermarket as a part of the center, and have a package sale license, may market firearms and other weapons within the center.
- (b) During those hours and on those days when alcoholic beverages are not permitted to be sold, it shall be the duty of the licensee to remove all alcoholic beverages from its shelves or otherwise secure the inventory in such manner as to notify customers that these products are not available for sale at that time.

(Ord. No. 04-12-2011(1), § 110.45-43, 4-12-2011)

**Sec. 6-113. Sale or delivery to unlicensed premises.**

No package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

(Ord. No. 04-12-2011(1), § 110.45-44, 4-12-2011)

**Sec. 6-114. Liquor prices to be conspicuously displayed.**

Each package dealer of alcoholic beverages shall conspicuously display within the interior of the licensed premises not less than one copy of a printed price list of the alcoholic beverages offered for sale or, in lieu thereof, shall place the price of each item on the container or on the shelf where the container is exhibited for sale.

(Ord. No. 04-12-2011(1), § 110.45-45, 4-12-2011)

**Sec. 6-115. Portable signs prohibited.**

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

(Ord. No. 04-12-2011(1), § 110.45-46, 4-12-2011)

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**Sec. 6-116. Premises to have glass front.**

Each establishment licensed for the package sale of alcoholic beverages shall have an open glass front and shall be well lit for clear vision from the outside. No signs or advertising shall be posted on the glass which will obstruct the view.

(Ord. No. 04-12-2011(1), § 110.45-47, 4-12-2011)

**Sec. 6-117. Purchase delivered in paper bag or wrapped.**

All alcoholic beverages, except prepackaged beer, purchased in a package store must be put in a paper or plastic bag or otherwise wrapped in any opaque cover before delivery to the purchaser.

(Ord. No. 04-12-2011(1), § 110.45-48, 4-12-2011)

**Sec. 6-118. Wine tasting.**

- (a) A wine tasting license, for purposes of this section, shall be limited to a person possessing a duly issued license for the sale of wine by the package. A wine tasting event may be held in conjunction with a wine and cheese party by a package dealer that receives an event license. Entities possessing a license for consumption on the premises shall not be eligible for a wine tasting license. The package dealer shall make an event license application to hold a wine tasting or wine and cheese party at least one week prior to the event.
- (b) Any wine tasting occurring on the premises of a business possessing a license to sell wine by the package shall be limited to times when the premises has received an event license; provided, however, a wine tasting licensee shall be allowed to provide a prospective customer, free of charge, a sample of wine which may not exceed two ounces per sample and no more than five ounces may be provided to any prospective customer in any one two-hour period. All such events shall not last more than four hours and must end by 9:00 p.m.
- (c) An eligible licensee may petition the city for a wine tasting license provided it meets all requirements of the city's alcoholic beverage ordinance and presently maintains a valid license for the sale of wine by the package issued by the city. A wine tasting license shall allow the licensee to offer or sell wine samples in connection with an instructional or educational promotion, including, but not limited to, cooking demonstrations. A wine tasting license 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.
- (d) A wine tasting licensee shall be subject to all laws, rules and regulations of the city and state, including rule 560-2-5-.05 of the alcohol and tobacco division of the department of revenue, and shall be subject to license revocation for violation thereof. The licensee shall provide a copy of form ATT-4SP filed with the state department of revenue.
- (e) Said wine tasting license shall be applied for each event and shall be in the amount as established by the mayor and council from time to time. The city may revoke or suspend any wine tasting license 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.

(Ord. No. 04-12-2011(1), § 110.45-49, 4-12-2011)

**Secs. 6-119—6-149. Reserved.**

## **ARTICLE V. ADDITIONAL REGULATIONS FOR POURING DEALERS**

### **Sec. 6-150. Pouring dealers regulations at eating or licensed establishments.**

- (a) Except as provided otherwise herein this chapter, consumption on the premises (pouring) sales of distilled spirits, malt beverage and/or wine may be conducted only in conjunction with an eating establishment which has as its principal business conducted being the serving of meals, and with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. The eating establishment, by whatever name called, must meet the definition of a restaurant as defined in section 6-1. Consumption on the premises (pouring) licensees shall maintain at least 50 percent of their business volume from the sale of food, which shall not include the sale of alcoholic beverages. Food sales shall include all consumable items sold on the premises except alcoholic beverages. The 50 percent ratio shall be determined on a calendar quarter basis pursuant to a monthly report that will be submitted under oath (and subject to all penalties for false swearing) by each licensee to the administrative office of the city. In the event food sales fall below 50 percent of the business volume of the license holder in any quarter, then the license holder shall be placed on probation for the next succeeding quarter. The city license clerk or other designated agent for the city shall notify the license holder in writing of the probation. At the end of the next succeeding quarter, if food sales have not attained 50 percent of business volume, then the city administrator, or other designated agent of the city, shall suspend such license for a period of six months in accordance with section 6-50. After the period of suspension, should the license holder fail to meet the 50 percent food sales ratio for any quarter during the year following suspension, then the pouring license shall be revoked following the procedures of section 6-50. Nothing herein provided shall prevent the city administrator or other duly designated agent of the city from suspending or revoking such licenses for any other violations of this chapter. Authorized agents of the city may examine the records of businesses licensed hereunder at any reasonable time to ascertain that the requirements of this and other provisions of this chapter are met. Licensees for consumption on the premises (pouring) licenses shall provide a monthly report under oath (and subject to all penalties for false swearing), by the 15th day of the following month, to the license clerk for the city, that demonstrates that the food sale requirements of this chapter have been met. Such licensees, upon request by the city or its designated agent, shall provide to the license clerk of the city any and all backup documentation to demonstrate that the food sale requirements of this chapter have been met. Failure to provide any of the reports or documentation required under this chapter by the licensee to the city may result in the city administrator or other designated agent of the city suspending the pouring license until the reporting requirements are met, and may result in revocation of the pouring license by following the revocation procedures provided within this chapter.
- (b) Alcoholic beverage sales can be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved in this section.
- (1) The requirements for approval are:
- a. The patio/open area must be enclosed by some structure (which may be a rope guard) providing for public ingress/egress only through the main licensed premises. The only exception to this would be a fire exit as required by building and fire codes. Such fire exit would not be for general public use unless an emergency exists and would be of the type which sounds an alarm so that the establishment would be alerted of unauthorized use if no emergency exists. The height of such structure may be a minimum of 3½ feet above the patio floor. The structure does not have to be solid nor does it have to restrict visibility into or out of the patio/open area. The method or means of enclosure shall be flexible depending on the location of the premises, so long as there is

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substantial compliance with the requirement that ingress/egress be only through the main licensed premises. The building inspector or other city agent will make a case-by-case determination of compliance with the primary requirement being controlled access to the patio/open area.

- b. The patio/open area shall not be required to be covered by a roof. However, patio/open areas that are covered shall be covered by a roof. As used in this section, the term "roof" shall mean a structural covering of the patio/open floor area which shall be of similar design and material as the primary structure to which it is attached, whether physically attached or by use.
  - c. The patio/open area shall be used merely as an extension of the interior seating area. Service in the patio/open area shall be only by waiter or waitress or by customer self-service at an interior selling location (i.e., no outside bar or service window).
  - d. The patio/open area cannot be located within 75 feet of any public street or thoroughfare with the exception of licensees located within the downtown business district. Such measurement shall describe the shortest straight line distance between the street curb and the patio.
  - e. The patio/open area cannot be located within 150 feet of any residence, with the exception of licensees located within the downtown business district. Such measurement shall describe the shortest straight line distance from the patio to the nearest residential structure.
  - f. It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage outside in the parking lot or entrance areas or outside of the premises of the licensed eating establishment, except in previously approved patio/open areas. It is prohibited for customers to leave the premises of a consumption on the premises licensee with alcoholic beverages and it is the licensee's responsibility to ensure that no beverages are sold and carried out. However, nothing herein shall be construed to prohibit the carrying out of a partially consumed bottle of wine as provided by section 6-87. The owner of the business and the license holder and their agents and employees shall strictly enforce this provision, and the failure to do so will be a violation of this chapter and cause for revocation of the license.
  - g. It shall be unlawful to knowingly sell, deliver or serve alcoholic beverages to a person in a state of noticeable intoxication or to allow persons in a noticeable state of intoxication to congregate on the premises, either inside, on any patio, or in an outside area or park, and it shall be the responsibility of the owner of the business and/or the license holder and their agents and employees to strictly enforce this provision and the failure to do so shall be cause for revocation of the license and constitute a violation of this chapter.
- (2) It is prohibited for an establishment:
- a. To allow any noise to be created in a patio/open area which may be heard from a distance of 100 yards from the patio/open area. Any measurement made pursuant to this section shall describe the shortest straight line distance from the patio to the point in question.
  - b. To allow the operation of any sound amplification devices in the patio/open area. Patio/open area plans must be reviewed and approved on an individual basis by the city administrator or other official as may be designated by the city and by the city police chief.
- (c) Notwithstanding the provisions of subsection (a) of this section, the following provisions shall apply to hotels, motels or resorts, and to bed and breakfasts and said businesses shall be governed as follows for pouring licenses:
- (1) A licensed hotel or resort meeting the other requirements of this chapter may serve alcoholic beverages for consumption on the premises along with food in other locations on the hotel/resort premises without compliance with a required number of seats and percentage of food sales so long as

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there is also a full service eating establishment in the hotel/resort which shall meet all of the requirements of this chapter. This provision specifically does not allow a standalone bar, but rather allows a snack bar or smaller café on the premises with alcohol service together with food service.

- (2) A bed and breakfast meeting the other requirements of this chapter except for the number of seats may serve alcoholic beverages for consumption on the premises along with food at a full service eating establishment located in the bed and breakfast. A bed and breakfast will be required to meet the 50 percent requirement for non-alcoholic sales which may include revenue from the sale of rooms.
- (d) There shall be no gambling, betting, games of chance, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place of business licensed under this chapter, or in any room adjoining same, owned, leased or controlled by a licensee, except that this restriction shall not apply to official sales locations of state lottery games and tickets.
- (e) No retail consumption dealer licensed under this chapter shall keep any malt beverages, wine, or distilled spirits, or any combination thereof, at any place except the licensed place of business.
- (f) As to any retail consumption dealer, reasonable drink specials may be allowed, provided, however, that no licensee, in connection with the sale or service of alcoholic beverages for consumption on the premises, shall:
  - (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
  - (2) Deliver more than one alcoholic beverage to one person at a time;
  - (3) Offer or deliver an alcoholic beverage without also serving food, except that while a customer is waiting for a table, the customer in a lounge or at the bar may order up to a maximum of three alcoholic beverage drinks without purchase of a food item. This subsection shall not relieve the license holder of compliance with the overall food sale requirements mandated by this chapter;
  - (4) Sale, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the less than the price regularly charged for such alcoholic beverage during the same calendar week, except reasonable drink specials which are clearly identified as to price and quantity and licensed catered functions pursuant to an issued city permit and not open to the public shall be allowed;
  - (5) Sale, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price;
  - (6) Sale, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except by licensed alcoholic beverage caterers pursuant to an issued catering permit, and with said function not open to the public;
  - (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
  - (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverage or the awarding of alcoholic beverages as a prize.
- (g) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day, and the schedule shall be effective for not less, than one calendar week.
- (h) It shall be unlawful to knowingly sell, deliver to or serve alcoholic beverages to a person in a state of noticeable intoxication or to allow persons in a noticeable state of intoxication to congregate on the premises, either inside, on any patio, or in an outside area or park, and it shall be the responsibility of the owner of the business and/or the license holder and their agents and employees to strictly enforce this

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provision and the failure to do so shall be cause for revocation of the license and constitute a violation of this chapter.

- (i) Failure to comply with any of the regulations of this section by the retail consumption dealer shall be deemed a violation of this chapter, and cause for suspension or revocation of the dealer's license.
- (j) The following additional regulations shall apply to a retail consumption dealer (holding a pouring license), and any licensee of a license for the sale or service of alcoholic beverages for consumption on the premises shall:
  - (1) Prohibit the licensee's employees from consuming alcoholic beverages on the premises during the work hours of the licensee's employees. Failure to do so by the licensee shall be cause for suspension or revocation of the licensee's license following the procedures provided herein;
  - (2) All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed, from the area of the premises utilized by customers or patrons all alcoholic beverages within 45 minutes after the closing time for the sale of alcoholic beverages;
  - (3) All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed, from the premises, all customers or patrons within 45 minutes after the closing time for the sale of alcoholic beverages. After the time period for removal of the customers or patrons has lapsed, only employees of the licensees engaged in their employment duties shall remain on the premises. Failure to comply with this subsection shall be due cause for the suspension or revocation of the license following the procedures as provided herein;
  - (4) The occurrence on three or more occasions within any 60-day period upon the premises of a licensee for the sale of alcoholic beverages for consumption on the premises of fights, disorderly conduct, drunkenness, breach of the peace, physical violence against persons or property, or other activities prohibited by this chapter upon the licensed premises, whether such conduct is committed by agents of the licensee or by customers or others, shall be due cause for the suspension or revocation of the license following the procedures as provided herein.

(Ord. No. 04-12-2011(1), § 110.45-50, 4-12-2011; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

### **Sec. 6-151. Brew pubs.**

- (a) For all purposes of this section, the term "brew pub" is defined as an eating establishment (restaurant) in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.
- (b) Notwithstanding any other provision of this chapter to the contrary, a limited exception to the prohibition of the manufacturing of alcoholic beverages and distilled spirits within the city shall exist for owners and operators of brew pubs, provided that:
  - (1) No applicant shall be permitted to own or operate a brew pub without first obtaining a proper pouring license from the city. The applicant desiring to operate a brew pub must note this intent on the pouring license application, and the city in the issuance of a pouring license must note on the license that a brew pub is allowed. Each brew pub pouring license holder shall comply with all other applicable state and local license requirements. A brew pub pouring license authorizes the holder of such license to:
    - a. Manufacture on the licensed premises not more than 5,000 barrels of beer in a calendar year solely for retail consumption on the premises and solely in draft form; and
    - b. Operate a restaurant that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale



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under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesale dealer for consumption on the premises only and, provided further, in addition to draft beer manufactured on the premises, each brew pub pouring license shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.

- (2) Possession of a brew pub pouring license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.
- (3) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.
- (4) A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.
- (5) Except as set forth in this section, a brew pub license holder shall be subject to all sections of this chapter regarding a pouring license.

(Ord. No. 04-12-2011(1), § 110.45-51, 4-12-2011)

**Secs. 6-152—6-170. Reserved.**

## ***ARTICLE VI. SALES BY BONA FIDE NONPROFIT CIVIC ORGANIZATION***

### **Sec. 6-171. Charitable events; sales by bona fide nonprofit civic organizations.**

- (a) Bona fide nonprofit civic organizations registered with the State of Georgia, desiring to sell alcoholic beverages may apply and submit completed forms furnished by the commissioner of the state department of revenue and a permit from the commissioner authorizing the organization to sell or distribute alcoholic beverages for consumption only on the premises, or to sell wine at retail for off-premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to the rules and regulations of the state department of revenue.
- (b) The special use temporary permits to be issued to the bona fide nonprofit civic organization shall be subject to the rules and regulations in other applicable sections of this chapter relating to the sale and distribution of alcoholic beverages, as follows:
  - (1) The licensing requirements under sections 6-29 and 6-30;
  - (2) The distance prohibitions of section 6-33;
  - (3) The compliance requirements of section 6-41;
  - (4) The penalty for false information within an application as set by section 6-45;
  - (5) That the special use temporary permit is a privilege and conditional upon the holder meeting the requirements of this chapter as provided by section 6-48;
  - (6) The inspection authority as provided by section 6-83;
  - (7) The employee requirements as to age and criminal history as provided within section 6-84 (but no employee permits shall be required);
  - (8) The days and hours of operation requirements as provided by section 6-85;

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- (9) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by section 6-86;
  - (10) The prohibitions against open containers provided by section 6-87.
- (c) A duly authorized agent for the bona fide nonprofit civic organization shall file an application with the city for a special use temporary permit upon the application form of the city and file said application at least 20 days prior to the event. At the time of the filing of the application form, the bona fide nonprofit civic organization shall pay a fee for each permit received thereafter during the calendar year. The fee shall be in an amount as established by the mayor and council from time to time. The application shall identify the bona fide nonprofit civic organization, the dates for which the permit is to be applicable, the premises where alcoholic beverages will be served; the event or type of function for the bona fide nonprofit civic organization; and such other information as may be required by the city. The city clerk may issue a permit authorizing the bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises, or to sell wine at retail for off-premises consumption, or to auction wine in sealed containers, or any combination thereof, for a period not to exceed three days, and subject to any law regulating the time and date for selling such beverages. The special use temporary permit shall also be conditioned upon the commissioner for the state department of revenue issuing said department's permit for a special use temporary permit for a bona fide nonprofit civic organization.
- (d) No more than six permits may be issued to an organization in any one calendar year pursuant to this chapter.
- (e) Permits issued pursuant to this section shall be valid only for the place specified in the permit.
- (f) The issuance of a special use temporary permit to a bona fide nonprofit civic organization shall exempt said organization from the brownbagging prohibition established by section 6-88.

(Ord. No. 04-12-2011(1), § 110.45-52, 4-12-2011; Ord. No. 2018-08-14(a), § 1, 8-14-2018)

**Secs. 6-172—6-195. Reserved.**

## ***ARTICLE VII. FARM WINERIES***

### **Sec. 6-196. License established; requirements.**

- (a) There is hereby created a license for the business of operating a state farm winery, to be in conformance with the farm winery laws of the state under O.C.G.A. § 3-6-21.1 as amended and this article. The applicant for a farm winery license shall indicate within the application as to whether the applicant is seeking a license for the premises of the farm winery that manufactures wine in the state, or whether the application is for one of the five additional locations in the state that the farm winery can operate a tasting room for consumption on the premises of the tasting room and retail sale closed packages of wine for consumption off the premises.
- (b) Under this article, the licensee shall be authorized to carry on the business of operating a farm winery tasting room on the premises of the farm winery if the premises is located within the city or operating a tasting room off of the premises of the farm winery and located within the incorporated limits of the city and subject to the provisions of O.C.G.A. § 3-6-21.1 et seq., as amended.
- (c) The farm winery tasting room created by this article is limited to farm wineries licensed by the state and allows the licensee to offer wine samples and to make retail sales of its wine and the wine of any other state farm winery in the tasting room, and as allowed by state law. No license is created by this article authorizing any other person to deal in any other alcoholic beverage in a farm winery tasting room. The tasting room of a

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farm winery can conduct the same activities allowed by a wine only package store holding an ancillary wine tasting license such as a wine and cheese party or a cooking or other wine educational event.

- (d) The requirements of this chapter, with respect to the sale of food with alcoholic beverages and the display, signs, seating requirements, and percentage of sales requirements, shall not apply to farm winery tasting room, but all other provisions and requirements shall apply. Notwithstanding the foregoing, should the tasting room be upon the actual premises of the farm winery, then Sunday sales as permitted by O.C.G.A. § 3-6-21.2, as amended, shall be allowed. Further, notwithstanding any other provisions of this chapter to the contrary, in the event that the state revenue commissioner has authorized the farm winery licensee to make sales of distilled spirits, malt beverages, and wines not produced by a farm winery for consumption in its tasting rooms, then the farm winery shall be allowed to sell such alcoholic beverages, provided that the tasting room is upon the premises of the farm winery or on property located contiguous to the premises of the farm winery and owned by the farm winery or by an affiliate of the winery.
- (e) A licensed farm winery must specifically apply for a farm winery license from the city to operate a tasting room within the city and pay the license fee for a farm winery or a tasting room, or both. The farm winery licensee must operate its tasting room in accordance with the requirements of state law and the provisions of this chapter.

(Ord. No. 04-12-2011(1), § 110.45-53, 4-12-2011)

**Secs. 6-197—6-215. Reserved.**

## ***ARTICLE VIII. LICENSED ALCOHOLIC BEVERAGE CATERER***

### **Sec. 6-216. License requirements; application; records.**

- (a) Licenses may be obtained for the purpose of selling or dispensing alcoholic beverages by the drink on premises at which authorized catered functions are to be held.
  - (1) Such licenses shall be annual licenses and may be obtained only by those persons, firms or corporations already licensed by the city for the sale of alcoholic beverages by the drink or by these persons, firms or corporations licensed by another local governmental entity for the sale of alcoholic beverages by the drink and also being an authorized licensed caterer of said entity.
  - (2) The procedures for securing such licenses and the terms thereof shall be made in person by the applicant to the city administrator or his designee in writing on forms, furnished by said agent or his designee and signed by the applicant in compliance with section 6-31.
- (b) Before a licensed alcoholic beverage caterer may sell or dispense alcoholic beverages at any authorized catered function, such caterer shall obtain a license from the city administrator or his designee at least ten working days prior to the event.
  - (1) The application for a license shall include the name of the alcoholic beverage caterer's license number, and the date, address and time of the event.
  - (2) The license fee for a caterer's license, the first license and, a license fee shall all be charged for each catered event license thereafter for the alcoholic beverage caterers located within and licensed by the city.

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- (3) For caterers licensed by jurisdictions other than the city for the sale of alcoholic beverages by the drink, an annual license fee and a license fee per event shall be charged.
  - (4) If such off-premises license is granted, it shall be good only for the specific event at the specified address and times set forth in the application, not in excess of four hours, except licenses approved by city council by resolution.
  - (5) The fees described in this section shall be in amounts as established by the mayor and council from time to time.
- (c) Recordkeeping required; reporting; taxes.
- (1) Caterers licensed by the city shall maintain a record of all alcoholic beverages transported for each event, and shall make report and remittance of such taxes with their monthly reports to the city.
  - (2) Caterers licensed by a jurisdiction other than the city shall maintain a record of all alcoholic beverages transported into the city for the event, and shall pay an excise tax to the city covering all such beverages at the rate provided by this Code.
  - (3) As a condition of license issuance, alcoholic beverage caterers licensed to sell alcoholic beverages by the drink by jurisdictions other than the city shall be provided a copy of the city's alcoholic beverages ordinances, and shall indicate, by signature, that they have received such ordinances and acknowledge the applicability of such ordinances to their operations.
  - (4) Failure to report and remit the tax within seven days of the conclusion of the event shall be grounds for denial of subsequent licenses to the caterer for similar events.
- (d) The license shall be kept in the vehicle used to transport alcoholic beverages to the event at all times during which the license is in effect.
- (e) No alcoholic beverages shall be transported, distributed, or sold to other than licensed locations in the city, except to authorized catered functions, unless otherwise authorized by this chapter or by state law.
- (f) The hours and days of sale or distribution of alcoholic beverages under this section shall be the same by section 6-85(b).
- (g) No licensed alcoholic beverage caterer shall employ any person under 21 years of age to dispense, serve, sell or handle alcoholic beverages of authorized catered functions.
- (h) No event license will be issued to an event at any location with respect to which any alcoholic license has been denied or revoked within the past 12 months, nor for any location with respect to which the conduct set forth in this chapter has previously occurred.
- (i) Except as set forth in this section, an off-premises license holder must comply with all other provisions set forth in this chapter.
- (j) Violations of this chapter shall be subject to the penalties, fines, and provisions of this chapter.

(Ord. No. 04-12-2011(1), § 110.45-54, 4-12-2011)

**Secs. 6-217—6-240. Reserved.**

## ***ARTICLE IX. LICENSED AUTHORIZED BREWER***

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**Sec. 6-241. License requirements; suspension or revocation; renewal.**

- (a) There is hereby created a license for the business of operating a brewery, to manufacture malt beverages and beer, and which shall be in conformance with the laws of the state pursuant to O.C.G.A. § 3-5-20 et seq., as amended, and this article. In order to operate as a brewer within the city, the brewer shall be required to provide a copy of any brewery license issued as to the brewery by the Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau, and any state brewer license, when issued. The applicant may receive an authorized brewer license from the city, prior to the issuance of the federal or state license, or both, but may not operate the brewery until such time as the applicant has received the applicable federal and state licenses, and provided a copy of said licenses to the city.
- (b) Under this article, the licensee shall be authorized to carry on the business of manufacturing malt beverages and beer within the incorporated limits of the city, and providing a free tasting of the malt beverages and beer brewed during or after completion of an educational or promotional tour regarding the brewery. The licensee shall follow all federal and state requirements regarding the operation of a brewery, including, but not limited to, the payment of any excise taxes assessed by said authorities. Failure of the licensee to operate the brewery in accordance with federal and state requirements shall be due cause for the city to suspend or revoke, or both, the authorized brewer license upon compliance with the procedures as set out within section 6-50. An authorized brewer license does not allow or permit the retail package or the retail sale of malt beverages and beer for consumption on the premises, by the drink (unless specifically exempt by regulation of the state department of revenue or the state alcoholic beverage code, as amended), and any such sales shall be due cause for revocation of the authorized brewer license. All sales of alcoholic beverages by the brewer shall comply with the three-tier distribution system of the state, and failure by the brewer to do so shall be due cause for revocation of the brewer's license. An authorized brewer license shall only be revoked for due cause. Due cause for the revocation of a brewer's license shall consist only of violation of the laws regulating the manufacture of malt beverages and of regulations made pursuant to authority lawfully granted for the purpose of regulating the manufacture of malt beverages. Every unrevoked license authorizing the manufacture of malt beverages, whether issued by the state or by any other duly authorized licensing authority, shall be renewable to the holder of the license as of right upon the payment of fees and taxes lawfully assessed and fixed for the issuance of licenses of that kind and character.
- (c) An applicant to receive an authorized brewer license shall be required to submit an application for said license based upon the malt beverages for sale by the package application, but shall indicate thereon that applicant is applying as a brewer, and is required to meet the same requirements regarding application information, the submission of the application, distant prohibitions, and other such package requirements as provided by the Code. Brewers do not have to meet food sale requirements unless licensed as a brew pub pursuant to section 6-151.
- (d)

(Ord. No. 2013-9-4, § 1, 4-9-2013)

**Secs. 6-242—6-260. Reserved.**

***ARTICLE X. LICENSED AUTHORIZED EVENT CENTER***

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**Sec. 6-261. License requirements; suspension or revocation; renewal.**

- (a) There is hereby created a license for the business of operating an event center which will allow the sale of alcoholic beverages only on the premises by the drink pursuant to the requirements and regulations of this chapter and in conformance with the laws of the state pursuant to O.C.G.A. § 3-3-3 et seq. In order to operate as an event center within the city, the operator of the event center shall be required to provide a copy of any alcoholic beverage license issued by the state, when said license is issued. The applicant/operator may receive an authorized event center license from the city prior to the issuance of the state license, but may not sell and dispense alcoholic beverages until such time as the applicant/operator has received the applicable state license and provided a copy of said license to the city.
- (b) The consumption only on the premises by the drink licenses to be issued to event centers shall be subject to the rules and regulations in the other applicable sections of this chapter relating to the sale and distribution of alcoholic beverages, as follows:
- (1) The licensing requirements under sections 6-29 and 6-30;
  - (2) The distance prohibitions of section 6-33;
  - (3) The compliance requirements of section 6-41;
  - (4) The penalty for false information within an application as set by section 6-45;
  - (5) That the license is a privilege and conditional upon the holder meeting the requirements of this chapter as provided herein, including, and not limited to, the definition requirements of section 6-1;
  - (6) The inspection authority as provided by section 6-83;
  - (7) The employee requirements as to age and criminal history as provided within section 6-84 and also the requirement as to employee permits (fingerprinting, criminal background checks and the employee permit fee);
  - (8) The days and hours of operation requirements as required by section 6-85;
  - (9) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by section 6-86;
  - (10) The prohibitions against open containers as provided by section 6-87.
  - (11) The prohibitions against brownbagging as provided by section 6-88.
- (c) It is the intent of the city council of the city that an event center meet all of the requirements as to having a license for consumption of alcoholic beverages on the premises by the drink imposed by this chapter as outlined in subsection (b) of this section, except that said event centers shall not have to meet the food sales requirements for a consumption on the premises by the drink license.
- (d) Besides meeting the licensing requirements as provided by this article, an applicant shall also provide a sketch that depicts the physical delineation of the area in which alcoholic beverages are to be sold within the enclosed building that contains the event center. Licenses issued pursuant to this article shall be valid only for the place delineated within the application. All sales or service of alcoholic beverages at the event shall take place within the delineated areas within the building, and within the basic confines of the building, as described in the application of the applicant. No alcoholic beverages may be sold or served outside of the confines of the general location of the event, nor will any patron of the event be allowed to leave the event location with alcoholic beverages. The licensee shall be responsible for ensuring that no person removes any unauthorized alcoholic beverages from the premises in any type of container. Applicants shall be required to pay the annual license fee as provided herein and said license shall be subject to all rules and regulations mandated by this chapter as provided herein.

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- (e) The operator of the event center shall comply with the three-tier distribution system of the state and only purchase alcoholic beverages from a licensed wholesaler. Failure of the operator of an event center to purchase the alcoholic beverages from a licensed wholesaler, or another violation of the requirements of this chapter, shall be due cause for suspension or revocation of the event center license. Due cause for the suspension or revocation of an event center license shall also consist of violations of the laws regulating alcoholic beverages and of regulations made pursuant to authority lawfully granted for the purpose of regulating alcoholic beverages. Every unrevoked license authorizing the sale and dispensation of alcoholic beverages by an event center, whether issued by the state or by any other duly authorized licensing authority, shall be renewed to the holder of the license as of right upon the payment of fees and taxes lawfully assessed and fixed for the issuance of licenses of that kind and character.
  - (f) An applicant to receive an authorized event center license shall be required to submit an application or said license based upon the application for license to sell alcoholic beverages for consumption on the premises by the drink application, but shall indicate thereon that applicant is applying as an event center, and is required to meet the same requirements regarding application information, the submission of the application, and the other consumption on the premises license requirements as provided by this chapter except authorized event centers do not have to meet the food sale requirements.
  - (g) The operator of an event center shall comply with the excise tax requirements imposed by this Code, and, on a monthly basis, shall provide to the city licensing clerk, or other designated agent of the city, a monthly report that provides the amount (volume and cost) of alcoholic beverages purchased by the event center on a monthly basis, the amount of alcoholic beverages sold by volume by the event center on a monthly basis, indicates the licensed wholesaler from which the alcoholic beverages were purchased, the gross sales of alcoholic beverages for the month, and the gross sales of food for the month by the event center. The report shall be provided in the same procedural fashion as the excise tax reports regarding the sale of distilled spirits by the drink.
  - (h) In order to be issued an event center license, the applicant must provide satisfactory evidence that the building or other facility where the events are to be held or conducted is a site or location meeting applicable building codes and fire codes, and otherwise appears to be a location where an event can be safely held. An event center can have music, bands, orchestras, live performances, and patron dancing, so long as the area for such activities meets the applicable building and fire codes and all music, bands, orchestras, and performances cease playing by 10:00 p.m. on Sunday through Thursday, and by 12:00 a.m. on Friday and Saturday. The sound of the bands, orchestras, and performances or other music should be confined as much as possible to the property of the event center and shall not negatively impact neighboring properties due to excessive or loud noise.
  - (i) An applicant for an authorized event center license shall also provide satisfactory evidence as to the availability of parking spaces/facilities so as not to cause traffic congestion, unlawful parking or unauthorized parking on surrounding properties, or a negative impact to the public safety or as to surrounding property values.
  - (j) The operator of an event center shall be responsible for the order and security of the patrons and guests at an event, and, when necessary, shall hire off-duty law enforcement officers to be present for the duration of the event.
  - (k) If the person or organization that contracted with the event center for the event is to pay for the alcoholic beverages consumed at the event by guests, then the operator of the event center shall establish entrance criteria to ensure that only invited or selected guests attend the event and that there are no pay-at-the-door guests or drop-ins. The entrance criteria shall also include some form of identifying persons who have displayed proof of obtaining the age of 21 years and are authorized to purchase, receive, or hold in their possession alcoholic beverages within the event center, and may be by means of wrist bands, stamps, tickets, or other means of identification. Any guest that requests alcoholic beverages, regardless of whether the alcoholic beverages are paid for by the guest at a cash bar or by the person or entity contracting for the

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event with the event center, must have attained the age of 21 years before receiving alcoholic beverages, and the operator of the event center has the ultimate responsibility for determining if a person has attained the age of 21 years before dispensing alcoholic beverages to that person.

(Ord. No. 2013-09-10, § 1, 9-11-2013)

**Secs. 6-262—6-286. Reserved.**

(Ord. No. 2014-03-03, § 1, 3-3-2014)

**ARTICLE XI. NON-PROFIT COMMUNITY THEATRE OR A NON-PROFIT PUBLIC ART GALLERY**

**Sec. 6-287. License requirements; suspension or revocation; renewal.**

(a) In order to promote tourism within the City of Blue Ridge, Georgia, and to help sustain non-profit community theatres and non-profit public art galleries which bring in tourists for the economic benefit of the City and its citizens, non-profit community theatres and non-profit public art galleries may obtain a license for the sale of malt beverages, wine, or malt beverages and wine for consumption only on the premises by the drink, pursuant to the requirements of this Chapter and subject to applying and submitting completed forms furnished by the Commissioner of the Georgia Department of Revenue and a permit from the Commissioner authorizing the organization to sell or distribute malt beverages, wine, or malt beverages and wine for consumption only on the premises by the drink, and subject to the rules and regulations of the Georgia Department of Revenue.

(b) The consumption only on the premises by the drink licenses to be issued to the non-profit community theatres and the non-profit public art galleries shall be subject to the rules and regulations in the other applicable sections of this Chapter relating to the sale and distribution of malt beverages, wine, or malt beverages and wine, including the following:

- (1) The licensing requirements in Article II;
- (2) The distance prohibitions of Section 6-33;
- (3) The compliance requirements of Section 6-3;
- (4) The penalty for false information within an application as set by Section 6-45;
- (5) That the license is a privilege and conditional upon the holder meeting the requirements of this ordinance as provided in Section 6-48;
- (6) The inspection authority as provided by Section 6-83;
- (7) The employee requirements as to age and criminal history as provided in Section 6-84;
- (8) The days and hours of operation requirements as required by Section 6-85;
- (9) The prohibitions against furnishing or providing alcoholic beverages to any person under 21 years of age as provided by Section 6-86; and



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(10) The prohibitions against open containers provided by Section 6-87.

(c) It is the intent of the City Council of the City of Blue Ridge, Georgia that a non-profit community theatre or a non-profit public art gallery meet all of the requirements as to having a license for consumption of beer or wine, or both, on the premises by the drink imposed by this ordinance as outlined hereinabove except that said entities shall not have to have a working kitchen and do not have to meet the food sales requirements for a consumption on the premises by the drink license.

(d) Besides meeting the licensing requirements as provided by this ordinance, an applicant shall also provide a sketch that depicts the physical delineation of the area in which beer or wine, or both, are to be sold within the enclosed building that contains the theatre or the art gallery. Licenses issued pursuant to this article shall be valid only for the place delineated within the application. The applicant shall also provide the documentation to demonstrate that applicant meets the definition of a non-profit community theatre or a non-profit art gallery. The issuance of the license shall also be conditioned upon the Commissioner for the Georgia Department of Revenue issuing the Department's license for the sale of beer or wine, or both, for consumption on the premises by the drink. Applicants shall be required to pay the annual license fee as provided herein and said license shall be subject to all rules and regulations mandated by this ordinance as provided herein.

**Sec. 6-288. License fees.**

The fee for the sale of beer and malt beverages for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be set by the city council by resolution.

The fee for the sale of wine for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be set by the city council by resolution.

The fee for the sale of beer, malt beverages, and wine for consumption on the premises for a non-profit community theatre or a non-profit public art gallery shall be set by the city council by resolution.