

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF GRIFFIN, GEORGIA AT CHAPTER 6, ALCOHOLIC BEVERAGES, BY DELETING THE CURRENT CHAPTER IN ITS ENTIRETY AND ENACTING IN LIEU THEREOF A COMPREHENSIVE REVISION OF THE REGULATIONS PERTAINING TO MANUFACTURE, DISTRIBUTION AND SALE OF ALCOHOLIC BEVERAGES WITHIN THE CITY, REGULATIONS PERTAINING TO THE POSSESSION AND USE OF ALCOHOLIC BEVERAGES; PROCEDURES FOR THE LICENSING OF PERSONS AUTHORIZED TO POSSESS, ENGAGE IN OR DEAL WITH ALCOHOLIC BEVERAGES AS A MANUFACTURER, WHOLESALER, OR RETAILER, INCLUDING PROCEDURES FOR REVOCATION OR SUSPENSION OF SUCH LICENSES; IMPOSITION AND COLLECTION OF EXCISE TAXES ON ALCOHOLIC BEVERAGES, INCLUDING INTEREST AND PENALTIES ON DELINQUENT PAYMENT OF SUCH TAXES; DESIGNATING A SPECIAL ENTERTAINMENT DISTRICT WITHIN THE CITY IN WHICH CERTAIN PRIVILEGES PERTAINING TO ALCOHOLIC BEVERAGES MAY BE EXERCISED; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF GRIFFIN, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HERewith; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. The Code of Griffin, Georgia is hereby amended by deleting present Chapter 6, ALCOHOLIC BEVERAGES, in its entirety and enacting in lieu thereof a comprehensive revision of the regulations to be enforced within the City pertaining to manufacture, distribution, sale, use, and possession of alcoholic beverages, to-wit:

**“CODE OF GRIFFIN, GEORGIA
Chapter 6 - ALCOHOLIC BEVERAGES**

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

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

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

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

Authorized catered event means a function held at a location within the city for which an event permit has been issued in accordance with this section.

Bar means any premises at which a licensed retailer derives seventy-five (75%) percent or more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises. Under this chapter, a bar may only be licensed to operate on premises located within a Special Entertainment District designated by the Board of Commissioners.

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

Brewpub means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36.

Bona fide private club means any nonprofit association organized under the laws of the state which:

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (2) Has at least 75 regular dues-paying members;
- (3) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment; and
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
- (4) Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Brownbagging means the bringing, taking or carrying of any alcoholic beverage into a business lawfully operating within the city but not licensed for the consumption of alcoholic beverages on the premises, with the intent to consume such alcoholic beverage on the premises, or the taking of any alcoholic beverage into premises licensed for the sale of alcoholic beverages during such times the sale or consumption of such beverages is prohibited by law; 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.

Craft beer, as defined by the Brewers Association, Boulder, Colorado, the trade organization for the craft beer/microbrewing industry, are beers (a form of malt beverage) produced by a small, independent brewer who follows traditional brewing processes using select, sometimes non-traditional, ingredients to

produce a distinctive product. Craft brewers produce very limited annual quantities, much less than traditional breweries which produce millions of barrels per year.

Dessert wine means a wine having an alcoholic strength of more than 14 percent alcohol by volume but not more than 24 percent alcohol by volume.

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

Domestic winery means any winery, manufacturer, maker, producer, or bottler of wine located within this state.

Eating establishment means an establishment open to the public which is licensed to sell distilled spirits, malt beverages or wines for consumption on the premises and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food as its principal business purpose. In order to be licensed for consumption of alcoholic beverages on the premises under this chapter, eating establishments are expected to keep and maintain regular ~~days and~~ hours of operation, at least four (4) days per week, as a convenience to the public, other than holidays, vacations, and periods when closed for repairs or remodeling. When determining the total annual gross food and beverage sales for eating establishments operating as a brewpub, barrels of malt beverages sold to licensed wholesale dealers, or to the public for consumption off the premises, shall not be used.

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 includes, but is not limited to, brandy. Fortified wine is classified as a distilled spirit.

Food caterer means any person who prepares food for consumption off the premises where prepared and offers it, for hire, at an authorized catered event.

Georgia farm winery means a domestic winery which makes at least 40 percent of its annual production from berries, fruits and grapes grown in the State of Georgia and which is directly licensed by the Commissioner of Revenue to manufacture wine in this state.

Growler means a bottle, container or vessel, with a capacity of at least 32 ounces and not exceeding 64 ounces that is designed for and especially intended to be filled with a craft beer from a keg by a licensee, or employee of a licensee, holding a specialty package retailer license issued pursuant to this chapter.

Hotel means any lodge, inn, or similar establishment which offers overnight sleeping accommodations to registered guests for hire, and at which prepared meals or food are regularly served daily and consumed in one or more dining rooms, having an adequate and sanitary kitchen, such sleeping accommodations and dining rooms being conducted on the same premises. Hotels may grant franchises for the operation of an eating establishment and lounge on their premises, and the holder of such franchise shall be included in this definition of

hotel. Lounges may be located separately from dining facilities in hotels provided there is a commonality of ownership of the eating establishment and lounge.

Licensed alcoholic beverage caterer means any Georgia retail dealer licensed, either for package sales or on-premises consumption of alcoholic beverages, who additionally holds a valid license from a county or municipality to sell distilled spirits, malt beverages, or wine for consumption off-premises at authorized catered events.

Lounge means a separate room adjacent to and under common ownership with an eating establishment in which alcoholic beverages may be sold by the drink for consumption on the premises. Except in the case of a bona fide private club or hotel, as defined in this section, a lounge shall be part of the eating establishment, as defined in this section, and shall be interconnected by a doorway opening into the dining area of the 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 does not include sake, known as Japanese rice wine.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. The term also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- (2) In the case of malt beverages, any brewer; and
- (3) In the case of wine, any vintner.

Person means any individual, company, corporation, association, partnership, or other legal entity.

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

Premises, when used in conjunction with package sales, means the floor space on and from which the package sale of alcoholic beverages is conducted; when used in conjunction with a lounge or restaurant, it means that floor space on and from which the sale of alcoholic beverages by the drink for consumption on the premises is conducted.

Prepared meals or food means a meal cooked or prepared on the premises of the eating establishment according to the order of the customer, while seated at a table, in a booth, at a counter or bar, and primarily intended for consumption on the premises where prepared.

Proper identification means any document issued by a government agency containing a description of the person and such person's photograph, and giving the person's date of birth; proper identification includes, but is not limited to, a passport, military identification card, driver's license, or identification card

issued under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate.

Public club means an establishment, other than an “eating establishment” or a “bar” as defined in this chapter, having the principle purpose of offering live music, dancing, theatrical productions or comedians, and at which the consumption on-premises of alcoholic beverages is incidental. A public club shall not be operated or conducted in conjunction with any other mercantile business, trade or profession, and may offer and sell only those items commonly associated with such establishments.

Retail consumption dealer means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages for consumption on the licensed premises.

Retail package dealer means any person engaged in selling, at retail only to consumers and not for resale, any distilled spirits, wine or malt beverages in unbroken packages intended for carryout or consumption off the licensed premises.

Special Entertainment District means the area or areas of the city, designated by the board of commissioners, in which bars, public clubs, specialty package retailers, and domestic farm winery tasting rooms are an acceptable land use, as designated on a map labeled “special entertainment district”, the original of which is appended hereto as Exhibit “A” and, by reference, made a part hereof as if fully set out herein, including all properties fronting on any streets forming the boundaries of such district(s) and facing toward the district. For purposes of authenticity, the current map of the special entertainment district shall be signed and dated by the chairperson of the board of commissioners and publically displayed in the City Administrative office; all future revisions to said map shall be enacted by ordinance and authenticated as provided herein.

Specialty package retailer means a licensee under this chapter, operating from a fixed premise within the special entertainment district of the city, that may offer to the public package retail sales of craft malt beverages (beer) and/or wine(s) only, provided at least 50 percent of the floor space is dedicated to the retail sale of gourmet food items (not intended for consumption on the premises, such as a butcher shop and/or delicatessen meats, cheeses, breads and bakery items, and condiments) and related items or accessories, such as cooking and serving utensils, vessels and kitchen equipment, party or entertainment-related items (cups, plates, napkins, etc.) and beer and/or wine-making equipment and ingredients. Licensees may also sell unique marketing items, such as imprinted logo tee-shirts and hats.

Table wine means a wine having an alcoholic strength of not more than 14 percent by volume.

Tasting room means an outlet for the promotion of a domestic farm winery’s wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for

a fee. Tasting rooms may only be located within a Special Entertainment District designated by the Board of Commissioners.

Wholesaler means any person who sells alcoholic beverages to other wholesale dealers, to package dealers, or to on-premises consumption dealers.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term 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 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.

Winery means a manufacturer of wine.

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 the package and by the drink of malt beverages, wine, and distilled spirits; 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 malt beverages, wine and distilled spirits; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of malt beverages, wine and distilled spirits.

Sec. 6-3. - Compliance with chapter.

No person shall sell or offer for sale any alcoholic beverages at wholesale, by the package, or for consumption on the premises within the city without first having complied with the licensing provisions of this chapter. No person licensed or issued a permit pursuant to this chapter shall use powdered alcohol as an alcoholic beverage or use powdered alcohol to create an alcoholic beverage.

Sec. 6-4. - Violations; penalty.

It is unlawful for any person knowingly and intentionally to violate any prohibition contained in this chapter. Any person found guilty of or entering a plea of guilty or nolo contendere to a violation of this chapter, shall, upon conviction thereof, be punished as provided in section 1-12. Any violation of this chapter by a person licensed or issued a permit pursuant to this chapter shall constitute grounds for the suspension and revocation of any and all such licenses and permits issued to such person.

Secs. 6-5—6-30. - Reserved.

ARTICLE II. - LICENSES

Sec. 6-31. - Required.

- (a) No person shall engage in the manufacture, 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 retail package dealers and licensed retail consumption dealers without obtaining a city license.
- (b) Except as specifically authorized in this chapter, no person licensed for the sale of a particular class of alcoholic beverages may sell other class of alcoholic beverage without obtaining the required license therefor; provided, however, a person licensed to sell distilled spirits for on-premises consumption shall be authorized to serve malt beverages and wine, without obtaining a separate license, during the same hours as are permitted under this chapter for the serving of distilled spirits by the drink.
- (c) A person licensed to sell malt beverages and/or wine only (no distilled spirits) for consumption on the premises may also sell beer or wine by the unbroken package for carryout purposes, without obtaining a separate license, provided, such package sales shall not be made on any day or at any time when the sale of package beer and/or wine for carryout purposes is otherwise prohibited by law, or from any location (licensed premises) which is within distances to grounds or buildings where the package sale of alcoholic beverages for carryout purposes is otherwise prohibited by law. Furthermore, a brewpub license does not authorize the licensee to sell alcoholic beverages by the package for consumption off the premises.
- (d) Any eating establishment which is licensed to sell wine for consumption on the premises may permit a patron to remove one opened bottle per patron for consumption off the premises if the patron has purchased a meal and consumed a portion of the bottle of wine with such meal on the eating establishment's premises. The partially consumed bottle of wine shall be recorked or securely resealed by the licensee or its employees and placed in a bag or other container, with a dated receipt for the wine and meal attached to the container. If the licensee charges a recorking fee, such fee shall not exceed \$3.00 per bottle of wine. If transported 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.

Sec. 6-32. - Classification.

Licenses issued under this chapter are classified as follows:

- (1) *Manufacturer:* Distillery; Brewery; Winery
- (2) *Wholesaler:* Malt beverages/wine.

- (3) *Wholesaler*: Distilled spirits.
- (4) *Brewpub*: Beer only.*
- (5) *Eating establishment*: On-premises consumption: malt beverages.
- (6) *Eating establishment*: On-premises consumption: wine.
- (7) *Eating establishment*: On-premises consumption: distilled spirits.
- (8) *Public club/bar*: Malt beverages/wine.**
- (9) *Public club/bar*: Distilled spirits.**
- (10) *Hotel*: Malt beverages/wine.
- (11) *Hotel*: Distilled spirits.
- (12) *Retail package*: Malt beverages/wine.
- (13) *Retail package*: Distilled spirits.
- (14) *Retail package*: Specialty package retailer**
- (15) *Private clubs*: Malt beverages/wine.
- (16) *Private clubs*: Distilled spirits.
- (17) *Alcohol beverage caterer*: Malt beverages/wine.
- (18) *Alcohol beverage caterer*: Distilled spirits.
- (19) *Fraternal organization*: Malt beverages/wine.
- (20) *Fraternal organization*: Distilled spirits.

* Brewpub license shall only issue in conjunction with on-premises consumption license for an eating establishment and shall be governed by the provisions of this article pertaining to on-premises consumption licensees.

** License shall only issue for location within Special Entertainment District as defined in this chapter.

Sec. 6-33. - Qualifications of applicants.

- (a) No license shall be granted under this chapter to any applicant who is not a citizen or resident legal alien of the United States; provided, however, except for a retail dealer's license for distilled spirits, residency by an applicant shall not be a requirement if the applicant designates a resident of the city, Spalding County, or county bordering Spalding County who shall manage the business operated under the license and be responsible for any matter relating to the license. As required by state law, an applicant for a retail dealer's license for the sale of distilled spirits in unbroken packages must be a bona fide resident of Georgia residing for at least 12 months in a county where the sale of distilled spirits is not prohibited, as evidenced by the certificate of the probate court of the county of the applicant's residence. Residency requirements shall be met continuously during the term of the license.

- (b) Business entities registered with the Secretary of State (corporations, limited liability companies, limited liability partnerships, trusts, estates, etc.) shall apply for a license in the legal name of the entity, and the license shall be issued in the name of such entity. 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. In the case of closely-held corporate applicants, the majority stockholder must 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. Where the applicant is a corporation or other business entity, an agent involved in the active management of the business to be licensed, as designated by 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.
- (c) General partnerships shall apply for a license in the name of one of the partners, who is a resident of this state, and the license shall be issued in the name of all partners of the partnership. If the applicant is a partner in a partnership, the requirements of this section shall apply to all partners at the time of application, and at all times during which the license is in effect.
- (d) A fraternal organization shall be permitted to apply for a license in the name of any qualified officer of the organization.
- (e) 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, ~~or~~ corporation, or business entity organized for pecuniary gain if any individual having an interest either as owner, partner 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, within ten years immediately prior to the filing of the application of any felony, or within five years immediately prior to filing of the application of any misdemeanor, except non-moving traffic violations; provided, however, the city manager shall have discretion to waive any misdemeanor conviction, based upon its factual circumstances, which does not reflect adversely on the applicant's good character. The restrictions of this subsection as to stockholders shall apply only to stockholders of closely-held corporations and to stockholders of publicly-traded corporations who hold in excess of ten percent of outstanding stock.
- (f) On-premises consumption licenses shall be issued only to applicants who meet the definition of a hotel, eating establishment, Georgia farm winery tasting room, public club/bar, fraternal organization, or bona fide private club.
- (g) All licenses issued pursuant to this article shall expire on December 31 of each year and application for renewal shall be made annually on or before

November 1. Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Licenses in suspension on the date of expiration shall not be subject to renewal until the terms of the suspension have been lifted.

Sec. 6-34. - Application submission; basic information.

- (a) Every applicant for a license under this chapter shall make written application to the city manager on forms furnished by the city manager. The applicant shall answer all questions on the application truthfully, under oath, and shall 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; the place where the proposed business is to be located; and the type license applied for, whether for malt beverages, wine or distilled, spirits, and whether for wholesale, package sale or on-premises consumption. 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. 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 manager prescribes, shall be verified as true by the applicant before filing and shall be accompanied by a nonrefundable deposit of \$100.00 to cover the cost of investigating the applicant and processing the application. If granted, the application fee shall apply against the license fee.

Sec. 6-35. - Distance prohibitions.

- (a) In order to demonstrate a location meets all distance prohibitions imposed by state law, 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 800 feet in every direction. The front door or main entrance of the proposed location shall be the center point of a circle, having a radius of 600 feet. Such drawing shall also depict the distance from the premises to each church building, school building, educational building, school ground, college campus, governmentally owned and operated alcohol treatment center and housing authority property within the circumference of the circle. Applications for package dealers in distilled spirits shall also show the distance to the nearest distilled spirits package dealer therein, if any. All such distances shall be measured by the most direct route of travel on the ground.
- (b) Licensees for the retail sale of alcoholic beverages for consumption on the premises only shall not be subject to regulation as to distances from churches, schools, and colleges, but shall meet state distance requirements from governmentally owned and operated alcohol treatment centers and

housing authority property; provided, however, licensees for the retail sale of malt beverages and wine only (no distilled spirits) located within prohibited distances from churches, schools, and colleges shall not sell any malt beverages or wine by the closed package for carryout purposes.

Sec. 6-36. - Review of application.

In reviewing an application under this chapter, the city manager 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 manager, chief of police or other city officer 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. 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.

Sec. 6-37. - 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 amount of rental to be paid, 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.

Sec. 6-38. - Limitations on interest in licenses.

(a) 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 manager, in writing, within ten days, any 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. Under the de minimis concept, a person who owns less than five percent of the shares of a corporation 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.

Sec. 6-39. - Sale, distribution and other dealing in alcoholic beverages within the city by officials and employees; exemptions.

(a) No member of the board of commissioners holding or having a beneficial interest in any alcohol license issued by the city shall vote or participate in the consideration of any action affecting such alcohol license issued by the

city. For purposes of this section, 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 in which such person 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 city manager, upon advice and consent of the board of commissioners, may exempt officers and employees of the city from the provisions of this section, 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 manager may, in writing, exempt those officers or employees from the prohibition of this section, 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.

Sec. 6-40. - 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.

Sec. 6-41. - Location restrictions for wholesalers' and manufacturers' licenses.

No manufacturer's or wholesaler's license under this chapter shall be issued except for premises located within an industrial zoning classification or within the Central Business District (CBD) zoning classification, and meeting all requirements of the city zoning and developmental ordinances.

Sec. 6-42. - Location restrictions for package sales.

- (a) Package sales of distilled spirits at retail shall be conducted only in package stores with a minimum wholesale inventory value of \$50,000.00.
- (b) Except for specialty package retailers, package sales of malt beverages and/or wine intended for consumption off the premises may be conducted only in conjunction with distilled spirits package stores or the business operation of a grocery store, discount/general merchandise department store, convenience store, or drugstore meeting the requirements of this section. For the purpose of this subpart, "grocery store" shall mean a grocery retailer

carrying a full selection of food and grocery items, including fresh produce and meats and having a minimum total retail floor space of 10,000 square feet of which at least 85 percent is reserved for the sale of food and other nonalcoholic beverage items. A "convenience store" shall mean a retail store carrying a limited selection of canned, packaged or prepared food and grocery items and at which gasoline may be regularly available for sale, provided that no service or mechanical work is performed on motor vehicles, and provided further that the minimum wholesale value of the inventory of food and grocery items maintained on the premises for sale to the public is no less than \$10,000.00, exclusive of malt beverages and wine, tobacco products and candy. Discount/general-merchandise department store means a store with retail floor space open to the public in excess of 9,000 square feet of which no more than 4 percent is devoted to the sale of alcoholic beverages. For the purpose of this section a "drugstore" shall mean 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.

- (c) Licenses for the package sale of distilled spirits will be issued only for premises located within a commercial zoning classification under the city's Unified Development Code, and fronting on one of the following streets:
 - (1) North Expressway (Hwy. 19/41) from the north city limit south to its intersection with Taylor Street.
 - (2) Taylor Street/Memorial Drive/Arthur K. Bolton Parkway (Hwy. 16) from west city limit to east city limit; provided that no license for the package sale of distilled spirits shall be granted for a premises located within the Special Entertainment district of the city.
 - (3) West McIntosh Road from the west city limit to its intersection with Old Atlanta Road (that portion of West McIntosh Road west of the North Expressway (U.S. Highways 19 and 41) is also designated as Georgia Highway 92 on the State Highway System).
 - (4) South Hill Street between Crescent Road and the south city limit.
 - (5) Williamson Road (S.R. 362) from the Martin Luther King, Jr. Bypass (S.R. 341/19 and 41) to the southwest city limits.

No new license for the retail package sale of distilled spirits shall be approved for a location within 500 yards of any other business licensed to sell packaged distilled spirits at retail, as measured by the most direct route of travel on the ground; provided, however, that this limitation shall not apply to any hotel licensed under this article.

- (d) A specialty package retailer, as defined by this chapter, shall hold no other license under this chapter and may not operate its business in conjunction with any other retail business except as allowed by this chapter. No package sales of any distilled spirit shall be permitted by a specialty package retailer, whose business premises shall be located within a special entertainment district as defined by this chapter.

- (e) All premises at which the package sale of alcoholic beverages is authorized shall meet all requirements of the city's Unified Development Code, as well as minimum building, fire and life safety codes.
- (f) Premises licensed on May 15, 2001, for the package sale of distilled spirits and lying outside the locations authorized for package sales in subsection (c) 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 for the package sale of distilled spirits shall be issued for a location not meeting the location requirements of subsection (c).

Sec. 6-43. - Location restrictions for on-premises consumption.

Licenses for the sale of alcoholic beverages for on-premises consumption in conjunction with an eating establishment, hotel, or bona fide private club shall only be issued on premises located within a commercial zoning classification and meeting all requirements of the city zoning and developmental ordinances. A brewpub shall operate as an eating establishment that shall be the sole retail outlet for beer manufactured on the licensed premises and shall be licensed in conjunction with on-premises consumption of other alcoholic beverages purchased from a licensed wholesaler. Licenses for the sale of alcoholic beverages for on-premises consumption at a public club shall only be issued for premises located within a special entertainment district of the city, as herein defined. All applications for on-premises consumption licenses shall, by accompanying sketch or drawing made a part thereof, identify those portions of the premises, including any outside porches or patios, where alcoholic beverages may only be sold and consumed; provided, however, hotels licensed for on-premises consumption shall be permitted to cater functions in ballrooms, meeting rooms, reception areas, or patio areas in connection with a meeting, conference, convention or similar type gathering at such hotel.

Sec. 6-44. - Indebtedness to city.

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 or assessments to the city.

Sec. 6-45. - Investigation of application; issuance.

Every application filed pursuant to this chapter shall be thoroughly investigated by the chief of police, who shall make a formal written report and recommendation to the city manager. The city manager shall review the chief's report and make such further investigation as 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 manager 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.

Sec. 6-46. - Considerations for granting of licenses.

- (a) It shall be the duty of the city manager to issue or refuse to issue a license under this chapter to any applicant. In determining whether or not any application shall be granted and a license issued, the city manager 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.
- (b) If, upon investigation of an application for a license or renewal of an existing license, the city manager 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 manager shall have the option of issuing a probationary license conditioned upon posting a bond, with adequate security, in an amount not to exceed \$5,000.00, in addition to the license or renewal fee.

Sec. 6-47. - Grant of application; notice of denial.

- (a) All applications for alcoholic beverage licenses meeting this chapter shall be granted by the city manager for a period of up to one year, expiring on the last day of December in each year, unless some specific cause regarding location, traffic or environmental conditions or the specific causes set out in section 6-46 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 60-day review period shall be stayed until production of the additional documents is completed.

- (b) If the city manager denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reasons therefor. The applicant shall have the right to appeal to a hearing officer by filing a request for hearing with the city manager 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 manager receives the written notice of appeal. Within ten days from the date of conclusion of the hearing, the hearing officer shall notify the applicant and the city manager, in writing of his decision.

Sec. 6-48. - 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 manager of the change in any relationship as specified in section 6-38(d) within ten days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

Sec. 6-49. - License and permit 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, as follows:

Manufacturers, wholesalers and brewpubs:

Manufacturer.....\$5,000.00

Wholesale: Malt beverages/wine\$100.00 only if wholesaler has business location within the city

Wholesale: Distilled spirits\$3,500.00 only if wholesaler has business location within the city

Brewpub: Beer only\$2,500.00 only issued in conjunction with Eating Establishment/On-premises Consumption

Eating establishments, Georgia farm winery tasting rooms, and hotels:

On-premises consumption: Malt beverages\$500.00 if purchased separately or with On-Premises Consumption: Wine

On-premises consumption: Wine\$500.00** if purchased separately or with On-Premises Consumption: Malt Beverages

On-premises consumption: Distilled spirits\$4,000.00*** Includes Malt Beverages/Wine when served during same hours as distilled spirits

Public Clubs, Bars, and Tasting Rooms:

On-premises consumption: Malt beverages\$1,000.00 if purchased separately or with On-Premises Consumption: Wine

On-premises consumption: Wine\$1,000.00.00 if purchased separately or with On-Premises Consumption: Malt Beverages

On-premises consumption: Distilled spirits\$5,000.00 includes Malt Beverages/Wine when served during same hours as distilled spirits

Retail package sales:

Retail package: Malt beverages/wine\$1,500.00

Retail package: Distilled spirits\$5,000.00

Retail package: Specialty package retailer (malt beverages/wine)\$1,500.00

Private clubs and Fraternal Organizations:

Private club: Malt beverages/wine\$350.00

Private club: Distilled spirits\$1,000.00

Alcohol beverage catering:

Alcohol beverage caterer: Malt beverages/wine\$50.00

Alcohol beverage caterer: Distilled spirits\$50.00

Event permits (per day, each event, three-day maximum)\$25.00

- (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 26.
- (c) When a license is issued on or after July 1, the license fee is prorated by one-half.

Sec. 6-50. – Annual renewal; payment of fee; suspension of operation.

All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses in good standing shall apply to the city manager for renewal for the next calendar year on or before November 1 by filing a renewal application in proper form and tendering the required fees. Annual license fees are due January 1 of each year and shall be past due if not paid by that date. After January 1 there shall be imposed a penalty equal to one-half of the amount of the license fee for which application is made, which together with the license fee shall be paid before a new license is issued. The State of Georgia Department of Revenue shall be promptly notified of all licenses which were not timely 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.

Sec. 6-51. - Privilege nature of license.

(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 of America 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 GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING.

(c) All licenses shall be conspicuously posted in the place of business.

Sec. 6-52. - 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 manager 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.

(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 manager.

(d) *Increased capitalization.* A partnership or corporation holding a license may take on additional partners or shareholders, 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 will not receive any of the additional capital investment. Such additional

partner or new stockholder must apply for a license and meet all requirements of a licensee, including approval by the city manager, before he shall be permitted to acquire such interest.

- (e) *Transfer of locations.* Should a transfer of location be approved, there shall be no new license fee, but the new premises must meet all location requirements as for a new license.

Sec. 6-53. - Suspension and revocation; grounds and procedure.

- (a) When any state license issued by the Commissioner of Revenue pursuant to O.C.G.A. Chapter 3, Alcoholic Beverages, is revoked, any similar license issued to the same person by the city shall automatically become invalid and the licensee shall immediately cease and desist to operate thereunder.
- (b) Except as provided in sections 6-55 and 6-56, no license which has been issued or which may be issued pursuant to this article shall be suspended or revoked except for due cause and after hearing and upon at least three-day prior 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.
- (c) 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 of his employees 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.
 - (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 when the licensed business is for on-premises consumption.
 - (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) Any person to whom a license has been issued is no longer actively engaged in the dealing of alcoholic beverages (closure of the business for more than sixty (60) consecutive days shall create a rebuttable presumption the licensee has abandoned the business).
 - (6) Failure to meet or maintain any standard prescribed by this chapter as a condition or qualification for holding a license. Loss of qualifications during the term of a license shall be grounds for revocation or for denial of renewal.

- (7) 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 businesses licensed for on-premises consumption. 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.
- (d) Notice of suspension or revocation proceedings shall be served on the person(s) named on the license. Notice shall be in writing. The notice may be served personally, by registered or certified mail (return receipt requested), or by statutory overnight delivery. If by mail, the notice shall be addressed to the licensee at its last known 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 registered or certified mail of any notice required by this chapter, the service shall be deemed complete on the third business day following the date of mailing with the United States Postal Service. If by statutory overnight delivery, the notice shall be delivered to the physical street address of the licensee, either at the licensed premises or at his place of residence, and effective on the first business day after depositing with the delivery service.
- (e) The hearing shall be conducted by a hearing officer appointed by the chairperson of the board of commissioners. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
- (f) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney 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 in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which has no relevance or carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (g) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and

decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed \$5,000.00. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.

- (h) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.
- (i) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the city manager, in consultation with the chief of police. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and nonappealable.
- (j) Pursuant to O.C.G.A. §3-3-2.1, the City Manager shall be required to provide notification to the Georgia Department of Revenue within 45 days of any officer, department, agency, or instrumentality of the municipality taking disciplinary action against any person issued a license to operate any premises at which 75 percent or more total gross annual revenue is derived from the sales of alcoholic beverages for consumption on the premises.
- (k) The notification required under subparagraph (i) above shall be in the format for the reporting of disciplinary actions established by the Georgia Department of Revenue.
- (l) For purposes of subparagraph (j), "disciplinary action" shall have the same meaning as provided for in O.C.G.A. §3-3-2.1(a)(1), which includes any citation or arrest arising out of the violation of any law, rule, regulation, resolution, or ordinance of a governmental entity relating to the manufacture, distribution, sale, or possession of alcoholic beverages against a licensee, any employee of a licensee, or any person holding a financial interest in the license of a licensee on the premises or place of business of any licensee.

Sec. 6-54. - 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.

Sec. 6-55. - Short-term emergency suspension for violation involving licensed business.

- (a) The city manager has authority to suspend a license for a short-term period not to exceed ten days. The city manager's decision shall be in writing, with the term of the suspension and the reasons stated, and shall be mailed or delivered to the licensee as provided in section 6-53(c).
- (b) A short-term suspension by the city manager 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 two-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 6-53 can be held.

Sec. 6-56. - Emergency suspension of all alcoholic beverage licenses.

The board of commissioners 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 board of commissioners 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 board of commissioners determines the emergency is over or until the next meeting of the board of commissioners, at which time the suspension shall cease unless the same is extended by affirmative action of the board of commissioners.

Sec. 6-57. - Acceptance of application after rejection or revocation.

When any license or permit to operate a package store is rejected or revoked by the city manager, no new application shall be accepted from the same applicant for a license within 36 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.

Secs. 6-58—6-75. - Reserved.

ARTICLE III. - EXCISE TAX

DIVISION 1. - GENERALLY

Sec. 6-76. - Imposed.

In addition to the license fees required in this chapter and in addition to the excise taxes levied by the state, all licensees under this chapter shall pay to the city the taxes imposed in this article.

Sec. 6-77. - Unlawful retail sales.

No person shall sell at retail by the package or for consumption on the premises within the city any alcoholic beverage on which the taxes imposed by this chapter have not been paid.

Sec. 6-78. - Administration and enforcement authority; recordkeeping; confidentiality of reports.

- (a) *Authority of tax collector.* The city manager shall designate, in writing, a tax collector, who shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.
- (b) *Rules and regulations.* The tax collector shall have the power and authority to make and publish reasonable rules and regulations, subject to the approval of the board of commissioners, not inconsistent with this article or other laws of the city and the state, or the constitution of the state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes under this article.
- (c) *Records required from licensee; form.* Every licensee for the sale of alcoholic beverages in the city shall keep and preserve, for a minimum of three (3) years, all invoices relating to each purchase of alcoholic beverages and such other records, receipts, invoices and other pertinent papers in such form as the tax collector may require.
- (d) *Authority to require reports; contents; audits.* In the administration of the provisions of this article, the city tax collector may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the tax collector and shall set forth the price charged for each sale, the date or dates of sales, and such other information as the tax collector may require. The city tax collector or person(s) designated in writing by him may examine and audit the books, papers, records, financial reports, inventory, equipment and facilities of any licensee liable for the tax, in order to verify the accuracy of the return made; or if no return is made, to ascertain and determine the amount of tax, penalty and interest required to be paid.
- (e) *Wholesale records.* Every distributor, wholesale dealer and manufacturer required to make reports under this article shall keep accurate and complete records of all sales of distilled spirits, malt beverages and wine to any package

dealer or on-premises consumption dealer and of all reports made to the city for a period of four years from the time the tax to which they relate becomes due or the date the tax is paid, whichever is later, which records shall be made available for inspection by the city tax collection or the city manager at all reasonable times and places.

Sec. 6-79. - Examination of records; audits.

The city tax collector or any person authorized in writing by the city may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. If a city audit discloses a deficiency of more than three percent over what has been returned and remitted, the licensee shall reimburse the city for all costs of the audit, including but not limited to accountant's fees and out of pocket expenses, the value of time expended by city employees in the investigation, including reasonable cost of overhead, and all attorneys' fees and costs of collection if action must be instituted by the city.

Secs. 6-80—6-100. - Reserved.

DIVISION 2. - PACKAGE SALES

Sec. 6-101. - Imposed; amount.

(a) There is hereby imposed an excise tax on alcoholic beverages in the following amounts:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons.
- (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax on all fractional parts of 12 ounces.
- (3) On the first sale or use of wines by the package, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter, subject to the exemptions set forth in O.C.G.A. §3-6-70.
- (4) On the package sale of distilled spirits and on the sale of distilled spirits to private clubs, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(b) The excise taxes provided in subsection (a) of this section shall be imposed upon and shall be paid by the licensed wholesale dealer.

Sec. 6-102. - Report; payment.

(a) Each wholesaler of wine and distilled spirits responsible for payment of the excise tax shall file a report with the city itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by location, by size and type of container, sold during the preceding month in the city. Each

wholesaler of malt beverages responsible for payment of the excise tax shall file with the city, Ga. Rev. Dept. form ATT-122, showing the exact quantities of malt beverages, by size and type of the container, sold within the city during the preceding month.

- (b) The wholesale dealer shall remit the tax imposed under this division to the city on the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed.

Sec. 6-103. - Purchases to be made from licensed wholesalers or distributors.

Licensees subject to the tax under this division shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

Secs. 6-104—6-120. - Reserved.

DIVISION 3. - DISTILLED SPIRITS FOR CONSUMPTION ON PREMISES

Sec. 6-121. - Imposed; amount.

There is imposed an excise tax upon the sale of distilled spirits by the drink, which tax shall be three percent of the charge to the public, members or guests for the beverages. This tax does not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage, nor to wines for which an excise tax has already been paid under division 2 of this article. Each retail consumption licensee shall collect, report and remit the tax in the manner described in sections 6-122 through 6-124.

Sec. 6-122. - Itemized billing by licensee; liability for payment of tax.

Every licensee subject to the tax under this division shall, at the time of collecting for food and drinks served, give to the purchaser a written receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit card or deferred payment, the payment of the tax to the licensee may be deferred in like manner. However, the licensee shall be liable therefor at the time and to the extent that such credits are incurred.

Sec. 6-123. - Collection of tax by licensee.

Every licensee or its agent is hereby authorized and directed to collect the tax imposed in this division from purchasers of distilled spirits by the drink sold within its licensed premises. The licensee shall be liable to the city for the full amount received or collected as tax, whether collected appropriately or inappropriately; and for any amount of tax that should have been collected, but was not. Any person who receives or collects the tax or any consideration represented to be the tax shall hold the amount so collected in trust for the

benefit of the city and is liable to the city for the full amount collected, plus penalty and interest. Such licensee or agent shall furnish such information as may be requested by the city tax collector to facilitate the collection of this tax.

Sec. 6-124. - Payment and collection procedures.

- (a) *Due date of taxes; penalty and interest.* All taxes collected by any licensee or agent under this division shall be due and payable to the city on or before the twentieth day of every month next succeeding each respective calendar month, as set forth in this section. A specific penalty of fifteen (15%) percent is imposed for failure to pay any amount of tax when due and payable to the city. Delinquent amounts shall bear interest.
- (b) *Return; time of filing; persons required to file; execution.* On or before the twentieth day of the month, a written return for the preceding calendar month shall be filed with the city tax collector in such form as the tax collector may prescribe by every licensee or agent liable for the payment of tax under this division.
- (c) *Contents of return.* All returns shall show the gross receipts from the sale of distilled spirits by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the city tax collector.
- (d) *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the city tax collector on or before the due date.
- (e) *Collection fee allowed licensees.* Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, as now or hereafter amended.

Sec. 6-125. - Purchases to be made from licensed wholesalers or distributors.

Licensees shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

Secs. 6-126—6-150. - Reserved.

DIVISION 4. - PAYMENT AND COLLECTION

Sec. 6-151. - Determinations of deficiencies or in absence of return; overpayments; delinquency and fraud.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city tax collector is not satisfied with the return of the tax or the amount of the tax required to be paid to the city by any person responsible for collecting and

paying the tax over to the city, the tax collector may compute and determine the amount required to be paid upon the basis of any information within his possession or obtained by subpoena served upon the licensee, including itemized receipts.

- (b) *Estimate of gross receipts in absence of return.* If any licensee fails to file a return, files a false or fraudulent return, or when the tax collector reasonably believes a tax deficiency is due to a fraudulent intent to evade the tax imposed by this article, the person shall be assessed a specific penalty of fifty (50%) of the tax due. The city tax collector shall make an estimate of the amount of the gross receipts of the licensee or, as the case may be, of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the tax collector. Upon the basis of this estimate, the tax collector shall compute and determine the amount required to be paid to the city. One or more determinations may be made for one or for more than one period.
- (c) *Offsetting of overpayments.* In making a determination, the city tax collector may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in section 6-154.
- (d) *Time within which notice of deficiency determination to be mailed.* Promptly after making his determination, the city tax collector shall give to the person written notice to be served personally, by registered or certified mail (return receipt requested), or by statutory overnight delivery in the manner prescribed for service of notices in section 6-53(c). Such notice shall inform the person of his right to an informal hearing before the city manager, whose decision shall be final and binding upon the city as to the tax, penalties, and interest due. The city manager shall be authorized to waive any penalty or parts thereof. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be served within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

Sec. 6-152. - Delinquent tax collection; duty of assignees to withhold taxes; liability; offsetting of erroneous collections.

- (a) *Action for tax; time therefor.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of the state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, costs of collection and other legal fees incident thereto.

- (b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any licensee liable for any amount under this article sells his business or quits the business, his successors or assigns shall withhold a sufficient amount of the purchase price to cover such amount until the former owner produces a receipt from the city tax collector showing that he has been paid, or a certificate stating that no amount is due.
- (c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the necessary amount from the purchase price as required in this section, the purchaser becomes personally liable for the payment of the amount required to be withheld by it to the extent of the purchase price valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the city tax collector shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the city of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall begin at the time the licensee sells out his business or at the time that the determination against the licensee becomes final, whichever event occurs later.

Sec. 6-153. - Tax credit penalty or interest paid more than once or illegally collected.

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this article, it may be offset as provided in section 6-151(c). If the licensee determines that it has overpaid or paid more than once, which fact has not been determined by the city tax collector, it will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the city, the excess amount paid the city may be credited on amounts then due and payable from the licensee by whom it was paid or its administrators or executors.

Sec. 6-154. - Failure to pay tax; penalties and interest.

- (a) *Delinquent penalty.* Any person who fails to pay the tax imposed in this article to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a civil penalty of 15 percent of the tax, or amount of the tax, in addition to the tax or the amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in subsection (b) of this section.
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at an annual rate equal to the bank prime loan rate as posted by the Board of Governors of the Federal Reserve System in Statistical Release H.15, or any publication that may supercede it, plus 3 percent, to accrue monthly. Such annual interest rate shall be determined for each calendar year based on the first weekly posting of Statistical Release H. 15 on or after January 1 of each calendar year. Interest shall begin to accrue from the date the tax is due until the date the tax is paid. Any period less than one month shall be considered to be one month.

- (c) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, including a licensee's failure to issue written itemized receipts of alcoholic beverages sold, a penalty of 15 percent of the amount of such deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.
- (d) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provision of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a) of this section.

Secs. 6-155—6-169. - Reserved.

DIVISION 5. VIOLATIONS.

Sec. 6-170. Violations of this Article.

Any person willfully and intentionally violating any of the provisions of this Article III relating to collection and payment of the excise tax imposed on alcoholic beverages shall be deemed guilty of an offense against the city and, upon conviction in the Municipal Court of Griffin, shall be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars; or if unable to pay the fine, by incarceration not to exceed six (6) months. Each and every day during any portion of which any violation of this Article is committed, continues, or is permitted by the person responsible, shall be a separate offense and punished accordingly. Prosecution of a violation under this section shall not affect the underlying civil obligation to pay the taxes due. Any person who files a false or fraudulent return to evade the obligation to collect and remit the tax correctly shall be guilty under this section.

ARTICLE IV. - REGULATIONS FOR ALL ESTABLISHMENTS AND MISCELLANEOUS PROVISIONS

Sec. 6-176. - 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 manager and show a compliance with the other provisions of this chapter and 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 applicable ordinances of the city. If the building is not completed during

the year in which the licensee 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 manager 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 manager 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.

Sec. 6-177. - Inspection authority of city.

The city reserves the right to inspect premises from which alcoholic beverages are licensed to be sold at all reasonable times.

Sec. 6-178. - Event permit for authorized catered functions.

- (a) Any licensed alcohol beverage caterer who additionally holds a valid retail license to sell malt beverages or wine by the package or by the drink for consumption on the premises may apply to the city manager for an event permit to distribute malt beverages or wine by the drink off-premises within the city at authorized catered functions. Applications shall be supported by evidence of all required licenses in good standing, and proof of payment of excise and occupation taxes, if applicable.
- (b) Any licensed alcohol beverage caterer who additionally holds a valid retail license to sell distilled spirits by the package or by the drink for consumption on-premises may apply to the city manager for an event permit to sell distilled spirits by the drink off-premises within the city at authorized catered functions. Applications shall be supported by evidence of all required licenses in good standing and proof of payment of excise and occupation taxes, if applicable.
- (c) A licensed alcohol beverage caterer shall apply to the city manager for an event permit on forms prescribed for that purpose. The application shall include the name of the licensee and, if applicable, the name of the food caterer who will be serving the event, together with a copy of the current license(s) and occupation tax certificate(s); the date, time and duration of the event; and the name, address and telephone number of the event host or sponsor, and, if different, the address of the location where the event will be held. The application shall be signed by the licensed alcoholic beverage caterer and the event host or sponsor. If the event host or sponsor is not the owner of the venue at which the event will be held, then the owner of the

venue, or the owner's authorized agent, shall also sign the application consenting to the distribution of alcoholic beverages at that location. Each event permit shall require payment of a fee of \$25.00 per day; provided, however, if the licensed alcohol beverage caterer does not maintain a place of business within the city, in addition to the above fee, there is hereby levied an excise tax upon the total quantity of alcoholic beverages brought into the city for such event. At all times during which an authorized catered function is taking place, the original alcohol beverage caterer's license and the event permit shall be conspicuously posted and made available for inspection upon request by any city police, tax, or licensing officer; in addition, at all times while alcoholic beverages are being transported within the city, the licensee shall maintain a copy of the alcohol beverage caterer's license and event permit in the vehicle(s) used for transporting the alcoholic beverages. No event permit shall be issued for more than three consecutive days and a full permit fee shall be assessed for each day of the event.

- (d) Licensed alcohol beverage caterers shall be subject to the regulations set forth in O.C.G.A. § 3-11-4. Any licensed alcohol beverage caterer distributing or selling alcoholic beverages off-premises within the city, except in connection with an authorized catered function within the scope of the event permit shall be in violation of this article; if convicted, upon citation to the municipal court, violators shall be punished in the manner provided in this Code.

Sec. 6-179. - Employees.

- (a) No licensee under this chapter shall permit any person under the age of 18 within his employment to dispense, serve, sell, or take orders for alcoholic beverages; provided, however, this provision shall not prohibit employees under the age of 18 who are employed in grocery stores, discount/general merchandise department stores, 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 dispense, serve, sell, or take orders for any alcoholic beverage.
- (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, gambling, 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 five 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, gambling, 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) No public club/bar licensee shall allow or require an individual under the age of 21 to serve as a bouncer on the premises or in an establishment where alcoholic beverages are dispensed, served, or sold.
- (d) It shall be the duty of the licensee to ascertain that all employees are eligible for employment under this chapter. The city reserves the right to obtain fingerprints from and conduct a criminal history check of any licensee's employees at any time. Upon request by the city, the licensee shall cause the employee to appear at the city police department and shall pay the requisite fee in the amount of \$20.00.
- (e) 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 hearing officer in determining action on any license.

Sec. 6-180. - Days and hours of operation.

- (a) No retail package dealer of distilled spirits shall open his place of business or furnish, sell, or offer for sale, any distilled spirits at any time on Thanksgiving Day or Christmas Day. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. No retail package dealer of distilled spirits shall operate his place of business at any time prior to 8:00 a.m. or after 11:45 p.m. on Monday through Saturday, or prior to 12:30 p.m. or after 11:30 p.m. on Sunday. No retail package dealer of distilled spirits shall be in, or permit his employees to be in, his place of business at any time prior to one hour before opening time or later than 30 minutes past closing time, except for the purpose of responding to emergency situations; provided, however, when taking inventory, making repairs, renovating or similar business needs cannot reasonably be carried out during normal business hours with customers present, the dealer may apply to the city manager for a specific exception from this limitation. The city manager shall be authorized to impose reasonable terms and conditions on the exception. It shall be the duty of a retail package dealer of distilled spirits to

post on all entrances to the premises a sign reading "CLOSED - NO CUSTOMERS ALLOWED ON PREMISES" at all times outside of allowed hours of operation.

- (b) No retail package dealer of malt beverages and/or wine only, including licensees of divided stores meeting the requirements of applicable state laws and regulations, shall furnish, sell, or offer for sale, any malt beverages and/or wine on Christmas Day. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open. No retail package dealer of malt beverages and/or wine only shall furnish, sell, or offer for sale, any malt beverages and/or wine at any time prior to 6:00 a.m. or after 11:45 p.m. on Monday through Saturday, or prior to 12:30 p.m. or after 11:30 p.m. on Sunday.
- (c) No on-premises consumption licensee shall furnish, sell or offer to sell any alcoholic beverages on Christmas Day. Sales shall be permitted on election days during the hours polls are open. No licensee for on-premises consumption shall furnish, sell or offer to sell any alcoholic beverage between the hours of 1:55 a.m. and 9:00 a.m. on Mondays through Saturdays, or between the hours of 1:55 a.m. and 12:00 midnight on Sundays; provided, however, in any licensed eating establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food and in any licensed hotel which derives at least 50 percent of its total annual gross income from the rental of rooms for overnight lodging, alcoholic beverages may be sold for consumption on premises on Sundays from 12:30 p.m. until 12:00 midnight, except when Christmas Day falls on Sunday.
- (d) A domestic farm winery licensed to sell its wine in a tasting room located within a special entertainment district within the city, either for consumption on the premises or in closed packages for consumption off the premises, shall be authorized to sell its wine and the wine of any other Georgia farm winery licensee on the same days and within the same hours as an on-premises consumption licensee, including Sundays from 12:30 p.m. until 12:00 Midnight, except when Christmas Day falls on Sunday.
- (e) In all establishments licensed to sell alcoholic beverages for on-premises consumption, tables shall be cleared of all drinks containing alcohol by not later than 30 minutes following the latest time at which alcoholic beverages may be legally sold.

Sec. 6-181. - 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, sell 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 section, the term "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving 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.
- (e) No individual under the age of 21 shall enter or be allowed to enter a public club/bar unless he or she is accompanied by his or her parent, guardian, or spouse who is 21 years of age or older.

Sec. 6-182. - Open containers.

- (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 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; provided that where the city commission has approved, by resolution, a city-owned or leased building, location or facility as one where alcoholic beverages may be consumed, this section shall not apply to the otherwise lawful possession and consumption of alcoholic beverages at the location or in the area(s) so designated. The prohibition of this section shall not apply within the special entertainment district, as designated by the board of commissioners between the hours of 4:00 p.m. until Midnight; provided all alcoholic beverages shall be in clear, plastic cups no greater than 16 ounces, displaying a boundary map of the special entertainment district.
- (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) No person shall enter or leave the premises of any dealer licensed to sell or dispense alcoholic beverages for consumption on the premises with an open container of any alcoholic beverage; provided, however, any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to remove one unsealed bottle per patron for consumption off the premises if the patron has purchased a meal and consumed a portion of the bottle of wine with such meal on the restaurant's premises. The partially consumed bottle of wine shall be recorked or securely sealed by the licensee or its employees and placed in a bag or other container, with a dated receipt for the wine and meal attached to the container. If the licensee charges a recorking fee, such fee shall not exceed \$3.00 per bottle of wine. If transported 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. The prohibition of this section shall not apply within the special entertainment district, as designated by the board of commissioners between the hours of 4:00 p.m. until Midnight; provided all alcoholic beverages shall be in clear, plastic cups no greater than 16 ounces, displaying a boundary map of the special entertainment district.

Sec. 6-183. - Brownbagging.

Brownbagging, as defined in this chapter, is prohibited within the city. Any person who brownbags, participates in consumption of any alcoholic beverage being brownbagged, or any licensee or employee of a licensed establishment in whose presence brownbagging knowingly or with reckless indifference occurs, shall be in violation of this section.

Sec. 6-184. - Purchases to be made only from licensed wholesalers.

Retail package licensees and retail consumption licensees shall not buy nor accept deliveries of alcoholic beverages from any person other than a wholesaler dealer or distributor licensed by the state department of revenue.

Sec. 6-185. - Storage of alcoholic beverages at retail.

All package dealers and on-premises consumption dealers 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.

Sec. 6-186. - Nonprofit civic organizations; temporary permits.

- (a) As used in this section, the term "*bona fide nonprofit civic organization*" means a nonprofit corporation or entity which is exempt from federal income tax pursuant to the provisions of subsections (c), (d) or (e) of 26 U.S.C. § 501.
- (b) Bona fide nonprofit organizations may qualify for a temporary permit from the commissioner of the department of revenue to sell alcoholic beverages for consumption on the premises for a period not to exceed three days. No more than six such permits may be issued to a single qualified organization in any calendar year.
- (c) An authorized representative of a bona fide nonprofit organization may apply to the city manager for a letter certifying the date, time and event location as a condition for seeking a temporary permit from the commissioner. The city shall impose no fee or charge for such letter.

Sec. 6-187. - In-room sales in hotels.

Licenses obtained by hotels shall include the right to serve alcoholic beverages by the drink to registered guests in their hotel rooms as well as to deliver alcoholic beverages in unbroken packages to registered guests' rooms when such beverages have been ordered by such guests and/or to provide a cabinet or other facility in a hotel guest's room which contains alcoholic beverages for which licensed, and which is provided upon written request of the guest, and which is accessible by lock and key only to the guest, and for which the sale of the alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused and unopened portion. All alcoholic beverages sold or distributed under this section shall be obtained by the hotel directly from a licensed wholesaler or distributor and shall be stored on the premises of the hotel until sold or served.

Sec. 6-188. –Malt beverage and wine tastings.

Tastings may be held in conjunction with beer and/or wine education and appreciation classes conducted by retail package licensees and retail consumption licensees. Tastings shall be limited to no more than two (2 oz.) ounces of each beer or wine, and no patron shall exceed a maximum of six beer or wine products within a consecutive three (3) hour period, not to exceed once per day. No licensee shall conduct more than one (1) tasting event per month, with a maximum of six (6) within any one year period. No licensee shall charge more than Ten (\$10.00) Dollars per person to attend a tasting event, which shall

include not less than a one (1) hour class on beer or wine appreciation and education; provided, however, when the event is conducted as a fund-raiser for charitable purposes, the charge shall not exceed twenty-five (\$25.00) per attendee with all proceeds going to the charitable organization. The name of the charity and fee shall be prominently posted at the event. Licensees shall maintain records of receipts from donors and evidence that net proceeds were paid to the designated charity. Beer or wine shall only be dispensed or poured by the licensee or its employees and no open containers shall be removed from the licensed premises.

Secs. 6-189—6-200. - Reserved.

ARTICLE V. - ADDITIONAL REGULATIONS FOR PACKAGE DEALERS

Sec. 6-201. - Merchandise restrictions.

- (a) Except for specialty package retailers and as provided in section 6-42(b), 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) Distilled spirits, wines, malt beverages, provided the dealer is separately licensed for each.
 - (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 and commonly used to dilute distilled spirits.
 - (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.
- (b) Beverages containing no alcohol and commonly used to dilute distilled spirits may be dispensed through the use of vending machines, but no beverage alcohol shall be dispensed through such vending machines.

Sec. 6-202. - Merchandise and sales restrictions in grocery stores, discount/general merchandise department stores, and convenience stores.

- (a) Where malt beverage or wine sales are licensed in conjunction with a grocery store, discount/general merchandise department store, or convenience store, no licensee shall sell or offer to sell any firearms, ammunition, or weapons of any character.

- (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.

Sec. 6-203. - 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.

Sec. 6-204. - Name of liquor licensee to be displayed.

Each premises licensed for the package sale of alcoholic beverages shall have printed on the front window or door thereof the name of the licensee in uniform letters, not less than four nor more than eight inches in height and the words "Liquor," "Liquor Store" or "Package Store."

Sec. 6-205. - Liquor prices to be conspicuously displayed.

Each package dealer of alcoholic beverages shall conspicuously display within the interior of the licensed premises 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.

Sec. 6-206. - Games of chance; coin-operated devices on premises.

Gambling, betting, or the operation of games of chance, punchboards, slot machines, lotteries or tickets or chances (other than official games of the Georgia Lottery Commission), or other such scheme or device involving the hazarding of money or any other thing of value in any licensed place of business, or in any room adjoining or connected with the same and owned, leased or controlled by the alcohol beverage licensee, shall be cause for suspension or revocation of the license; provided that licensed coin-operated amusement devices and vending machines for dispensing soft drinks and tobacco products are permitted.

Sec. 6-207. - Regulation of specialty package retailers.

- (a) Licensees who offer for sale craft beers shall purchase their product from licensed wholesalers in kegs only and may not sell the product prepackaged in cans or bottles; all product shall be sold and distributed for off-premises consumption in growlers. Growlers shall be filled from a tapped keg, upon the customer's order, and may not be pre-filled or available in a cooler for later sale or delivery. All growlers shall be sanitized by the licensee or its employees and securely sealed using heat-shrink technology at the time of delivery to the customer.
- (b) Licensees who offer for sale wines shall deliver the product to customers for off-premises consumption only in original packages.
- (c) Specialty package retailers may offer customers samples of craft malt beverages and wines under the following conditions:
 - (1) Samples may be provided only upon a customer's request and limited to product available for sale within the licensed establishment.

- (2) Samples may not exceed two ounces and no customer may consume, in total, more than eight ounces of product.
- (3) No open container containing a sample may be removed from the premises.
- (4) No charge shall be imposed on the customer for the sample.
- (5) Samples shall only be served by the licensee or its employee.
- (d) Specialty package retailers may conduct educational classes to promote craft beers and/or wine appreciation no more frequently than monthly. Such classes may involve sampling of products available for sale within the establishment, provided the total quantity consumed by any single customer shall not exceed 12 ounces. No charge shall be imposed on customers to attend a class; provided, however, donations may be accepted for a charitable organization of the licensee's choice. Attendance at classes may be limited on a "first come" basis and reasonably restricted by available seating space.

Sec. 6-208. - Security cameras required.

- (a) All retail business establishments licensed by the city to engage in the sale of alcoholic beverages by the package for off-premises consumption are required to install and maintain in proper working order security cameras in accordance with this section.
- (b) To meet the requirements of this section, cameras must be capable of producing a retrievable image on film, tape, or digital media that can be made a permanent record and can be enlarged through projection or other means. Cameras and video equipment, whether digital or analog, shall be maintained in proper working order at all times and shall be periodic inspection by order of the chief of police or his designee. Initial location and placement of all such cameras shall be approved by the chief of police or his designee.
- (c) Cameras shall be placed at all points of entry/egress of the building, and at all cash registers or points of sale. Where feasible cameras shall also be place on the front, rear, and sides of the building to cover approaches to the building, including parking areas.
- (d) Video cameras shall be capable of producing sharply detailed, still frame video images in color, and have minimum specifications of 1 TB, 960 × 480 resolution, with 100' night vision.
- (e) Still cameras shall meet the following minimum specifications:
 - (1) Automatic still frame;
 - (2) Capable of being concealed where feasible;
 - (3) Remote activation;
 - (4) Quiet activation;
 - (5) Must be digital format of at least four megapixels quality;

- (6) Capable of producing good quality color photographs;
 - (7) Automatic focus;
 - (8) Easily accessible for film loading and maintenance;
 - (9) Capable of showing signs or signals of activation covertly; and
 - (10) Have wide-angle capability.
- (f) Upon the occurrence of a criminal act at or near the licensee's business establishment, the licensee (as a condition of its license) shall make accessible to law enforcement the film, video, or digital media upon request and under procedures established to assure the chain of custody of such film or video in a manner that it may be used as evidence in a case. The licensee shall cooperate with law enforcement to confirm the authenticity of such evidence for use at trial.
- (g) For purposes of this section only, when a licensee is required by this Code section to install security cameras, and maintain the same in proper working order, the failure to install such cameras or the failure to maintain cameras in proper working order shall be a violation of this section, returnable upon citation to municipal court, and upon conviction, punishable by a monetary fine only. The police department shall conduct periodic inspections of all premises of licensed retail establishments subject to this section; upon finding a violation, the licensee shall be issued a citation and have 20 days from the date of citation to install or maintain security cameras in accordance with this section; should the licensee fail or refuse to comply with such period, for a first offense the maximum fine shall be \$50.00; the second offense within a two-year period shall be \$100.00; and a third or subsequent offense within the two-year period shall be \$250.00; provided, however, each day following the 20 day grace period from which citation issues in which cameras are not installed or placed in proper working condition shall be deemed a separate offense of this section, resulting in a maximum fine of \$1,000.00 per day. Violation of this section shall also constitute grounds for revocation or non-renewal of a license.

Secs. 6-209—6-225. - Reserved.

ARTICLE VI. - ADDITIONAL REGULATIONS FOR ON-PREMISES CONSUMPTION

Sec. 6-226. - Sales by package prohibited.

Except as permitted by Sec. 6-31(c), no malt beverage or wine may be sold by the unbroken package from premises licensed for on-premises consumption; provided that this provision shall not prohibit the serving of a single can or bottle of malt beverage or wine to any patron for consumption on the premises where such sale is otherwise lawful.

Sec. 6-227. - Other mercantile businesses prohibited.

An on-premises consumption licensee shall not operate such establishment in connection with any other mercantile business, trade, or profession, except a

hotel, eating establishment, Georgia farm winery tasting room, public club, fraternal organization, or bona fide private club as defined in this chapter. It shall be a violation of this section for any on-premises consumption licensee to sell, offer to sell, or keep on the premises with intention to sell, any item not commonly associated with such type establishment, including but not limited to guns, ammunition, knives, weapons of any character, gambling paraphernalia including playing cards or dice, and non-immediately consumable food items including groceries. Non-alcoholic beverages, packaged chips, snacks, tobacco products and accessories, and logo'ed merchandise including clothing, shall be considered commonly associated items for sale in such establishments.

Sec. 6-228. - Premises to be well lighted.

The exterior of each building in which alcoholic beverages are sold for on-premises consumption shall contain sufficient lighting so that all sides of the buildings and all entrances thereto are clearly visible at all times when the premises are open for business. Also, the lounge and restaurant area, including all tables, booths, and other areas where customers are served, and all passageways for customers shall be sufficiently well illuminated so that they may be viewed by those in the premises.

Sec. 6-229. - Disturbances of the peace; security of premises.

No licensee shall knowingly permit any disturbance of the peace, or act of obscenity or public indecency on its premises. It shall be the responsibility of the licensee to provide reasonable measures to safeguard patrons and employees while on their premises.

Sec. 6-230. - Public clubs; special requirements.

A public club, as defined in this chapter, not meeting the definition of an eating establishment as defined herein, shall have a minimum seating capacity for not less than 100 persons, as certified by the fire marshal under applicable building, fire and life safety codes, with all seating provided at tables, booths, bars and counters unobstructed and open to view. Prior to opening, a public club shall obtain a certificate of occupancy from the building official certifying compliance with all applicable building and construction codes and regulations.

Sec. 6-231. - Nudity and partial nudity prohibited.

- (a) The following types of entertainment, attire and conduct are prohibited upon the premises of any establishment licensed to sell, serve, dispense or distribute alcoholic beverages for consumption on such premises:
 - (1) The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.
 - (2) Live entertainment where any person appears in the manner described in paragraph (1) of this section or where such person(s) perform(s) acts of or acts which stimulate any of the following:

- a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law;
 - b. The caressing or fondling of the breasts, buttocks, anus or genitals; or
 - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above; provided, however, that nothing contained in subsection (2) shall apply to the premises of any mainstream performance house, museum or theatre which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.”

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall become effective immediately upon adoption on second and final reading; provided, however, all current licenses issued for calendar year 2016 shall continue to be governed by those Code provisions in effect when the license was issued, including licensing fees paid for renewal of licenses to become effective January 1, 2017. It being the legislative intent that, other than license fees paid for renewals prior to January 1, 2017, all licenses shall be governed by this revision.

First Reading: October 11, 2016

Second Reading: October 25, 2016