

Chapter 5 - ALCOHOLIC BEVERAGES

ARTICLE 2. - LICENSING GENERALLY

Sec. 5-2-1. - Licenses required. modified

Sec. 5-2-2. - Number of licenses.

Sec. 5-2-3. - Visibility.

ARTICLE 3. - DEFINITIONS APPLICABLE TO ALL CLASSES

Sec. 5-3-1. - Definitions. modified

Sec. 5-3-2. - Regulations applicable to all classes.

Sec. 5-3-3. - Drinking alcoholic beverages by licensees, managers, and employees while on duty at locations. modified

Sec. 5-3-4. - Furnishing alcoholic beverages to and purchase and possession of alcoholic beverages by persons under 21 years of age, violation; jurisdiction.

Sec. 5-3-5. - Sale of intoxicating beverages where firearms and weapons are sold.

Sec. 5-3-6. - Exception of operating prior to July 1, 1981.

Sec. 5-3-7. - Violations; punishment.

Sec. 5-3-8. - ARB establishment; composition.

Sec. 5-3-9. - Staff and advisors; duties.

Sec. 5-3-10. - Powers and duties.

Sec. 5-3-11. - Identification cards for handlers of alcoholic beverages; possession of employee identification cards; application to police department; fingerprinting; photographing; employment of person without card; expiration. modified

Sec. 5-3-12. - Prohibition of certain types of entertainment, attire and conduct.

Sec. 5-3-13. - Timing of ARB recommendation.

Sec. 5-3-14. - Violations.

Sec. 5-3-15. - Fee chart depending upon the licenses sought. modified

Sec. 5-3-16. - Denial of application; appeal; resubmittal.

ARTICLE 4. - RETAIL BEER/WINE STORES

Sec. 5-4-1. - Retail sales generally of beer and/or wine from stores.

Sec. 5-4-2. - Required.

Sec. 5-4-3. - Separate license for each retail beer/wine store; surrender.

Sec. 5-4-4. - Classification of licenses; fees.

Sec. 5-4-5. - Applications for beer/wine license, wholesale malt beverage/wine distributor

16

(vintner) license.

Sec. 5-4-6. - Sham applicant; de facto applicant or location manager.

Sec. 5-4-7. - Surveyor's certificate containing false information.

Sec. 5-4-8. - Advertisement; proof thereof.

Sec. 5-4-9. - Action by ARB and city council. modified

Sec. 5-4-10. - Approval of application; expiration in 90 days; extension for cause.

Sec. 5-4-11. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application subject matter being litigated.

Sec. 5-4-12. - Considerations and guidelines for grant or denial.

Sec. 5-4-13. - Prohibited locations; prohibited persons; incomplete application.

Sec. 5-4-14. - Becoming a prohibited person.

Sec. 5-4-15. - Renewal; denial of renewal.

Sec. 5-4-16. - Revocation, refusal to renew, suspension, probation.

Sec. 5-4-17. - Changes of circumstances.

Sec. 5-4-18. - No broken packages.

Sec. 5-4-19. - Reserved.

ARTICLE 5. - PACKAGE STORES

24

Sec. 5-5-1. - General regulations.

Sec. 5-5-2. - Required.

Sec. 5-5-3. - Separate license for each outlet; surrender.

Sec. 5-5-4. - Classification of licenses; fees.

Sec. 5-5-5. - Initial application for license.

Sec. 5-5-6. - Sham applicant; de facto applicant or location manager.

Sec. 5-5-7. - Surveyor's certificate containing false information.

Sec. 5-5-8. - Advertisement; proof thereof.

Sec. 5-5-9. - Action by ARB and council.

Sec. 5-5-10. - Approval of application; expiration in 90 days; extension for cause.

Sec. 5-5-11. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application subject matter of which is being litigated.

Sec. 5-5-12. - Considerations and guidelines for grant or denial.

Sec. 5-5-13. - Prohibited locations, prohibited persons, incomplete application.

Sec. 5-5-14. - Becoming a prohibited person.

Sec. 5-5-15. - Renewal; denial of renewal.

Sec. 5-5-16. - Revocation, refusal to renew, suspension, probation.

Sec. 5-5-17. - Changes of circumstances.

Sec. 5-5-18. - No broken packages.

Sec. 5-5-19. - Number of package stores.

ARTICLE 6. - ON-PREMISES CONSUMPTION

32

Sec. 5-6-1. - Regulation of lounges; reporting food sales.

Sec. 5-6-2. - Regulations of restaurants; reporting food sales.

Sec. 5-6-3. - On-premises consumption regulations generally.

Sec. 5-6-4. - Entertainment at pouring outlets.

Sec. 5-6-5. - Off-premises and special event licenses. modified

Sec. 5-6-6. - General regulations.

Sec. 5-6-7. - Required.

Sec. 5-6-8. - Separate license for each location; surrender.

Sec. 5-6-9. - License for on-premises consumption; fee.

Sec. 5-6-10. - Contents.

Sec. 5-6-11. - Sham applicant; de facto applicant or location manager.

Sec. 5-6-12. - Surveyor's certificate containing false information.

Sec. 5-6-13. - Application, qualification; regulation.

Sec. 5-6-14. - Action by ARB and city council.

Sec. 5-6-15. - Approval of application; expiration in 90 days; extension for cause.

Sec. 5-6-16. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application where subject matter being litigated.

Sec. 5-6-17. - Considerations and guidelines for grant or denial.

Sec. 5-6-18. - Prohibited locations, prohibited persons, incomplete application.

Sec. 5-6-19. - Becoming a prohibited person.

Sec. 5-6-20. - Renewal; denial of renewal.

Sec. 5-6-21. - Revocation, refusal to renew, suspension, probation.

Sec. 5-6-22. - Effect of changes of circumstances on application.

Sec. 5-6-23. - Private clubs.

ARTICLE 6.1. ON-PREMISES CONSUMPTION UNDER 2,000 SQUARE FEET/OPEN

ARTICLE 6.1. - ON-PREMISES CONSUMPTION UNDER 2,000 SQUARE FEET/OPEN SIX HOURS OR LESS IN DAY

Sec. 5-6.1-1. - Regulation of on-premises consumption establishments under 2,000 square feet/open less than six hours in day.

44

ARTICLE 6.2. - ON-PREMISES ARTS LICENSES

Sec. 5-6.2-1. - Regulation of on-premises arts licenses. added

44

ARTICLE 6.3. - GROWLERS

45

Sec. 5-6.3-1. - Growler license. added

Sec. 5-6.3-2. - General regulations. added

Sec. 5-6.3-3. - Required. added

Sec. 5-6.3-4. - Separate license for each growler store; surrender. added

Sec. 5-6.3-5. - Applications for growler license. added

Sec. 5-6.3-6. - Sham applicant; de facto applicant or location manager. added

Sec. 5-6.3-7. - Surveyor's certificate containing false information. added

Sec. 5-6.3-8. - Advertisement; proof thereof. added

Sec. 5-6.3-9. - Action by ARB and city council. added

Sec. 5-6.3-10. - Approval of application; expiration in 90 days; extension for cause. added

Sec. 5-6.3-11. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application subject matter being litigated. added

Sec. 5-6.3-12. - Considerations and guidelines for grant or denial. added

Sec. 5-6.3-13. - Prohibited locations; prohibited persons; incomplete application. added

Sec. 5-6.3-14. - Becoming a prohibited person. added

Sec. 5-6.3-15. - Renewal; denial of renewal. added

Sec. 5-6.3-16. - Revocation, refusal to renew, suspension, probation. added

Sec. 5-6.3-17. - Changes of circumstances. added

ARTICLE 7. - TAXES AND REPORTS

Sec. 5-7-1. - Rate of taxation for malt beverages.

Sec. 5-7-2. - Method of payment.

Sec. 5-7-3. - Payment of tax; report.

Sec. 5-7-4. - Right to audit.

Sec. 5-7-5. - Failure to make timely report; penalty.

Sec. 5-7-6. - Payment of fee to wholesaler; payment revocable.

Sec. 5-7-7. - Sale prohibited when tax not paid.

Sec. 5-7-8. - Rate of taxation for liquor.

Sec. 5-7-9. - Method of payment.

Sec. 5-7-10. - Summary of purchase invoices.

Sec. 5-7-11. - Right to audit, failure to timely report; penalty.

Sec. 5-7-12. - Payment of fee to distributor; payment revocable.

Sec. 5-7-13. - Rate of taxation for wine.

Sec. 5-7-14. - Method of payment.

Sec. 5-7-15. - Summary of purchase invoices.

Sec. 5-7-16. - Right to audit, failure to timely report; penalty.

Sec. 5-7-17. - Payment of fee to wholesaler; payment revocable.

Sec. 5-7-18. - Tax on alcoholic beverages on-premises for consumption.

ARTICLE 8. - ART GALLERY ALCOHOL PERMIT

Sec. 5-8-1. - Applicability. **added**

Sec. 5-8-2. - Regulations. **added**



1 Sec. 5-2-1. - Licenses required.

- 2 (a) Purpose. The businesses of manufacturing, distributing, selling, handling and otherwise dealing in or
3 processing alcoholic beverages are privileges and not rights pursuant to O.C.G.A. § 3-3-1, and such
4 privileges shall not be exercised within the city limits without full compliance with the licensing,
5 regulatory, and revenue requirements of this chapter.
- 6 (b) Regulatory classes. The following regulatory classes are established:
7 (1) Retail beer/wine store;
8 (2) Package store;
9 (3) On-premises consumption;
10 (4) On-premises consumption under 2,000 square feet/open six hours or less in day;
11 (5) On-premises arts;
12 (6) Growler;
13 (7) Wholesale; and
14 (8) Manufacturing.
- 15 (c) Beer/wine wholesale and manufacture.
16 (1) The regulations for class retail beer/wine shall include requirements applicable to beer/wine
17 wholesale and manufacture except where more specifically set out hereinbelow.
18 (2) The regulations for class package store shall include requirements applicable to liquor
19 wholesale and manufacture except where more specifically set out hereinbelow.
- 20 (d) [Licenses.] Licenses are issued on a calendar-year basis; however, such license may be abandoned,
21 suspended, probated, or revoked as set forth in this chapter. Licenses may be issued at any time
22 during a calendar year for the remainder of the calendar year.
- 23 (e) Display of licenses. All holders of local and state alcohol beverages licenses shall prominently
24 display the same at the licensed location in an area accessible to city personnel. State licenses need
25 not be displayed if the state prohibits such display.
- 26 (Ord. No. 2002-14, § 1(9-1-7), 10-1-2002; Ord. No. 2006-08, § 1, 6-13-2006; Ord. No. 2011-15,
27 § 1, 12-6-2011; Ord. No. 2013-14, § 1, 1-21-2014; Ord. No. 2014-04, § 1, 4-15-2014)

28 Sec. 5-2-2. - Number of licenses.

29 Generally, no entity may hold more than two licenses total. The two licenses may be in a single
30 class. Hotels may hold up to five licenses total as long as each licensed entity or facility is physically
31 located or operated within one building.

32 (Ord. No. 2002-14, § 1(9-1-8), 10-1-2002; Ord. No. 2002-17, § 1(9-1-8), 11-12-2002; Ord. No.
33 2004-24, § 1(9-1-8), 12-21-2004)

34 Sec. 5-2-3. - Visibility.

- 35 (a) Each facility that sells any alcoholic beverage shall have a clearly marked point(s) of entry.
36 (b) The point(s) of entry must be clearly visible from a public street; however, this requirement shall not
37 apply to hotels or where the location of the point of entry is in a shopping center or multiple-story
38 business building.

- 39 (c) At all points of entry, clear windows or clear doors are required in all facilities licensed hereunder. If a
40 facility contains a cashier's cage or other internally enclosed facility, clear windows or clear doors
41 must also be utilized except as set out below.
- 42 (d) All businesses licensed hereunder, including those entirely enclosed in another building such as a
43 restaurant located in a hotel, must keep all windows, doors, etc., free of visual obstructions so that
44 persons outside the facility may clearly see inside the facility. No tinting, shades or other devices
45 shall be used to obstruct the view into the facility. Shades, curtains, blinds, etc., may be used to
46 reduce sun glare so long as such measures do not impede visual access to the facility's interior.
- 47 (e) All businesses licensed hereunder must keep a level of lighting internally adequate to provide visual
48 access and safety to law enforcement or other emergency responders 24 hours a day seven days a
49 week. External lighting cannot be solely used to meet the standards required herein.
- 50 (f) Offices which do not contain cash registers within a facility may be excluded from subsections (c)
51 and (d).

52 (Ord. No. 2002-14, § 1(9-1-9), 10-1-2002)

53 ARTICLE 3. - DEFINITIONS APPLICABLE TO ALL CLASSES

54

55 Sec. 5-3-1. - Definitions.

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

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

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

62 ARB means the appointed regulatory body also known as the alcohol review board.

63 Bed and breakfast means a facility used for accommodating travelers as guests for a charge or
64 donation where at least one meal is served, excluding churches and nonprofit soup kitchens.

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

70 Booth means a seating area with a table for use by the public.

71 Bottle means a generic term for all alcoholic beverages whether or not the same are in a glass
72 container including beer, wine, and hard liquor.

73 Business location means the site of an alcohol sales business or proposed site.

74 BYOB means "bring your own bottle" and/or "bring your own beer."

75 Cashier's cage means any area where money or other things of value are exchanged for goods or
76 services in an enclosed area located within another facility the purpose of which is security and/or
77 separation of the operator of the establishment from customers.

78 Church means a building, which is controlled by a religious organization or association and primarily
79 utilized for religious services, ceremonies, or instruction.

- 80 Contiguity means a premises connected by open hallways or rooms without doors or dividers.
- 81 Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or
82 containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.
- 83 Election day means one hour before the polls open to one hour after the polls close.
- 84 Food means all edible substances appropriate for human consumption as determined by the health
85 department inspecting the city's restaurants and lounges as sold or provided to the public in a restaurant
86 as defined in this chapter. Food shall not be construed to mean: olives, cherries, limes, lemons, salt,
87 pepper, pineapples, celery, tomato juice, or any other fruit, vegetable or dairy product such as ice cream,
88 cream, yogurt, milk or soft drinks, water, tonic water, other non-alcoholic carbonated or non-carbonated
89 beverages when such items are used in alcoholic beverages or mixed drinks as an essential part of the
90 beverage, mixed drink, or as a garnish thereon.
- 91 Gender means a word importing male or female only which shall be applied to either sex
92 interchangeably in this chapter.
- 93 Growler means a glass bottle not to exceed two liters and not less than 12 ounces that is filled with
94 beer or wine from a barrel, keg, or cask maintained on premises by a licensee holding a growler license
95 or employee of such licensee in accordance with the provisions of article 6.3.
- 96 Hotel means every building or other structure kept, used, maintained, advertised and held out to the
97 public to be a place where food is actually served and consumed and sleeping accommodations are
98 offered for adequate pay to travelers and guests, whether conducted in the same building or in a separate
99 buildings or structures used in connection therewith that are on the same premises and are a part of the
100 hotel operation:
- 101 (1) Which maintains 50 or more rooms used for the sleeping accommodations of such guests;
 - 102 (2) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as
103 required therein;
 - 104 (3) Which operates one or more public dining rooms (excluding banquet rooms) with a combined
105 seating capacity of at least 50, where meals are regularly served to guests; provided that
106 consistent with the definition of "lounge" in this section, in no event shall the seating capacity of
107 the lounge exceed that of such public dining room;
 - 108 (4) Which employs sufficient personnel to serve food as required in this chapter; and
 - 109 (5) Which derives at least as much gross income from the sale of such meals prepared, served,
110 and consumed in the hotel as it does from its sale of alcoholic beverages.
- 111 Individual means a natural person.
- 112 Intoxication means a condition where the licensee's, manager's, or employee's alcohol concentration
113 is 0.08 grams or more at anytime while on duty.
- 114 Licensee means the individual to whom a license is issued or, in the case of partnership or
115 corporation, all partners, officers, and directors of said partnership or corporation.
- 116 Lounge means a separate room connected with, a part of, and adjacent to, a restaurant or room
117 located in a hotel as defined herein with all booths, stools, and tables being open and unobstructed to the
118 view of any other customers in such lounge, or the manager thereof.
- 119 Malt beverage. See "Beer."
- 120 Manufacturer means any maker, and/or producer, of bottled alcoholic beverage. The term also
121 means:
- 122 (1) In the case of distilled spirits, any person engaged in rectifying, or blending any distilled spirits;
 - 123 (2) In the case of malt beverages, any brewer; and
 - 124 (3) In the case of wine, any vintner.

125 Manager means the person who does or will actually manage or operate the premises on a day-to-
126 day basis.

127 Measured means measured by way of a straight line from the nearest property line of a premises to
128 the nearest property line of an involved institution.

129 Monthly means on the basis of whole months.

130 Motel means facilities meeting the qualifications set out in this definition for hotels shall be also
131 classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the
132 operation of a lounge, or restaurant in their premises, and the holder of such franchise shall be included
133 in the definition of "hotel."

134 On duty means any licensee, manager, or employee located on the premises while being
135 remunerated in any way for services rendered; who is on the premises for the benefit or at the direction of
136 the outlet or its management; who is engaging in the sale, directly or indirectly, of any food or beverage;
137 or is taking a break during a precise work period.

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

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

143 Pour means sell for beverage purposes, sell for consumption on the premises, sell by the drink, and
144 the process of patrons bringing their own liquor, wine or malt beverages for the purposes of mixing drinks
145 and/or consuming same on the premises. The sale of mixes or setups or advertising to "bring your own"
146 or the possession by patrons on the premises of liquor, wine or malt beverages, not purchased at the
147 licensed facility shall be prima facie evidence of pouring and shall be prohibited.

148 Premises means areas with dual or more: cash registers, menus, trade names, seating, counter
149 space, cooking facilities or some combination of these elements shall be considered prima facie evidence
150 of a separate facility requiring a separate license. However evidence of contiguity may be presented to
151 rebut the presumption of separateness.

152 Principle [principal] business means that at least 51 percent of the receipts of such business shall
153 come from the sale of food in lounges and restaurants. To be included in the tabulation of receipts for the
154 purpose of this calculation are all receipts of all persons laboring on the premises, including the services
155 of all independent contractors, performers, servers, entertainers, or other nonemployee personnel not to
156 include, however, persons who are called to the premises from other licensed businesses to perform
157 services, repairs or construction on equipment or building premises.

158 Private club means any nonprofit association organized under the laws of this state which:

159 (1) Has been in existence at least one year prior to the filing of its application for a license to be
160 issued pursuant to this chapter;

161 (2) Has at least 75 regular dues-paying members;

162 (3) Owns, hires, or leases a building or space within a building for the reasonable use of its
163 members, which building or space:

164 a. Has suitable kitchen and dining room space and equipment; and

165 b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals
166 for its members and guests; and

167 (4) Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary
168 or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.
169 As used herein, a "fixed salary" means the amount of compensation paid any member, officer,
170 agent, or employee of a private club as may be fixed for him by its members at a prior annual
171 meeting or by the governing body out of the general revenue of the club and shall not include

- 172 any commission or any profits from the sale of alcoholic beverages. For the purpose of this
173 definition, tips or gratuities which are added to the bill under club regulations shall not be
174 considered profits from the sale of alcoholic beverages.
- 175 Redecorate shall not include repair nor freshening, change of theme or scheme, or work of any kind
176 which is incident to a repair.
- 177 Restaurant means any public place kept, used, maintained, advertised and held out to the public as
178 a place where meals are actual and regularly served, without sleeping accommodations, such place
179 being provided with adequate and sanitary kitchen and dining room seating capacity of at least 50
180 persons, including patios which are immediately adjacent to and a part of the main licensed facility and
181 wherein the same services are offered as inside the main licensed facility, with said seating capacity
182 complying with the Code; and having employed therein a sufficient number and kind of employees to
183 prepare, cook, and serve edible food to its guests.
- 184 Retail beer/wine store means any location which sells malt beverages, wine or malt beverages and
185 wine in unbroken packages at retail only to consumers and not for resale, such as, but not limited to,
186 convenience and grocery stores, beer shops, and wine shops.
- 187 Taxpayer means any person made liable by law to file a return and pay tax.
- 188 Wholesaler or wholesale dealer means any person who sells alcoholic beverages to other wholesale
189 dealers, to retail dealers, or to on-premises consumption locations.
- 190 Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made
191 from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added.
192 The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such
193 beverages, vermouths, special natural wines, rectified wines, and like products. The term does not
194 include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption
195 as a beverage. A liquid shall first be deemed to be wine at the point in the manufacturing process when it
196 conforms to the condition of wine contained in this Code section.
- 197 (Ord. No. 2002-14, § 1(9-1-10), 10-1-2002; Ord. No. 2004-24, § 3(9-1-10), 12-21-2004; Ord.
198 No. 2006-08, § 2, 7-11-2006; Ord. No. 2008-16, § 1, 10-21-2008; Ord. No. 2009-14, § 1, 10-6-
199 2009; Ord. No. 2014-04, § 2, 4-15-2014)
- 200 Sec. 5-3-2. - Regulations applicable to all classes.
- 201 (a) Issuance of license. Licenses provided for in this chapter shall be issued as follows:
- 202 (1) There shall be no refund of license fees for licensed businesses, which close during a calendar
203 year.
- 204 (2) New businesses starting after the beginning of the calendar year shall pay license fees prorated
205 on the basis of the annual license fee.
- 206 (3) Where established businesses operating under an annual license are sold or otherwise
207 conveyed (thus requiring a new license), the new license fee shall be determined according to
208 monthly prorations.
- 209 (4) The sale or conveyance of an alcohol beverage sale licensed business requires a new license
210 application, license, and all associated fees.
- 211 (5) All licenses shall be subject to nonrenewal suspension, probation, or revocation at any time for
212 causes set forth in this chapter.
- 213 (6) Failure to pay the required fee shall result in revocation of the license. Sale of alcoholic
214 beverages without a license may result in criminal prosecution.

- 215 (b) Authorization of sale on election days. The sale of alcoholic beverages on election days is
216 authorized, in accordance with state law.
- 217 (c) Corporate names. Corporations are authorized to apply for and to hold the licenses contemplated
218 under this chapter in their corporate names and shall name on such application an agent and/or
219 manager actively employed in the operation of the business who shall be responsible for operation
220 under the license as is provided for in this Code and who shall qualify in all respects under the
221 provisions of this Code. In addition, each corporation operating hereunder shall identify with the
222 Georgia Secretary of State a registered agent for service. Should the manager and/or agent or
223 registered agent leave the employment or service of the corporation a new agent and/or manager or
224 registered agent shall be named by the license holder within ten days thereafter; otherwise, the
225 license provided in this chapter shall be automatically forfeited and cancelled and no refund of
226 license fees shall be made to the licensee. An appeal of the cancellation can be made to the ARB
227 and then to the city council as provided in subsection 5-3-8(d).
- 228 (d) Periodic inspection and audits. Sworn officers of the police department, the city clerk, and city
229 manager and their designees shall have the authority to inspect establishments and their financial
230 records licensed under the alcoholic beverage ordinances of the city during the hours in which the
231 premises are open for business. The inspections shall be made for the purpose of verifying
232 compliance with the requirements of this chapter.
- 233 (e) Suspension; revocation.
- 234 (1) Any untrue or misleading information contained in or material omissions left out of an original, or
235 renewal application of a license hereunder shall be cause for the denial thereof, and, if any
236 license has been granted under these circumstances, there shall be cause for the immediate
237 suspension or revocation of the license pursuant to the provisions of this chapter subject to the
238 appellate provisions set forth in subsection 5-3-8(d).
- 239 (2) All licensees hereunder must, within a six-month period after the issuance of a license, open for
240 business the establishment referred to in the license and begin the sale of the product or
241 products authorized by the license. Failure to open the establishment and begin the sale of such
242 products within the six-month period shall serve as automatic forfeiture and cancellation of the
243 unused license pursuant to the provisions of this chapter. No refund of a license fee shall be
244 made to the licensee.
- 245 (3) Whenever the state shall revoke any permit or license, the city license to deal in such products
246 shall thereupon be automatically revoked without the need of any action by the city.
- 247 (4) In the event of revocation, no refund of any portion of the license fee shall be paid.
- 248 (5) All persons, firms, partnerships, entities, and corporations engaged in the sale of alcoholic
249 beverages shall observe all rules and regulations of the state revenue commissioner as they
250 pertain to the operation of their respective businesses and any violation of such rule or
251 regulation of the state revenue commissioner shall be determined to be a violation of this
252 section and punishable in accordance with state law and this chapter.
- 253 (f) Discontinuance of business. Any licensee hereunder who shall begin the operation of the business
254 and sale of product or products as authorized in the license, but who shall, for a period of six
255 consecutive months thereafter, cease to operate the business and sale of the product or products
256 authorized in the license, shall upon completion of the six-month period automatically forfeit his
257 license, which license shall by virtue of failure to operate, be cancelled without the necessity of any
258 further action of the city. Provided, however, that where a business temporarily ceases operation
259 solely to make substantial improvements or substantially refurbish the existing improvements which
260 will enhance the taxable value of the property on which the business is located, and where there is
261 no change in the licensee or interest holders thereof any business and/or alcoholic beverage license
262 may be reissued routinely upon application therefore and payment of required fees when the
263 business is ready to resume operations; provided, however, said cease of operations shall not
264 exceed six consecutive months from the expiration date of the license then in existence at the time
265 the operations cease. In order for an applicant's license to be reissued, the licensee must submit a

- 266 written request to the ARB. Upon good cause shown by the applicant, the ARB may recommend
267 reissuance of the license or an additional six-month extension of the unused license to the mayor and
268 council.
- 269 (g) Completed application. All applications under this chapter shall not be deemed completed until all
270 required information is accurately submitted, all criminal background checks are returned and
271 attached to the application, all surveys (when required) are attached and such application has been
272 reviewed and stamped complete by the alcohol beverage clerk or his/her designee. No time frame
273 designated hereunder shall begin to run until an application is deemed complete. Premature or
274 incomplete submission of an application may result in a refusal to accept the same until the
275 application is complete.
- 276 (h) Denied application. If an applicant's license has been previously revoked or denied, upon
277 reapplication for another license, such reapplication shall not be within a period of six months from
278 the date of revocation or disapproval.
- 279 (i) (1) Designated manager(s). All alcohol beverage licensed establishments shall have a designated
280 manager(s). If a manager resigns, is terminated, dies or otherwise is replaced during the
281 calendar-year license period the license holder shall notify the alcohol beverage clerk
282 immediately. Failure to designate a manager(s) and update the clerk regarding changed
283 managers may be cause for disciplinary action up to and including revocation.
- 284 (2) Required training. In order to obtain and maintain a valid alcohol beverage license, all managers
285 of the license applicant and/or all managers of the licensee must attend annually alcohol
286 beverage license training as provided by the city.
- 287 (j) Photographs of location. Applicants shall submit front, side and rear photographs of the alcohol
288 beverage license desired location as part of the application process. If the location is located in
289 another building, such as a hotel, pictures of the exterior building located on a city street may be
290 submitted.
- 291 (k) Probable-cause audits. Where the ARB has been presented evidence providing probable cause to
292 reasonably suspect a license holder is failing to comply with accurate reporting or payment
293 requirements under this chapter for reports or sums relating to the use or sale of alcoholic beverages
294 then the ARB may order a probable-cause audit of the license holder's alcohol related business.
- 295 (l) Brownbagging, BYOB prohibited. It is prohibited for any person to bring in his own alcoholic
296 beverage in any establishment requiring a license to manufacture, distribute, serve, sell, handle, or
297 otherwise deal in or process alcoholic beverages under this chapter or in any commercial
298 establishment without regard to whether such establishment is licensed. This prohibition, however,
299 shall not apply to a person bringing his own alcoholic beverage into a private hotel room or a guest
300 room within a bed and breakfast.
- 301 (m) Payment of taxes and other debts to the city. The city clerk shall cause an inquiry to be made into
302 the tax records of the city to determine if any applicant or other parties interested in an application
303 have any outstanding taxes or special assessments that are delinquent or any other monies owing to
304 the city. No license shall be issued, nor shall a license be renewed, until all such debts are paid in
305 full.
- 306 (n) Local bonding requirements. A performance and tax liability bond payable to the city in the amount of
307 \$5,000.00 must be posted and filed with the city, along with the application, for the first five years an
308 applicant seeks an alcohol beverage license under this chapter. In addition, all applicants who have
309 been found to be in violation of any state regulation relating to the sale and distribution of alcoholic
310 beverages as promulgated by the state department of revenue or any provision of this chapter must
311 post and file with the city, along with the application, a performance and tax liability bond payable to
312 the city in the amount of \$5,000.00 for the five years immediately following the violation. The bond
313 shall be conditioned upon the faithful observance and performance by the applicant of the rules and
314 regulations contained in this chapter, and upon the payment of any taxes, license fees, or other
315 sums due to the city pursuant to this chapter. Upon violation of this chapter, or any part thereof, the
316 amount of the bond to be forfeited will be determined based on the nature of the violation after a

317 hearing is provided in accordance with the provisions of this chapter. Forfeiture of any bond pursuant
318 to this section may be in addition to any other action that may be taken against a licensee for
319 violations of this chapter.

320 (o) City buildings and facilities. It shall be unlawful for any person to serve, possess and/or consume any
321 alcoholic beverage within any city building or facility unless (1) prior written authorization of the city is
322 first obtained, and (2) such service, possession and/or usage is in accordance with published rules of
323 the city recreation department. Service of alcoholic beverages within a city building or facility shall
324 not require an alcohol beverage license under this chapter provided it is in accordance with the
325 requirements of this section. As used herein, city building or facility shall mean any and all city parks
326 and any building owned or leased by the city.

327 (Ord. No. 2002-14, § 1(9-1-11), 10-1-2002; Ord. No. 2004-02, §§ 1—3, 1-27-2004; Ord. No.
328 2004-24, § 3(9-1-11), 12-21-2004; Ord. No. 2006-08, § 3, 6-13-2006; Ord. No. 2006-08A, § 1,
329 7-11-2006; Ord. No. 2008-16, § 2, 10-21-2008; Ord. No. 2009-04, § 1, 4-7-2009; Ord. No. 2009-
330 14, §§ 2—11, 10-6-2009; Ord. No. 2011-15, § 2, 12-6-2011)

331 Sec. 5-3-3. - Drinking alcoholic beverages by licensees, managers, and employees while on duty at
332 locations.

333 (a) It shall be unlawful for the licensee or any manager or employee thereof to consume any intoxicating
334 beverage while on duty at the same, or to be on duty at the same in an intoxicated condition.
335 "Intoxication" shall be defined as when a licensee's, manager's, or employee's alcohol concentration
336 is 0.08 grams or more at any time while on duty as defined below.

337 (b) For purposes of this section, any licensee, or interest holder thereof, manager, or employee of a
338 licensee who is on the establishment's premises shall be presumed to be "on duty" if he is:

339 (1) Being paid any salary, wage or remuneration of any kind for his services rendered during the
340 time he is on the premises;

341 (2) On the establishment's premises for the benefit of or at the direction of the establishment or its
342 management (other than as a customer, patron or guest);

343 (3) Engaging in the sale, directly or indirectly, of any food or beverage; or

344 (4) Taking a break during periods of on-duty employment.

345 (c) A violation of this section shall be punished in accordance with the City Charter. A violation of this
346 section shall also constitute grounds for the suspension, revocation, and/or refusal to renew license.

347 (Ord. No. 2002-14, § 1(9-1-12), 10-1-2002; Ord. No. 2009-14, § 12, 10-6-2009; Ord. No. 2013-
348 14, § 2, 1-21-2014)

349 Sec. 5-3-4. - Furnishing alcoholic beverages to and purchase and possession of alcoholic beverages by
350 persons under 21 years of age, violation; jurisdiction.

351 The municipal court, in accordance with O.C.G.A. § 36-32-10, is granted jurisdiction to try and
352 dispose of a first offense violation of O.C.G.A. § 3-3-23, pertaining to furnishing alcoholic beverages to,
353 and purchase and possession of alcoholic beverages by, a person under 21 years of age, if the offense
354 occurs within the corporate limits of the city. O.C.G.A. § 36-32-10 is incorporated in this section by
355 reference.

356 (Ord. No. 2002-14, § 1(9-1-13), 10-1-2002)

- 357 Sec. 5-3-5. - Sale of intoxicating beverages where firearms and weapons are sold.
- 358 It shall be unlawful for any person to sell, or offer for sale, firearms, knives or other weapons and
359 intoxicating beverages at the same business establishment.
- 360 (Ord. No. 2002-14, § 1(9-1-14), 10-1-2002)
- 361 Sec. 5-3-6. - Exception of operating prior to July 1, 1981.
- 362 Restrictions in this chapter on the sale of alcoholic beverages near alcoholic treatment centers
363 owned and operated by any city, any county, or the state shall not apply to any hotel or business licensed
364 for sales of wine or malt beverages, if such license was in effect on July 1, 1981.
- 365 (Ord. No. 2002-14, § 1(9-1-15), 10-1-2002)
- 366 Sec. 5-3-7. - Violations; punishment.
- 367 Any violation of this chapter shall be punished as provided in the city Charter for violation of local
368 ordinances unless otherwise specified.
- 369 (Ord. No. 2002-14, § 1(9-1-16), 10-1-2002)
- 370 Sec. 5-3-8. - ARB establishment; composition.
- 371 (a) There is hereby established an alcohol review board (sometimes referred to as the "ARB") which
372 shall consist of five members.
- 373 (b) All members of the ARB shall be appointed by the city council. All members shall serve staggered
374 terms and occupy posts as follows:
- 375 (1) Post 1. The assistant police chief, serving at the pleasure of the city council, until December 31,
376 2004. After January 1, 2005, a resident of the city at the time of appointment and for at least six
377 months immediately preceding the date of taking office shall be appointed to post 1. The term of
378 appointment thereafter shall be one year. The post 1 holder shall remain a resident of the city
379 while serving as a member of the ARB and may be reappointed to other one-year terms at the
380 pleasure of the mayor and council of the city.
- 381 (2) Post 2. The fire marshal serving at the pleasure of the city council, until December 31, 2005.
382 After January 1, 2006, a resident of the city at the time of appointment and for at least six
383 months immediately preceding the date of taking office shall be appointed to post 2. The term of
384 appointment thereafter shall be two years. The post 2 holder shall remain a resident of the city
385 while serving as a member of the ARB and may be reappointed to other two-year terms at the
386 pleasure of the mayor and council of the city.
- 387 (3) Post 3. The commercial code enforcement officer, serving at the pleasure of the city council,
388 until December 31, 2006. After January 1, 2007, a resident of the city at the time of appointment
389 and for at least six months immediately preceding the date of taking office shall be appointed to
390 post 3. The term of the appointment thereafter shall be three years. The post 3 holder shall
391 remain a resident of the city while serving as a member of the ARB and may be reappointed to
392 other three-year terms at the pleasure of the mayor and council of the city.
- 393 (4) Post 4. A citizen of the city who has lived in the city for at least six months, serving at the
394 pleasure of the city council, until December 31, 2007. After January 1, 2008, a resident of the
395 city at the time of appointment and for at least six months immediately preceding the date of
396 taking office shall be appointed to post 4. The term of appointment thereafter shall be four

- 397 years. The post 4 holder shall remain a resident of the city while serving as a member of the
398 ARB and may be reappointed to other four-year terms at the pleasure of the mayor and council
399 of the city.
- 400 (5) Post 5. A resident of the city at the time of appointment and for at least six months immediately
401 preceding the date of taking office shall be appointed to post 5. The term of appointment shall
402 be three years. The post 5 holder shall remain a resident of the city while serving as a member
403 of the ARB and may be reappointed to other three-year terms at the pleasure of the mayor and
404 council of the city.
- 405 (c) Each member shall serve his specified term and until his successor is appointed and qualified.
- 406 (d) In all actions by the ARB all members of the ARB shall be eligible to vote. The mayor and council
407 shall make all final decisions regarding alcohol beverage licenses.
- 408 (1) The ARB shall conduct hearings on new licenses, renewals of licenses and disciplinary matters
409 and make administrative recommendations to the mayor and council. The administrative
410 recommendations of the ARB shall be deemed to be decisions of the mayor and council
411 regarding all alcohol hearing beverage (sic) matters, excluding ordinance changes, if the
412 applicant/license holder does not appeal such administrative recommendation to the mayor and
413 council within 30 days of the ARB recommendation by filing a written appeal with the alcohol
414 beverage clerk. If such appeal is sought, a hearing before mayor and council shall automatically
415 occur. Such appeal to mayor and council shall be a de novo review of the administrative
416 recommendation of the ARB.
- 417 (2) Further, if the mayor and council, by the votes of three members eligible to vote, deem it
418 appropriate, with or without request of the applicant/license holder, a de novo appeal hearing
419 may be granted.
- 420 If the applicant/license holder does not timely appeal and/or if the council does not elect to
421 reconsider the matter on their own motion the ARB recommendation shall be deemed the final
422 decision of the mayor and council and may be appealed by certiorari to superior court.
- 423 (3) For the purpose of effectuating this subsection the terms "ARB" "city council" or "mayor and city
424 council" or "mayor and council" may be used interchangeably except as the words relate to the
425 adoption of ordinances as set out in subsection (d)(4) or where the same would be nonsensical.
- 426 (4) It is not the intention of the mayor and council to unconstitutionally delegate its governmental
427 authority to the ARB. All final decisions relating to local alcoholic beverage regulation shall be
428 made by the mayor and council. Should any provision relating to the duties or powers of the
429 ARB be deemed to be an unconstitutional designation of powers, the mayor and council shall
430 be deemed to have exercised the powers of the ARB except where the council specifically
431 repeals the same. It is hereby declared that all sections, paragraphs, sentences, clauses, and
432 phrases of this subsection are or were upon their enactment, believed by the mayor and council
433 to be fully valid enforceable and constitutional. It is hereby declared to be the intention of the
434 mayor and council that, to the greatest extent allowed by law, each and every section,
435 paragraph, sentence, clause or phrase of this section is severable from every other section,
436 paragraph, sentence, clause or phrase of this section. It is hereby further declared to be the
437 intention of the mayor or council that, to the greatest extent allowed by law, no section,
438 paragraph, sentence, clause or phrase of this section is mutually dependent upon any other
439 section paragraph, sentence, clause or phrase of this section. In the event that any phrase,
440 clause, sentence, paragraph or section of this section shall, for any reason whatsoever, be
441 declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of
442 any court of competent jurisdiction, it is the express intent of the mayor and council that such
443 invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not
444 render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases,
445 clauses, sentences, paragraphs or sections of the ordinance and that, to the greatest extent
446 allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the
447 section shall remain valid, constitutional, enforceable, and of full force and effect.

- 448 (e) The members of the ARB shall elect a chairperson who may preside over the meetings and
449 promulgate such regulations as are necessary to govern its meetings.
- 450 (Ord. No. 2002-14, § 1(9-1-17), 10-1-2002; Ord. No. 2002-17, § 2, 11-12-2002; Ord. No. 2004-
451 24, § 2(9-1-17), 12-21-2004; Ord. No. 2006-08, § 4, 6-13-2006; Ord. No. 2009-14, §§ 13—15,
452 10-6-2009; Ord. No. 2011-15, § 3, 12-6-2011)
- 453 Sec. 5-3-9. - Staff and advisors; duties.
- 454 (a) The city clerk or his/her designee shall be the recorder and record keeper of the ARB and as such
455 shall attend meetings, take minutes thereof, be responsible for all files and records, receive and
456 process applications, and perform other such tasks as designated by the ARB.
- 457 (b) The ARB shall have, as it requires, additional staff consisting of the city manager, city attorney, chief
458 of police and all city employees available to it. These staff persons may participate in all discussions,
459 if called upon to do so, by the ARB but shall not have the power to vote.
- 460 (Ord. No. 2002-14, § 1(9-1-18), 10-1-2002; Ord. No. 2009-14, § 16, 10-6-2009)
- 461 Sec. 5-3-10. - Powers and duties.
- 462 (a) Responsibility and authority. The ARB is hereby vested with the following duties and powers:
- 463 (1) Initial applications.
- 464 a. To screen, verify, and review all initial applications for licenses of the manufacture, and/or
465 sale of liquor, wine and malt beverages, at wholesale and retail, by the package and by the
466 drink.
- 467 b. To make recommendations to the city council to grant or to deny licenses for the
468 manufacture, and/or malt beverages, at wholesale and retail, by the package and by the
469 drink.
- 470 (2) Renewals.
- 471 a. To hear reports and charges constituting probable cause not to renew licenses for the
472 manufacture, and/or sale of liquor, wine, and malt beverages, at wholesale and retail by
473 the package and by the drink.
- 474 b. To make recommendations to the city council to grant or to deny renewals of licenses for
475 the manufacture and/or malt beverages, at wholesale and retail, by the package and by the
476 drink.
- 477 (3) Suspension, revocation; probation.
- 478 a. To hear reports and charges constituting probable cause to suspend or revoke licenses for
479 the manufacture, and/or sale of liquor wine and malt beverages at wholesale and retail, by
480 the package and by the drink.
- 481 b. To make recommendations to the city council to suspend, revoke and/or place on
482 probation licenses for the manufacture and/or malt beverages, at wholesale and retail, by
483 the package and by the drink.
- 484 (4) Appeals. To hear appeals on the seizure of a license by the chief of police, or other duly
485 authorized suspending officers or the license inspector under sections of this chapter and to
486 make recommendations to the city council which may affirm, reverse, or modify the actions of
487 the suspending officer.

- 488 (5) Entertainment. To receive reports on entertainment at pouring outlets, all as provided in this
489 chapter, and to take or recommend such action as is appropriate.
- 490 (6) Employees. To receive reports on and to recommend approval or disapproval of employees of
491 businesses that sell alcoholic beverages by the package or by the drink, all as provided in this
492 chapter, and to take such action as is appropriate in the case of such disapproval.
- 493 (7) Ordinances and policies. To recommend to the city council modifications to the ordinances and
494 policies of the city pertaining to the regulation, control and taxing of liquor, wine and malt
495 beverages.
- 496 (8) Complaints, etc. To hear complaints, suggestions and recommendations from the city manager,
497 the city council, police department, state officials, alcoholic beverage dealers and the public at
498 large as to the operation of retail beer/wine stores, packages stores, and on-premises
499 consumption location, businesses within the city.
- 500 (9) Rules and regulations. To promulgate rules and regulations governing procedures regarding
501 matters that may arise.
- 502 (b) Meetings. The ARB shall meet on an as-needed basis.
- 503 (Ord. No. 2002-14, § 1(9-1-19), 10-1-2002; Ord. No. 2009-14, § 17, 10-6-2009)
- 504 Sec. 5-3-11. - Identification cards for handlers of alcoholic beverages; possession of employee
505 identification cards; application to police department; fingerprinting; photographing; employment of
506 person without card; expiration.
- 507 (a) Any person, manager, or employee whose responsibility is the service of alcoholic beverages in
508 restaurants, hotels, or lounges or who handles alcoholic beverages or who works as a security guard
509 or as a security employee in any location licensed under this chapter, whether or not such person is
510 an employee of such licensee, shall apply to the police department for an alcoholic beverage
511 employee identification card, which shall be renewed annually upon the anniversary date of original
512 issuance. The fee for the card shall be set forth under section 5-3-15
- 513 (b) While on duty (as defined in section 5-3-1) in any business, every person required to hold a handler's
514 identification card under subsection (a), whether or not an employee of the business, shall have their
515 handler's identification card displayed on their person at all times. The card must be displayed in
516 such a manner as to be clearly visible to any authorized city official observing the same. Upon
517 request by the location manager, handler identification cards may be issued in duplicate. However,
518 no more than two cards shall be issued for any handler per any location. The purpose of the second
519 card shall be solely for the manager's convenience as a backup if the handler fails to arrive at work
520 with an identification card.
- 521 (c) Alcoholic beverage handlers shall make themselves available for photographing, fingerprinting and
522 such other identification as may be required by the police department in accordance with state law
523 and local ordinance.
- 524 (d) The police department shall investigate the handler applicants. An alcoholic beverage handler
525 identification card shall not be issued to any person who has pled guilty to, or has been convicted of
526 a felony involving violence, gambling, theft, use of alcohol, or use of illegal substances, or of a crime
527 opposed to decency and morality or who has been convicted of a crime involving violation of the
528 ordinances of the city or other jurisdictions relating to the use, sale, taxability or possession of malt
529 beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to
530 the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors,
531 or the taxability thereof, or who has pled guilty to or who has been guilty of multiple felonies involving
532 violence, use of alcohol, theft, gambling, or use of controlled substances, or of a crime opposed to
533 decency and morality unless five years shall have elapsed between the date of the applicant's most
534 recent conviction and the date of issuance of the handler identification card, provided that a handler

535 identification card shall not be issued to any person who is then serving probation of a felony
536 sentence from any felony described above. The police department shall report any other detrimental
537 information about an application to the ARB and the ARB may suggest prohibiting the issuance of an
538 alcoholic beverage employee identification card where the applicant's record indicates such
539 employment would adversely affect the public health, safety or welfare or violate the law. All
540 employees who serve alcoholic beverages must be at least 18 years old.

541 (e) No package store or on-premises consumption licensee under the provisions of this chapter shall
542 hire any person, nor permit any person to work or assist in a licensed business, until such person
543 has procured an alcoholic beverage handler identification card as prescribed in this section.

544 (f) The ARB may, after hearing (unless waived by applicant), recommend or revoke an identification
545 card. The city council may demand the card's surrender where the employee violates the provisions
546 of this chapter or for behavior which adversely affects the public health, safety and welfare.

547 (g) It shall be unlawful for a handler whose card has been revoked, and upon whom demand for
548 surrender of a card has been made, to refuse to so surrender, or to alter, conceal, deface or destroy
549 the card such action being punishable in accordance with the city Charter.

550 (h) Identification cards may be produced for multiple locations if requested by the handler. When
551 applying for any card the applicant must list all city locations for which the cards are to be applicable.

552 (i) Proof of employment is required at each location and must be provided.

553 (j) All cards are the sole and exclusive property of the city. Destruction, theft, defacement, or detriment
554 of identification cards shall be punishable as a felony under state law. One card is required for each
555 location a handler is employed.

556 (k) Fees for a card and each additional card are found in section 5-3-15

557 (Ord. No. 2002-14, § 1(9-1-20), 10-1-2002; Ord. No. 2006-08, § 5, 6-13-2006; Ord. No. 2007-
558 05, § 1, 5-1-2007; Ord. No. 2009-14, §§ 18, 19, 10-6-2009; Ord. No. 2013-14, § 3, 1-21-2014;
559 Ord. No. 2014-04, § 3, 4-15-2014)

560 Sec. 5-3-12. - Prohibition of certain types of entertainment, attire and conduct.

561 (a) Findings; public purpose. Based on the experience of other urban counties and municipalities,
562 including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Richmond
563 County, Georgia; Amarillo, Texas; Austin, Texas; Garden Grove, California; Houston, Texas; Renton,
564 Washington; Phoenix, Arizona; Indianapolis, Indiana; St. Paul, Minnesota; Tucson, Arizona; Augusta,
565 Georgia; LaGrange, Georgia; Dalton and Whitfield County, Georgia; Carrollton, Georgia; Smyrna,
566 Georgia; and Fort Lauderdale and Palm Beach, Florida, which experiences the city council believes
567 are relevant to the problems faced by the city, the city council takes note of the notorious and self-
568 evident conditions attendant to the commercial exploitation of human sexuality, which do not vary
569 greatly among generally comparable communities within our country. Moreover, it is the findings of
570 the city council that public nudity (either partial or total) under certain circumstances, particularly
571 circumstances related to the sale and consumption of alcoholic beverages, begets criminal behavior
572 and tends to create undesirable community conditions. Among the acts of criminal behavior identified
573 with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the
574 undesirable community conditions identified with nudity and alcohol are depression of property
575 values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement
576 personnel to preserve law and order, increased burden on the judicial system as a consequence of
577 the criminal behavior hereinabove described, and acceleration of community blight by the
578 concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in
579 establishments licensed to sell alcoholic beverages is in the public welfare and it is a matter of
580 governmental interest and concern to prevent the occurrence of criminal behavior and undesirable
581 community conditions normally associated with establishments, which serve alcohol and also allow
582 and/or encourage nudity. To that end, this section is hereby adopted.

- 583 (b) Enactment. The following types of entertainment, attire and conduct are prohibited upon any
584 premises licensed to sell, serve or disperse alcohol beverages:
- 585 (1) The employment or use of any person, in any capacity, in the sale or service of alcohol
586 beverages while such person is unclothed or in such attire, costume or clothing, as to expose to
587 view any portion of the female breast below the top of the areola or any portion of the male or
588 female pubic hair, anus, cleft of the buttocks, vulva and genitals.
- 589 (2) Live entertainment where any person appears in the manner described in subsection (b)(1) of
590 this subsection or where such persons (or person) perform(s) acts of or acts which simulate any
591 of the following:
- 592 a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any
593 sexual act which is prohibited by law.
- 594 b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals.
- 595 c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- 596 (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event
597 or any other activity where patrons of the licensed establishment are encouraged or allowed to
598 engage in any of the conduct described in subsections (b)(1) and (b)(2) above.
- 599 (c) Severability.
- 600 (1) It is hereby declared to be the intention of the mayor and council that all sections, paragraphs,
601 sentences, clauses and phrases of this section are or were, upon their enactment, believed by
602 the mayor and council to be fully valid, enforceable and constitutional.
- 603 (2) It is hereby declared to be the intention of the mayor and council that, to the greatest extent
604 allowed by law, each and every section, paragraph, sentence, clause or phrase of this section is
605 severable from every other section, paragraph, sentence, clause or phrase of this section. It is
606 hereby further declared to be the intention of the mayor or council that, to the greatest extent
607 allowed by law, no section, paragraph, sentence, clause or phrase of this chapter is mutually
608 dependent upon any other section, paragraph, sentence, clause or phrase of this section.
- 609 (3) In the event that any phrase, clause, sentence, paragraph or section of this chapter shall, for
610 any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the
611 valid judgment or decree of any court of competent jurisdiction, it is the express intent of the
612 mayor and council that such invalidity, unconstitutionality or unenforceability shall, to the
613 greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable
614 any of the remaining phrases, clauses, sentences, paragraphs or sections of the chapter and
615 that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences,
616 paragraphs and sections of the chapter shall remain valid, constitutional, enforceable, and of full
617 force and effect.

618 (Ord. No. 2002-14, § 1(9-1-21), 10-1-2002; Ord. No. 2009-14, § 20, 10-6-2009)

619 Sec. 5-3-13. - Timing of ARB recommendation.

620 If the ARB does not recommend to approve, deny, or renew a license within 90 days of the receipt of
621 a complete application, the same shall be considered approved by the mayor and council until revoked.

622 (Ord. No. 2002-14, § 1(9-1-22), 10-1-2002; Ord. No. 2009-14, § 21, 10-6-2009)

623 Sec. 5-3-14. - Violations.

624 Any person violating any of the provisions of this article shall be deemed guilty of an offense and,
625 upon conviction thereof, shall be punished as provided in accordance with the city Charter. Each such

626 person shall be guilty of a separate offense for each and every day during any portion of which any
 627 violation of any provision of this article is committed, continued or permitted by such person and shall be
 628 punished accordingly.

629 (Ord. No. 2002-14, § 1(9-1-23), 10-1-2002)

630 Sec. 5-3-15. - Fee chart depending upon the licenses sought.

631 All fees established throughout this chapter shall be as set forth in the chart below. Some fees may
 632 be cumulative depending upon the licenses sought. Where no fee is specifically set forth the fee shall be
 633 \$1,000.00. This fee schedule is subject to change by ordinance adopted by the mayor and council. The
 634 most current duly adopted change in the fees shall supersede any fee provision in this chapter.

Beer/Wine/Liquor—Retail, Wholesale, Manufacturer, Restaurant, Lounge, Hotel	\$5,000.00
Beer/Wine Only—Retail, Wholesale, Manufacturer, Restaurant, Lounge, Hotel	\$3,150.00
Liquor Only—Applicable Only to On-Premises Consumption Under 2,000 Square Feet/Open 6 Hours or Less in Day Licensees	\$3,000.00
Beer Only—Applicable Only to On-Premises Consumption Under 2,000 Square Feet/Open 6 Hours or Less in Day Licensees	\$1,600.00
Wine Only—Applicable Only to On-Premises Consumption Under 2,000 Square Feet/Open 6 Hours or Less in Day Licensees	\$1,600.00
Growler License	\$1,600.00
On-Premises Arts License	\$250.00
Administration Fee	\$200.00
Handler Identification	\$25.00 (\$5.00 for each additional) and \$10.00 refundable deposit
Off-Premises and Special Events	\$50.00 annually
Late Fee	15% penalty for failure to pay amount when

due and payable to city and interest at rate of
1% per month until paid

635

636 (Ord. No. 2002-14, § 1(9-1-24), 10-1-2002; Ord. No. 2005-09, § 1(9-1-24), 10-4-2005; Ord. No.
637 2006-08, § 6, 6-13-2006; Ord. No. 2006-08A, § 2, 7-11-2006; Ord. No. 2008-16, § 3, 10-21-
638 2008; Ord. No. 2009-14, § 22, 10-6-2009; Ord. No. 2011-15, § 4, 12-6-2011; Ord. No. 2013-14,
639 § 4, 1-21-2014; Ord. No. 2014-04, § 4, 4-15-2014)

640 Sec. 5-3-16. - Denial of application; appeal; resubmittal.

641 No application shall be considered until the alcohol beverage clerk deems the same complete as set
642 forth in this chapter. If the application is denied, the same or substantially same application cannot be
643 resubmitted for six months after the date of denial.

644 (Ord. No. 2002-14, § 1(9-1-12), 10-1-2002; Ord. No. 2009-14, § 23, 10-6-2009)

645 **ARTICLE 4. - RETAIL BEER/WINE STORES**

646

647 Sec. 5-4-1. - Retail sales generally of beer and/or wine from stores.

648 (a) For purposes of this chapter, retail beer and/or wine stores shall be referred to as "retail beer/wine
649 stores." Likewise, the words "beer" and "malt beverage" shall be synonymous. The building or
650 proposed building to house a retail beer/wine by the package store shall meet all requirements of the
651 building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator and
652 shall comply with other ordinances of the city for zoning, storage, parking buffers and other issues.

653 (b) No screen, partition or thing which prevents a clear view into the interior of a retail sale of beer/wine
654 store by the package from the street, nor any booth within, shall be permitted.

655 (c) No sale of malt beverage and/or wine by the package shall be permitted between the hours of 2:00
656 a.m. and 8:00 a.m. In addition, no sale of malt beverages and/or wine by the package shall be
657 permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or any other days or times prohibited
658 by state law.

659 (d) The state regulations relating to the sale and distribution of malt beverages and/or wine by the
660 package, as revised, promulgated by the state revenue department, are hereby incorporated into
661 and made a part of this chapter as if fully set out in this section.

662 (e) Any license holder/applicant shall make an immediate report to, and receive approval by, the ARB of
663 any change in the interests in, or ownership of or of the license of a beer/wine store and/or any
664 change in the information stated in the original application for license. The ARB shall report the
665 changes and its recommendations to the city council for the city council's final approval.

666 (f) No drive-in windows for the sale of malt beverages or wine shall be allowed.

667 (g) The open parking area of any building or proposed building to house a retail beer/wine store shall
668 have an average maintained footcandle intensity of at least one footcandle with a minimum allowable
669 intensity of three-tenths of a footcandle. The covered parking area of any building or proposed

670 building to house a retail outlet shall have an average maintained footcandle intensity of at least two
671 footcandles with a minimum allowable intensity of five-tenths footcandle.

672 (h) Each retail beer/wine store shall install and maintain in a secure location security cameras in the
673 outlet of a type and number approved by the chief of police. Such cameras:

674 (1) Shall be placed in the outlet to record activities in the checkout or cash register area(s).

675 (2) Shall be capable of producing a retrievable image on film, tape, or any readable medium that
676 can be made a permanent record and enlarged through projection or other means.

677 (i) Each retail outlet shall post at least four copies of its complete price list or, in lieu thereof, place a
678 price on each package for sale.

679 (Ord. No. 2002-14, § 1(9-1-26), 10-1-2002; Ord. No. 2007-05, § 2, 5-1-2007; Ord. No. 2008-16,
680 10-21-2008; Ord. No. 2009-14, §§ 24, 25, 10-6-2009; Ord. No. 2011-14, § 1, 12-6-2011)

681 **Sec. 5-4-2. - Required.**

682 It shall be unlawful for any person to manufacture, sell or offer to sell any malt beverage or wine at
683 wholesale or retail within the corporate limits of the city without having the appropriate license for such
684 manufacture or sale, or to carry on such activity in violation of the terms of such license or of this chapter.

685 (Ord. No. 2002-14, § 1(9-1-27), 10-1-2002)

686 **Sec. 5-4-3. - Separate license for each retail beer/wine store; surrender.**

687 (a) A separate license shall be required for each retail beer/wine store outlet, and a separate application
688 shall be made for each such place.

689 (b) Immediately upon the sale or closing of a business, it shall be the duty of the licensee to surrender
690 his license to the ARB.

691 (c) Any licensee who is an employee of a corporation, and who is separated from his employment,
692 whether he resigns, retires or is fired, shall immediately notify the office of the clerk of such
693 separation Monday through Friday, 8:00 a.m. until 5:00 p.m. If such employee removes the retail
694 beer/wine license from the establishment, he shall immediately surrender such license to the clerk.
695 Failure to surrender such license, if removed from the place of business, shall be a violation and
696 shall be punished as provided by state law.

697 (Ord. No. 2002-14, § 1(9-1-28), 10-1-2002; Ord. No. 2009-14, § 26, 10-6-2009)

698 **Sec. 5-4-4. - Classification of licenses; fees.**

699 (a) Types of classification. Licenses under this article shall be classified as follows:

700 (1) Retail package. Retail beer/wine store, which shall permit only the sale of malt beverages
701 and/or wine in packages at retail.

702 (2) Wholesale. Wholesale malt beverage/wine distributor, which shall permit only the sale of malt
703 beverages and/or wine at wholesale.

704 (3) Manufacture. Manufacturers of malt beverages/wines, which shall permit only the manufacture,
705 bottling and packaging of malt beverages and/or wine.

706 (b) Fee amount. The amount of the license fee for each class shall be set forth under section 5-3-15

707 (Ord. No. 2002-14, § 1(9-1-29), 10-1-2002)

708 Sec. 5-4-5. - Applications for beer/wine license, wholesale malt beverage/wine distributor (vintner)
709 license.

710 Applications for retail beer/wine licenses and applications for wholesale malt beverage/wine
711 distributor licenses and manufacturing shall be as follows:

712 (1) Forms; submission. Each initial applicant shall make written application to the ARB for the
713 privilege of engaging in the sale (specifying wholesale, manufacturing, or retail) of malt
714 beverages/wines, such applicant using forms provided by the clerk.

715 (2) Where filed; fee. The application shall be filed with the clerk with a fee as set out in the fee
716 schedule under section 5-3-15, for review of the applicant and of the proposed location and
717 processing of the application.

718 (3) Contents. The application shall state:

719 a. As to the applicants, full name, birth date, present address and addresses for the past five
720 years, business address and business addresses of employers and their addresses for the
721 last five years, name of spouse, complete record of all arrests, convictions and guilty pleas
722 for violations of all laws, city, counties, state and federal, and other cities, counties, and
723 states of both applicant and spouse, and the disposition of all charges within the last five
724 years prior to the application.

725 b. As to the applicant's location manager (if not the same as the applicant), the same
726 information as required of the applicant in subsection a.

727 c. Exact location (street address and otherwise) of proposed business, including zoning
728 district. The location must be properly identified.

729 d. Name and address of the owner or landlord and/or resident manager of property proposed
730 for location and whether or not there is a building proposed to be used already erected
731 thereon.

732 e. Trade name (or proposed trade name) of proposed business.

733 f. Names and addresses of all persons having any financial interest in the outlet by way of
734 ownership of building, property, or stock, receipt of income from the business or otherwise.

735 g. Such other information as may be required by the city council, the ARB, the chief of police,
736 the city manager, the city attorney or the clerk.

737 (4) Approvals. The application shall contain evidence of the following persons' approval of the
738 licensee and of the owner and the manager of the malt beverage/wine establishment:

739 a. Building inspector (i.e., building permit, certificate of occupancy, or other evidence).

740 b. Traffic engineer.

741 c. Fire marshal/fire chief.

742 d. Chief of police/assistant chief of police.

743 e. Planning and zoning coordinator.

744 (5) Oath. The application shall be sworn to.

745 (6) Surveyor's certificate. The application shall be accompanied by a current certificate from a
746 registered surveyor containing the following information:

747 a. A scale drawing of the building or proposed building, as situated on the proposed lot.

- 748 b. The proposed off street parking facilities available to the building and all outdoor lighting on
749 the premises.
- 750 c. The exact location of the business, including street address, ward, and county tax map
751 number.
- 752 d. Current zoning classification of the location.
- 753 e. The distance in yards as measured in a straight line from nearest property line to nearest
754 property line from each of the following: the nearest school building, school ground or
755 college campus, and the nearest alcoholic treatment center owned and operated by the
756 state or any county or municipal government therein.
- 757 f. If a business has been licensed since July 1, 1981, or before, the survey shall be required
758 however no license will be denied based upon a failure to meet the distance requirements
759 as set forth under O.C.G.A. § 3-3-21.
- 760 (7) False information. An application under this chapter containing known false information may
761 result in the disapproval, revocation, suspension or failure to renew the license applied for and
762 prosecution as a felony.

763 (Ord. No. 2002-14, § 1(9-1-30), 10-1-2002; Ord. No. 2009-14, §§ 27, 28, 10-6-2009)

764 Sec. 5-4-6. - Sham applicant; de facto applicant or location manager.

765 A "sham" means any information provided for an application which is not true, accurate, or is
766 spurious, or deceitful.

- 767 (1) It shall be unlawful for any person to file, or permit to be filed, an application for license under
768 this division wherein a sham applicant or a sham location manager is named.
- 769 (2) It shall be unlawful for any person to file an application for license containing his name as
770 applicant, or the name of a location manager, when such person is not the de facto applicant or
771 the de facto location manager, as the case may be.
- 772 (3) It shall be unlawful for any person to permit his name to be used on an application for license
773 where such person will not be the de facto owner of the license or the de facto location
774 manager, as the case may be.
- 775 (4) It shall be unlawful for any person to file an application for license, or permit his name to be
776 used in such application, where the application contains a nominal applicant or nominal location
777 manager for the purpose of avoiding the provisions of this article restricting applicants or
778 managers to persons without criminal records, or restricting economic interests in outlets, or for
779 any other elusive purpose.

780 (Ord. No. 2002-14, § 1(9-1-31), 10-1-2002)

781 Sec. 5-4-7. - Surveyor's certificate containing false information.

- 782 (a) It shall be unlawful for any applicant under this article to submit with his application any surveyor's
783 certificate containing known false information and/or measurements.
- 784 (b) It shall be unlawful for any surveyor to submit, or allow to be submitted, a certificate containing
785 known false information.
- 786 (c) A violation of subsection (b) may result in prosecution as for a felony offense.
- 787 (d) Substantial errors in measured distances, as determined by the city engineer, shall be prima facie
788 evidence that the distances submitted are known to be false.

789 (Ord. No. 2002-14, § 1(9-1-32), 10-1-2002)

790 Sec. 5-4-8. - Advertisement; proof thereof.

791 (a) Each applicant under this article shall advertise his application for license at his own expense in the
792 legal organ newspaper once a week for two weeks. Advertisements shall not be required for
793 renewals. The advertisement shall appear after the application is filed and before the public hearing
794 provided for in this article. The advertisement shall contain the name of the applicant, the purpose of
795 the application, the proposed location of the business, and its owner's name, and the name of the
796 proposed location manager. An advertisement shall run for each initial application.

797 (b) The applicant, before consideration will be given to his application, shall file with the clerk a copy of
798 the advertisement together with affidavits from the newspaper to the effect that it has been printed as
799 required.

800 (Ord. No. 2002-14, § 1(9-1-33), 10-1-2002; Ord. No. 2009-14, § 29, 10-6-2009)

801 Sec. 5-4-9. - Action by ARB and city council.

802 (a) After proof of advertisement is filed, the clerk shall notify the chief of police, who shall investigate the
803 applicant and the reputation of the location and make a full report to the ARB. The clerk shall also
804 circulate the application to the building inspector, the fire marshal, the traffic engineer, and the
805 planning and zoning coordinator for their investigation and recommendation.

806 (b) The clerk or his/her designee, when assured that all requirements have been complied with and the
807 application is complete, shall refer the application, together with any objections filed, to the ARB. The
808 ARB shall, after review of the applicant and the proposed location, recommend action to the city
809 council. The ARB shall afford the applicant a hearing prior to making a recommendation. Pursuant to
810 subsection 5-3-8(d), the recommendation of the ARB shall be deemed to be the decision of the
811 mayor and council if the applicant does not appeal such recommendation to the mayor and council
812 within 30 days of the ARB recommendation by filing a written appeal with the alcohol beverage clerk.

813 (Ord. No. 2002-14, § 1(9-1-34), 10-1-2002; Ord. No. 2009-14, § 30, 10-6-2009)

814 Sec. 5-4-10. - Approval of application; expiration in 90 days; extension for cause.

815 Approval of an application under this article by the city council shall expire after 90 days from the
816 date of such approval, unless the applicant has procured, and paid the fee for, the approved license. If
817 the application is approved and all fees paid the same shall lapse if no action is taken on license by
818 applicant within six months of issuance. The city council may extend the approval up to 90 days for good
819 cause shown such as fire, flood, war, and other uncontrollable occurrences, provided the request is made
820 within the original 90-day period.

821 (Ord. No. 2002-14, § 1(9-1-35), 10-1-2002)

822 Sec. 5-4-11. - Substantially the same application not to be resubmitted or entertained within six months
823 of previous application; deferral of action on application subject matter being litigated.

824 (a) No applicant under this article may submit, and the ARB shall not review, an application which is
825 substantially the same as an application submitted within the previous six months that has been
826 denied, unless directed by the city council.

827 (b) Either the ARB or the city council, or both, may defer action upon any application, the subject matter
828 of which is substantially the same as the subject matter of litigation then pending in the city, state, or
829 federal courts until such time as the litigation is resolved.

830 (Ord. No. 2002-14, § 1(9-1-36), 10-1-2002)

831 Sec. 5-4-12. - Considerations and guidelines for grant or denial.

832 The ARB, and the city council in making its determinations on an initial application, shall be guided
833 by the following factors as to whether or not to grant a license under this article:

- 834 (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether
835 the same is predominantly residential, industrial or business.
- 836 (2) The proximity of school grounds, school buildings, college campuses, and alcoholic treatment
837 centers owned and operated by the state or any county or municipal government therein.
- 838 (3) Whether the proposed location has adequate off street parking facilities or other parking
839 available for its patrons.
- 840 (4) Whether the location would tend to increase and promote traffic congestion and resulting
841 hazards therefrom.
- 842 (5) The criminal record of the applicant and the location manager, and their financial responsibility;
843 provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of
844 lack of financial responsibility.
- 845 (6) A report of the chief of police, the building inspector, the fire marshal, the traffic engineer, and
846 the planning and zoning manager relating to the use or sale of alcohol at the proposed location.
- 847 (7) The information required in the application or statement and whether all requirements as to
848 notice, advertisement, fire codes, building, zoning, parking, lighting and other matters relating to
849 the use or sale of alcohol at the proposed location have been met.
- 850 (8) Evidence presented to the ARB for or against the application relating to the sale or use of
851 alcohol at the proposed location.
- 852 (9) Whether or not the granting of the application is in the best interest of the health, safety, and
853 welfare of the city.
- 854 (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has
855 been revoked for cause by the city.
- 856 (11) The history or reputation of the building or establishment (proposed for business) for prostitution
857 or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in
858 alcoholic beverages or drugs; or other violations of the law relating to the sale or use of alcohol
859 at the proposed location; or the overtaxing of existing city infrastructure and personnel. Such
860 determination of overtaxing will be made based upon reports of crimes and emergencies
861 reported and responses made to the site when compared to the same factors found at all retail
862 facilities averaged together as found in the city established by an annual study.
- 863 (12) Whether or not the applicant or outlet location is in violation of other local ordinances or state
864 laws relating to the crimes and issues referenced in subsection (11) as related to the sale or use
865 of alcohol at the proposed location.
- 866 (13) Whether or not the applicant or location manager has violated other jurisdictions laws regarding
867 alcohol beverage licensing.

868 (Ord. No. 2002-14, § 1(9-1-37), 10-1-2002; Ord. No. 2006-08, § 7, 6-13-2006)

869 Sec. 5-4-13. - Prohibited locations; prohibited persons; incomplete application.

870 (a) Prohibited locations. It shall be prohibited to obtain a license for the sale of malt beverages within the
871 following areas of the city:

872 (1) Within any residential zoning district or other prohibited zoning district established in the zoning
873 ordinance.

874 (2) Within a measured 100 yards of any alcoholic treatment center owned and operated by the
875 state or any county or municipal government therein.

876 (3) Within a measured 100 yards of any school building, school ground, or college campus.

877 (b) Prohibited persons. It shall be prohibited for the following persons to obtain a license for the retail
878 sale of malt beverages/wine:

879 (1) A person who does not comply with any residency requirements under state law.

880 (2) A person who has been convicted of a felony relating to violence, illegal substances, gambling,
881 theft, or alcohol use, or of a crime opposed to decency and morality, or who has been convicted
882 of a crime involving violation of the ordinances of the city or any other city or county relating to
883 the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws
884 of the state and federal government pertaining to the manufacture, possession, transportation or
885 sale of malt beverages, wine or intoxicating liquors, or the taxability thereof within five years
886 preceding the application.

887 (3) A person whose license under this chapter has been revoked for cause or who has had a
888 license under this chapter revoked for cause.

889 (4) A person who is under 18 years of age or who is not of sound mind and memory.

890 (c) Incomplete application. An application under this article filed and submitted before containing
891 substantially all the information required may be refused by staff.

892 (Ord. No. 2002-14, § 1(9-1-38), 10-1-2002; Ord. No. 2006-08, § 8, 6-13-2006; Ord. No. 2009-
893 14, § 31, 10-6-2009)

894 Sec. 5-4-14. - Becoming a prohibited person.

895 Any licensee under this article who becomes a "prohibited person" as defined in this chapter, shall,
896 within three days of the event, make the fact known to the ARB and shall surrender his license, such
897 surrender being appealable to the city council.

898 (Ord. No. 2002-14, § 1(9-1-39), 10-1-2002)

899 Sec. 5-4-15. - Renewal; denial of renewal.

900 (a) All licenses under this article shall be issued on a calendar-year basis; however, the same may be
901 suspended or revoked at any time for violations set out in this chapter and may be renewable upon
902 payment of the appropriate fee, except as is set out in subsections (d) and (e) below.

903 (b) Each licensee shall make a written application for renewal on or before October 15 of each year on
904 forms approved by the clerk, and the license fee shall be paid in full no later than December 15 of
905 each year.

906 (c) The application shall be referred to city staff, who shall report on the licensee's activity, if any, and
907 upon activity at the location of the licensed business, if any, during the year.

- 908 (d) If any city official reports any activity which constitutes probable cause for not renewing a license, the
909 renewal shall not be made. All renewals shall be referred to the ARB for its consideration.
- 910 (e) The ARB shall afford the licensee a public hearing, and in passing upon the application for renewal,
911 the recommendation shall be guided by the following factors applicable to an initial application:
912 subsections (5), (6), (8), (9), (10), (12), and (13) of section 5-4-12. The city council may grant or deny
913 for cause the renewal of any license issued under this article.
- 914 (f) At the public hearing, the ARB may recommend to the city council granting, or denying for cause, the
915 renewal of any license issued under this article.

916 (Ord. No. 2002-14, § 1(9-1-40), 10-1-2002; Ord. No. 2004-02, § 4, 1-27-2004; Ord. No. 2004-
917 24, § 3(9-1-40), 12-21-2004; Ord. No. 2009-14, §§ 32, 33, 10-6-2009)

918 Sec. 5-4-16. - Revocation, refusal to renew, suspension, probation.

- 919 (a) Summary action. There shall be no summary seizure of licenses under this article, unless there
920 exists in the city a state of emergency duly declared; after any such seizure, a hearing shall be held
921 as soon as practicable except where the applicant/holder has allowed the license to lapse from lack
922 of use.
- 923 (b) Action by ARB and council. The ARB shall have full power and authority to recommend to the city
924 council: revocation, refusal to renew, suspending, or placing on probation any alcohol beverage
925 license for violation of this chapter, city ordinance or of the state or federal laws where such violation
926 relates to the sale, manufacture or use of alcoholic beverages or when the continued operation of the
927 licensed business is detrimental to the health, safety or welfare of the public as determined by failure
928 to comply with the aforementioned alcohol-beverage-related laws. Before taking any such action, the
929 city council shall require a hearing, before it and/or the ARB, as relevant in accordance with
930 subsection 5-3-8(d); at least five days' notice of said hearing shall have been given to the affected
931 licensee. The ARB shall make relevant recommendations which may be reviewed pursuant to
932 subsection 5-3-8(d). The city council shall make all final determinations either by adopting the ARB
933 recommendations or as otherwise set out in subsection 5-3-8(d).

934 (Ord. No. 2002-14, § 1(9-1-41), 10-1-2002; Ord. No. 2006-08A, § 3, 7-11-2006; Ord. No. 2007-
935 15, § 1, 10-2-2007; Ord. No. 2009-14, § 34, 10-6-2009)

936 Sec. 5-4-17. - Changes of circumstances.

937 The recommendation of approval of an application by the ARB, and/or the granting of a license by
938 the clerk, may be suspended or revoked, after notice and hearing, if any change in the information
939 supplied, or in the physical layout represented in the plat submitted, occurs without the approval of the
940 ARB. An applicant anticipating any such change shall submit all details thereof to the ARB which shall
941 report the same to the city council.

942 (Ord. No. 2002-14, § 1(9-1-42), 10-1-2002)

943 Sec. 5-4-18. - No broken packages.

944 No package or retail store nor beer/wine store may sell single alcoholic beverages from an ice chest,
945 tub, or cooler. Packages of alcoholic beverages may not be broken for individual sale.

946 (Ord. No. 2002-14, § 1(9-1-43), 10-1-2002)

947 Sec. 5-4-19. - Reserved.

948 **Editor's note**— Ord. No. 2009-14, § 35, adopted Oct. 6, 2009, renumbered § 5-4-19 as § 5-5-19

949 ARTICLE 5. - PACKAGE STORES

950

951 Sec. 5-5-1. - General regulations.

952 (a) The building or proposed building to house a retail outlet for the sale of liquor by the package shall
953 meet all requirements of the building inspector, the fire marshal, and the traffic engineer, and
954 planning and zoning coordinator and shall comply with other ordinances of the city for zoning,
955 storage, parking, buffers, and other issues.

956 (b) No screen, partition or thing which prevents a clear view into the interior of a retail outlet from the
957 street, nor any booth within, shall be permitted.

958 (c) No sale of distilled spirits shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. In
959 addition, no sale of distilled spirits shall be permitted on Sundays before 12:30 p.m. and after 11:30
960 p.m., or on any other days or times prohibited by state law.

961 (d) Each retail outlet shall post at least four copies of its complete price list or, in lieu thereof, place a
962 price on each package for sale.

963 (e) The state regulations relating to the sale and distribution of distilled spirits, as revised, promulgated
964 by the state department of revenue, are hereby incorporated into and made a part of this article as if
965 fully set out in this section.

966 (f) Any license holder/applicant shall make an immediate report to, and receive recommendation of
967 approval by, the ARB of any change in the interests in or ownership of the liquor location or liquor
968 business, the licensee and/or any change in the information stated in the original application for
969 license. The ARB shall report the changes and its recommendations to the city council for the city
970 council's final approval.

971 (g) No drive-in windows shall be permitted.

972 (h) The open parking area of any building or proposed building to house a package store location shall
973 have an average maintained footcandle intensity of at least one footcandle with a minimum allowable
974 intensity of three-tenths of a footcandle. The covered parking area of any building or proposed
975 building to house a retail location shall have an average maintained footcandle intensity of at least
976 two footcandles with a minimum allowable intensity of five-tenths of a footcandle.

977 (i) Each location for a package store shall install and maintain security cameras in a secure location in
978 the package store of a type and number approved by the chief of police. Such cameras:

979 (1) Shall be placed in the outlet to record activities in the checkout or cash register area(s).

980 (2) Shall be capable of producing a retrievable image on film, tape, or any readable medium that
981 can be made a permanent record and enlarged through projection or other means.

982 Such cameras shall be maintained in proper working order at all times and shall be subject to periodic
983 inspection by the chief of police or his designee. If a robbery or other felony occurs in such outlet, the film
984 or tape recording of such event shall immediately be made available to the chief of police or his designee.

985 (Ord. No. 2002-14, § 1(9-1-45), 10-1-2002; Ord. No. 2009-14, §§ 36, 37, 10-6-2009; Ord. No.
986 2011-14, § 2, 12-6-2011)

987 Sec. 5-5-2. - Required.

988 It shall be unlawful for any person to manufacture, sell or offer to sell any spirituous liquors or
989 distilled spirits at wholesale or retail within the corporate limits of the city without having the appropriate
990 license for such manufacture or sale, or to carry on such activity in violation of the terms of such license
991 or this article.

992 (Ord. No. 2002-14, § 1(9-1-46), 10-1-2002)

993 Sec. 5-5-3. - Separate license for each outlet; surrender.

- 994 (a) A separate license shall be required for each package store, and a separate application shall be
995 made for each such place.
- 996 (b) Immediately upon the sale or closing of a package store, it shall be the duty of the licensee to
997 surrender his license to the ARB.
- 998 (c) Any licensee who is an employee of a corporation, who is separated from his employment, whether
999 he resigns, retires or is fired, shall immediately notify the office of the clerk of such separation
1000 Monday through Friday, 8:00 a.m. until 5:00 p.m. If such employee removes the package store
1001 license from the establishment, he shall immediately surrender such license to the clerk. Failure to
1002 surrender such license, if removed from the place of business, will be a violation and shall be
1003 punished as provided by state law.

1004 (Ord. No. 2002-14, § 1(9-1-47), 10-1-2002; Ord. No. 2009-14, § 38, 10-6-2009)

1005 Sec. 5-5-4. - Classification of licenses; fees.

- 1006 (a) Types of classifications. Licenses under this article shall be classified as follows:
- 1007 (1) Class R. Retail liquor package store, which shall permit only the sale of liquor in packages at
1008 retail.
- 1009 (2) Class W. Wholesale liquor distributor, which shall permit only the sale of liquor at wholesale.
- 1010 (3) Class M. Manufacturers, which shall permit only the manufacture, bottling and packaging of
1011 distilled spirits.
- 1012 (b) Fee amount. The amount of the license fee for each class shall be as set forth in the license fee
1013 schedule of the city as provided in section 5-3-15

1014 (Ord. No. 2002-14, § 1(9-1-48), 10-1-2002)

1015 Sec. 5-5-5. - Initial application for license.

- 1016 Application for a Class M, Class R, or Class W license shall be as follows:
- 1017 (1) Forms; submission. Each initial applicant shall make a written application to the ARB for the
1018 privilege of engaging in the sale (specifying wholesale or retail) of liquor, such applicant using
1019 forms approved by the clerk.
- 1020 (2) Where filed; fee. The application shall be filed with the clerk with a fee as set out in the fee
1021 schedule under section 5-3-15, for review of the applicant and of the proposed location and
1022 processing of the application.
- 1023 (3) Contents. The application shall state:

- 1024 a. As to the applicants, full name, birth date, present address and addresses for the past five
 1025 years (including compliance with O.C.G.A. § 3-4-23 when the applicant has been a
 1026 resident of the city for less than 12 months immediately preceding [preceding]
 1027 application), business address and business addresses of employers and their addresses
 1028 for the last five years, names of spouse, complete record of all arrests, convictions and
 1029 guilty pleas for violations of all laws, city, other cities, counties and states, county, state
 1030 and federal, of both applicant and spouse, and the disposition of all charges within the last
 1031 five years prior to the application.
- 1032 b. As to the applicant's location manager (if not the same as the applicant), the same
 1033 information as required of the applicant in subsection a.
- 1034 c. Exact location (street address and otherwise) of proposed business, including zoning
 1035 district. The location must be properly identified.
- 1036 d. Name and address of owner or landlord and/or resident manager of property proposed for
 1037 location and whether or not there is a building proposed to be used already erected
 1038 thereon.
- 1039 e. Trade name (or proposed trade name) of proposed business.
- 1040 f. Names and addresses of all persons having any financial interest in the outlet by way of
 1041 ownership of building, property, or stock, receipt of income from the business or otherwise.
- 1042 g. Such other information as may be required by the city council, the ARB, the chief of police,
 1043 the city manager, the city attorney or the clerk.
- 1044 (4) Approvals. The application shall contain evidence of the following persons' approval of the
 1045 licensee and of the owner and the manager of the liquor establishment:
- 1046 a. Building inspector (i.e., building permit, certificate of occupancy, or other evidence).
 1047 b. Traffic engineer.
 1048 c. Fire marshal/fire chief.
 1049 d. Chief of police/assistant chief of police.
 1050 e. Planning and zoning coordinator.
- 1051 (5) Oath. The application shall be sworn to.
- 1052 (6) Surveyor's certificate. The application shall be accompanied by a current certificate from a
 1053 registered surveyor containing the following information:
- 1054 a. A scale drawing of the building or proposed building, as situated on the proposed lot.
 1055 b. The proposed off street parking facilities available to the building and all outdoor lighting on
 1056 the premises.
 1057 c. The exact location of the business, including street address, ward, and county tax map
 1058 number.
 1059 d. Current zoning classification of the location.
 1060 e. The distance as measured in a straight line in yards from nearest property line to property
 1061 line from each of the following: The nearest church building, the nearest school building,
 1062 school ground, or college campus, and the nearest alcoholic treatment center owned and
 1063 operated by the state or any county or municipal government therein.
 1064 f. If a business has been licensed since July 1, 1981, or before, the survey shall be required
 1065 however no license will be denied based upon a failure to meet the distance requirements
 1066 as set forth under O.C.G.A. § 3-3-21.

1067 (7) False information. An application under this chapter containing known false information may
1068 result in the disapproval, revocation, suspension or failure to renew the license applied for and
1069 prosecution as a felony.

1070 (Ord. No. 2002-14, § 1(9-1-49), 10-1-2002; Ord. No. 2009-14, §§ 39, 40, 10-6-2009)

1071 Sec. 5-5-6. - Sham applicant; de facto applicant or location manager.

1072 A "sham" means any information provided for an application which is not true, accurate, or is
1073 spurious, or deceitful.

1074 (1) It shall be unlawful for any person to file, or permit to be filed, an application for license under
1075 this article wherein a sham applicant or a sham location manager is named.

1076 (2) It shall be unlawful for any person to file an application for license containing his name as
1077 applicant, or the name of an outlet manager, when such person is not the de facto applicant or
1078 the de facto location manager, as the case may be.

1079 (3) It shall be unlawful for any person to permit his name to be used on an application for license
1080 where such person will not be the de facto owner of the license or the de facto location
1081 manager, as the case may be.

1082 (4) It shall be unlawful for any person to file an application for license, or permit his name to be
1083 used in such application, where the application contains a nominal applicant or nominal location
1084 manager for the purpose of avoiding the provisions of this article restricting applicants or
1085 managers to persons and without criminal records, or restricting economic interests in outlets,
1086 or for any other elusive purpose.

1087 (Ord. No. 2002-14, § 1(9-1-50), 10-1-2002)

1088 Sec. 5-5-7. - Surveyor's certificate containing false information.

1089 (a) It shall be unlawful for any applicant under this article to submit with his application any surveyor's
1090 certificate containing known false information and/or measurements.

1091 (b) It shall be unlawful for any surveyor to submit, or allow to be submitted, a certificate containing
1092 known false information.

1093 (c) A violation of subsection (b) may result in prosecution as for a felony offense.

1094 (d) Substantial errors in measured distances, as determined by the city engineer, shall be prima facie
1095 evidence that the distances submitted are known to be false.

1096 (Ord. No. 2002-14, § 1(9-1-51), 10-1-2002)

1097 Sec. 5-5-8. - Advertisement; proof thereof.

1098 (a) Each applicant under this article shall advertise his application at his for license expense in the legal
1099 organ newspaper once a week for two weeks. Advertisements shall not be required for renewals.
1100 The advertisement shall appear after the application is filed and before the public hearing provided
1101 for in this article. The advertisement shall contain the name of the applicant, the purpose of the
1102 application, the proposed location of the business, and its owner's name, and the name of the
1103 proposed location manager. An advertisement shall run for each application.

1104 (b) The applicant shall also, within three days after filing a complete application, identify the proposed
1105 location by posting a sign not less than 24 inches by 36 inches in size, with letters of at least 2½
1106 inches on the front door of the building proposed to be used (if facing the right-of-way of the city

1107 street upon which the building fronts; otherwise, within three feet of the right-of-way), or upon a
1108 prominent place on the lot where the building is proposed to be constructed, facing the street. The
1109 sign shall be captioned "Liquor License Application Pending" and shall designate the name and
1110 address of the applicant, the type of license and the date of the application, and no other
1111 advertisement or wording. The sign shall remain posted until final action by the city commission on
1112 the application.

1113 (c) The applicant, before consideration will be given to his application, shall file with the clerk:

1114 (1) A copy of the advertisement together with affidavits from the newspaper to the effect that it has
1115 been printed as required.

1116 (2) A photograph of the sign erected pursuant to this section, together with affidavits to the effect
1117 that it has been erected as required.

1118 (Ord. No. 2002-14, § 1(9-1-52), 10-1-2002; Ord. No. 2009-14, § 41, 10-6-2009)

1119 Sec. 5-5-9. - Action by ARB and council.

1120 (a) After proof of advertisement is filed under this article, the clerk shall notify the chief of police of the
1121 application, who shall investigate the applicant and the reputation of the location and make a full
1122 report to the ARB. The clerk shall also circulate the application to the building inspector, the fire
1123 marshal, the traffic engineer, and the planning and zoning coordinator for their investigation and
1124 recommendation.

1125 (b) The clerk or his/her designee when assured that all requirements have been complied with and the
1126 application is complete shall refer the application, together with any objections filed, to the ARB. The
1127 ARB shall, after review of the applicant and the proposed location, recommend action to the city
1128 council. The ARB shall afford the applicant a hearing prior to making a recommendation. Pursuant to
1129 subsection 5-3-8(d), the recommendation of the ARB shall be deemed to be the decision of the
1130 mayor and council if the applicant does not appeal such recommendation to the mayor and council
1131 within 30 days of the ARB recommendation by filing a written appeal with the alcohol beverage clerk.

1132 (Ord. No. 2002-14, § 1(9-1-53), 10-1-2002; Ord. No. 2009-14, § 42, 10-6-2009)

1133 Sec. 5-5-10. - Approval of application; expiration in 90 days; extension for cause.

1134 Approval of an application under this article by the city council shall expire after 90 days from the
1135 date of such approval, unless the applicant has procured, and paid the fee for, the approved license. If
1136 the application is approved and all fees paid the same shall lapse if no action is taken on the license by
1137 applicant within six months of issuance. The city council may extend the approval up to 90 days for good
1138 cause shown such as fire, flood, war and other uncontrollable occurrences, provided the request therefor
1139 is made within the original 90-day period.

1140 (Ord. No. 2002-14, § 1(9-1-54), 10-1-2002; Ord. No. 2009-14, § 43, 10-6-2009)

1141 Sec. 5-5-11. - Substantially the same application not to be resubmitted or entertained within six months
1142 of previous application; deferral of action on application subject matter of which is being litigated.

1143 (a) No applicant under this article may submit, and the ARB shall not review, an application which is
1144 substantially the same as an application submitted within the previous six months that has been
1145 denied, unless directed by the city council.

1146 (b) Either the ARB or the city council, or both, may defer action upon any application, the subject matter
1147 of which is substantially the same as the subject matter of litigation then pending in the city, state or
1148 federal courts until such time as the litigation is resolved.

1149 (Ord. No. 2002-14, § 1(9-1-55), 10-1-2002)

1150 Sec. 5-5-12. - Considerations and guidelines for grant or denial.

1151 The ARB, and the city council in making its determinations on an initial application, shall be guided
1152 by the following factors as to whether or not to grant a license under this article:

- 1153 (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether
1154 the same is predominantly residential, industrial or business.
- 1155 (2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic
1156 treatment centers owned and operated by the state or any county or municipal government
1157 therein.
- 1158 (3) Whether the proposed location has adequate off street parking facilities or other parking
1159 available for its patrons.
- 1160 (4) Whether the location would tend to increase and promote traffic congestion and resulting
1161 hazards therefrom.
- 1162 (5) The criminal record of the applicant and the location manager and their financial responsibility;
1163 provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of
1164 lack of financial responsibility.
- 1165 (6) A report of the chief of police, the building inspector, the fire marshal, the traffic engineer, and
1166 the planning and zoning manager relating to the use or sale of alcohol at the proposed location.
- 1167 (7) The information required in the application or statement and whether all requirements as to
1168 notice, advertisement, fire codes, building, zoning, parking, lighting and other matters relating to
1169 the use or sale of alcohol at the proposed location have been met.
- 1170 (8) Evidence presented to the ARB for or against the application relating to the sale or use of
1171 alcohol at the proposed location.
- 1172 (9) Whether or not the granting of the application is in the best interest of the health, safety and
1173 welfare of the city.
- 1174 (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has
1175 been revoked for cause by the city.
- 1176 (11) The history or reputation of the building or establishment (proposed for business) for prostitution
1177 or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in
1178 alcoholic beverages or drugs; or other violations of the law relating to the sale or use of alcohol
1179 at the proposed location or the overtaxing of existing city infrastructure and personnel. Such
1180 determination of overtaxing will be made based upon reports of crimes and emergencies
1181 reported and responses made to the site when compared to the same factors found at all retail
1182 facilities averaged together as found in the city established by an annual study.
- 1183 (12) Whether or not the applicant or outlet location is in violation of other local ordinances or state
1184 laws relating to the crimes and issues referenced in subsection (11) as related to the sale or use
1185 of alcohol at the proposed location.
- 1186 (13) Whether or not the applicant or location manager has violated other jurisdictions laws regarding
1187 alcohol beverage licensing.

1188 (Ord. No. 2002-14, § 1(9-1-56), 10-1-2002; Ord. No. 2006-08, § 10, 6-13-2006; Ord. No. 2009-
1189 14, § 44, 10-6-2009)

1190 Sec. 5-5-13. - Prohibited locations, prohibited persons, incomplete application.

1191 (a) Prohibited locations. It shall be prohibited to obtain a license for a package store within the following
1192 areas of the city:

1193 (1) Within any residential zoning district or other prohibited zoning district as set out in the zoning
1194 ordinance.

1195 (2) Within a measured 100 yards of any church building.

1196 (3) Within a measured 100 yards of any alcoholic treatment center owned and operated by the
1197 state or any county or municipal government therein.

1198 (4) Within a measured 200 yards of any school building, school ground, or college campus.

1199 (b) Prohibited persons. It shall be prohibited for the following persons to obtain a license for a package
1200 store:

1201 (1) A person who does not comply with any residency requirements under state law.

1202 (2) A person who has been convicted of a felony relating to violence, illegal substances, gambling,
1203 theft, or alcohol use, or of a crime opposed to decency and morality, or who has been convicted
1204 of a crime involving violation of the ordinances of the city relating to the use, sale, taxability or
1205 possession of malt beverages, wine or liquor, or violations of the laws of the state and federal
1206 government pertaining to the manufacture, possession, transportation or sale of malt
1207 beverages, wine or intoxicating liquors, or the taxability thereof within five years preceding the
1208 application.

1209 (3) A person whose license under this chapter has been revoked for cause or who has had a
1210 license under this chapter revoked for cause.

1211 (4) A person who is under 18 years of age or who is not of sound mind and memory.

1212 (c) Incomplete application. An application under this article filed and submitted before containing
1213 substantially all the information required may be refused by staff.

1214 (Ord. No. 2002-14, § 1(9-1-57), 10-1-2002; Ord. No. 2006-08, § 11, 6-13-2006; Ord. No. 2009-
1215 14, § 45, 10-6-2009)

1216 Sec. 5-5-14. - Becoming a prohibited person.

1217 Any licensee under this article who becomes a "prohibited person" as defined in this chapter shall,
1218 within three days of the event, make the fact known to the ARB and shall surrender his license. Such
1219 surrender being appealable to the city council.

1220 (Ord. No. 2002-14, § 1(9-1-58), 10-1-2002)

1221 Sec. 5-5-15. - Renewal; denial of renewal.

1222 (a) All licenses under this article shall be issued on a calendar-year basis; however, the same may be
1223 suspended or revoked at any time for violations set out in the chapter and may be renewable upon
1224 payment of the appropriate fee, except as is set out in subsections (d) and (e) below.

- 1225 (b) Each licensee shall make written application for renewal of his license on or before October of each
 1226 year on forms provided by the city, and the license fee shall be paid in full on or before December 15
 1227 of each year.
- 1228 (c) The application shall be referred to city staff, who shall report on the licensee's activity, if any, and
 1229 upon activity at the location of the licensed business, if any, during the year.
- 1230 (d) If any city official reports any activity which constitutes probable cause for not renewing a license, the
 1231 renewal shall not be made. All renewals shall be referred to the ARB for its consideration.
- 1232 (e) The ARB shall afford the licensee a public hearing, and in passing upon the application for renewal,
 1233 the recommendation shall be guided by the following factors applicable to an initial application:
 1234 subsections (5), (6), (8), (9), (10), (12), and (13) of section 5-5-12. The city council may grant, or
 1235 deny for cause, the renewal of any license issued under this article.
- 1236 (f) At the public hearing, the ARB may recommend to the city council granting, or denying for cause, the
 1237 renewal of any license issued under this article.

1238 (Ord. No. 2002-14, § 1(9-1-59), 10-1-2002; Ord. No. 2004-02, § 5, 1-27-2004; Ord. No. 2004-
 1239 24, § 3(9-1-59), 12-21-2004; Ord. No. 2009-14, § 46, 10-6-2009)

1240 Sec. 5-5-16. - Revocation, refusal to renew, suspension, probation.

- 1241 (a) Summary action. There shall be no summary seizure of licenses under this article, unless there
 1242 exists in the city a state of emergency duly declared; after any such seizure, a hearing shall be held
 1243 as soon as practicable or where the applicant/holder has allowed the license to lapse from lack of
 1244 use.
- 1245 (b) Action by ARB and council. The ARB shall have full power and authority to recommend to the city
 1246 council: revocation, refusal to renew, suspending, or placing on probation any alcohol beverage
 1247 license for violation of this chapter, city ordinance or of the state or federal laws where such violation
 1248 relates to the sale, manufacture, or use of alcoholic beverages or when the continued operation of
 1249 the licensed business is detrimental to the health, safety or welfare of the public as determined by
 1250 failure to comply with the aforementioned alcohol-beverage-related laws. Before taking any such
 1251 action, the city council shall require a hearing, before it and/or the ARB, as relevant in accordance
 1252 with subsection 5-3-8(d); at least five days' notice of said hearing shall have been given to the
 1253 affected licensee. The ARB shall make relevant recommendations which may be reviewed pursuant
 1254 to subsection 5-3-8(d). The city council shall make all final determinations either by adopting the
 1255 ARB recommendation or as otherwise set out in section 5-3-8(d).

1256 (Ord. No. 2002-14, § 1(9-1-60), 10-1-2002; Ord. No. 2006-08A, § 4, 7-11-2006; Ord. No. 2007-
 1257 15, § 2, 10-2-2007; Ord. No. 2009-14, § 47, 10-6-2009)

1258 Sec. 5-5-17. - Changes of circumstances.

1259 The recommendation of approval of an application by the ARB, and/or the granting of a license by
 1260 the clerk, may be suspended or revoked, after notice and hearing, if any change in the information
 1261 supplied, or in the physical layout represented in the plat submitted, occurs without the approval of the
 1262 ARB. An applicant anticipating any such change shall submit all details thereof to the ARB, which shall
 1263 report the same to the city council.

1264 (Ord. No. 2002-14, § 1(9-1-61), 10-1-2002; Ord. No. 2009-14, § 48, 10-6-2009)

1265 Sec. 5-5-18. - No broken packages.

1266 ~~No package store nor retail beer/wine store may sell single alcoholic beverages from an ice chest,~~
1267 ~~tub, or cooler. Packages of alcoholic beverages may not be broken for individual sale.~~

1268 (Ord. No. 2002-14, § 1(9-1-62), 10-1-2002)

1269 Sec. 5-5-19. - Number of package stores.

1270 The number of package stores selling malt beverages, wine, and liquor shall be limited based upon
1271 population. Population shall be determined by the U.S. decennial census. The census in effect for
1272 establishing enforcement of this section shall be the U.S. census in effect at the adoption of this chapter
1273 until such time as a new U.S. census is established. There shall be no more than one package store
1274 outlet selling malt beverages, wine, and liquor per 1,500 residents of the city according to the U.S.
1275 census.

1276 (Ord. No. 2002-14, § 1(9-1-44), 10-1-2002; Ord. No. 2009-14, § 35, 10-6-2009)

1277 **Editor's note**— Ord. No. 2009-14, § 35, adopted Oct. 6, 2009, renumbered the provisions
1278 formerly found in § 5-4-19 to read as herein set out.

1279 **ARTICLE 6. - ON-PREMISES CONSUMPTION**

32

1280

1281 Sec. 5-6-1. - Regulation of lounges; reporting food sales.

- 1282 (a) All lounges shall submit a quarterly report to the ARB. The report shall clearly indicate the sales
1283 receipts of the lounge for food and the sales receipts for alcoholic beverages. The report shall be
1284 sworn to. The report shall be post marked on or before the last day of the calendar month after the
1285 calendar quarter. For the purposes of reporting, food shall be defined as all edible substances
1286 appropriate for human consumption as determined by the health department inspecting the city's
1287 restaurants and lounges as sold or provided to the public in a restaurant as defined in this chapter.
1288 Food shall not be construed to mean: olives, cherries, limes, lemons, salt, pepper, pineapples,
1289 celery, tomato juice, or any other fruit, vegetable or dairy product such as ice cream, cream, yogurt,
1290 milk or soft drinks, water, tonic water, other non-alcoholic carbonated or non-carbonated beverages
1291 when such items are used in alcoholic beverages or mixed drink as a essential part of the beverage,
1292 mixed drink, or as a garnish thereon. As used in this section, lounges must prove that at least 51
1293 percent of the receipts of such business shall come from the sale of food. To be included in the
1294 tabulation of receipts of all persons laboring on the premises, including the services of all
1295 independent contractors, performers, servers, entertainers, or other non-employee personnel not to
1296 include, however, persons who are called to the premises from other licensed businesses to perform
1297 services repairs or construction on equipment or building premises.
- 1298 (b) For purposes of this section, the calculation of receipts for alcoholic beverages shall be made
1299 pursuant to the scheduling of pricing and the regulations contained in this chapter. If a lounge fails to
1300 report food sales receipts of at least 51 percent as calculated herein and as defined herein after one
1301 quarter of a calendar year of reporting such failure shall be considered cause for probation,
1302 suspension, revocation or other appropriate action. The reports described herein shall be in a form
1303 recognized by certified public accountants and shall utilize common and generally recognized
1304 accounting principles and shall be submitted under oath. Those submitting the reports shall be
1305 prosecuted for fraudulent statements under O.C.G.A. § 16-10-20 in a court of competent jurisdiction,
1306 if such reports are not true. For the purposes of determining whether a lounge is qualified to be open
1307 during December and on January 1 of each year the preceding quarter's receipts shall be utilized on
1308 making such determination, unless such business is new and had not been open long enough to

1309 provide the quarterly reports required herein. Where the business has not been open long enough to
1310 provide quarterly reports, then such reports as are available shall be used by the ARB to determine if
1311 the business shall be allowed to operate in December and on January 1 each year. If no quarterly
1312 reports are available, whatever sales receipts for daily sales from the outset of the business will be
1313 submitted to the ARB for review in order to make the determination. In such cases, suspension,
1314 probations, revocations, or other actions based solely on food sales receipts will not occur until after
1315 three months of receipts have been submitted. However, nothing in this section shall prohibit actions
1316 under this chapter for other violations of local ordinances or state or federal law.

1317 (Ord. No. 2002-14, § 1(9-1-63), 10-1-2002)

1318 Sec. 5-6-2. - Regulations of restaurants; reporting food sales.

1319 (a) A restaurant holding an alcohol beverage license must (i) be open to the public at least six hours per
1320 day, serving at least two meals per day, with a minimum serving time of three hours per meal; and
1321 (ii) serve meals at least six days a week with the exception of weeks including holidays, vacations,
1322 and periods of redecorating. Before any repair, redecorating or any period of closure other than
1323 nationally recognized or religious holidays, vacations or emergencies, such repair, or redecorating
1324 shall require prereview and recommendation of the ARB.

1325 Where closure is the result of a catastrophic emergency, postclosure review can be applied for; however,
1326 such review request must be applied for by the license holder no later than 30 days postclosure or the
1327 same closure may be prosecuted as a violation of this section and may result in administrative
1328 proceedings as well.

1329 Serving of alcoholic beverages at off-premises locations shall not be the principal business of the
1330 restaurant and consumption on the premises shall only be incidental thereto.

1331 (b) As used in this section, seating capacity shall mean that no more than 25 percent of such seating
1332 shall be at a common table or counter area or shall be other than individual tables or booths
1333 designed for seating of at least two individuals.

1334 (c) The principle business of a restaurant shall be the sale of food. As used in this section, principal
1335 business shall mean that at least 51 percent of the receipts of such business shall come from the
1336 sale of food. To be included in the tabulation of receipts for the purpose of this calculation, are all
1337 receipts of all persons laboring on the premises, including the services of all independent
1338 contractors, performers, servers, entertainers, or other non-employee personnel not to include,
1339 however, persons who are called to the premises from other licensed businesses to perform
1340 services, repairs or construction on equipment or building premises. The calculation of receipts for
1341 alcoholic beverages shall be made pursuant to the regulations contained in this chapter. All
1342 restaurants shall submit a report to the ARB. The report shall clearly indicate the sales receipts of the
1343 restaurant for food and the sales receipts for alcoholic beverages. The report shall be post marked
1344 on or before the last day of the calendar month after the calendar quarter. For the purposes of
1345 reporting, food shall be defined as all edible substances appropriate for human consumption as
1346 determined by the health department inspecting the city's restaurants and lounges as sold or
1347 provided to the public in a restaurant as defined in the Code. Food shall not be construed to mean:
1348 olives, cherries, limes, lemons, salt, pepper, pineapples, celery, tomato juice, or any other fruit,
1349 vegetable or dairy product such as ice cream, cream, yogurt, milk or soft drinks, water, tonic water,
1350 other non-alcoholic carbonated or non-carbonated beverages when such items are used in alcoholic
1351 beverages or mixed drink as a essential part of the beverage, mixed drink, or as a garnish thereon.
1352 As used in this section, restaurants must prove that at least 51 percent of the receipts of such
1353 business shall come from the sale of food. To be included in the tabulation of receipts for the
1354 purpose of this calculation are all receipts of all persons laboring on the premises, including the
1355 services of all independent contractors, performers, servers, entertainers, or other non-employee
1356 personnel not to include, however, persons who are called to the premises from other licensed
1357 businesses to perform services, repairs, or construction on equipment or building premises.

1358 (d) For purposes of this section, the calculation of receipts for alcoholic beverages shall be made
1359 pursuant to these regulations. If a restaurant fails to report food sales receipts of at least 51 percent
1360 as calculated herein and as defined herein after one quarter of a calendar year of reporting such
1361 failure shall be considered cause for suspension, probation, revocation or other appropriate action
1362 under this chapter. The reports described herein shall be in a form recognized by certified public
1363 accountants and shall utilize common and generally recognized accounting principles and shall be
1364 submitted under oath. Those submitting the reports shall be prosecuted for fraudulent statements
1365 under O.C.G.A. § 16-10-20 by a court of competent jurisdiction, if such reports are not true. For the
1366 purposes of determining whether a restaurant is qualified to be open during December and on
1367 January 1 of each year the preceding one quarter receipts shall be utilized in making such
1368 determinations, unless such business is new and had not been open long enough to provide the
1369 monthly reports required herein. Where the business has not been open long enough to provide the
1370 quarterly reports, then such reports as are available shall be used by the ARB to determine if the
1371 business shall be allowed to operate in December and on January 1 each year. If no quarterly
1372 reports are available, whatever sales receipts for daily sales from the outset of the business will be
1373 submitted to the ARB for review in order to make the determination. Suspension, probations,
1374 revocations, or other actions based solely on food sales receipts will not occur until after three
1375 months receipts have been submitted. However, in this section nothing shall prohibit actions under
1376 this chapter or for other violations of local ordinances or state or federal law.

1377 (Ord. No. 2002-14, § 1(9-1-64), 10-1-2002; Ord. No. 2006-08, § 12, 6-13-2006; Ord. No. 2009-
1378 14, § 49, 10-6-2009)

1379 Sec. 5-6-3. - On-premises consumption regulations generally.

- 1380 (a) The building or proposed building where pouring will take place shall meet all requirements of the
1381 building inspector, the fire marshal, the traffic engineer, and planning and zoning coordinator and
1382 shall comply with other ordinances of the city for zoning, storage, parking, buffers and other issues.
- 1383 (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be
1384 permitted between the hours of 3:00 a.m. and 8:00 a.m.
- 1385 (c) In addition to the prohibition set forth in subsection (b), no pouring of liquor, malt beverages, or wine,
1386 or any other on-premises alcohol service shall be permitted on Sundays between the hours of 8:00
1387 a.m. and 12:30 p.m.
- 1388 (d) In no event shall drinks be mixed or sold, nor malt beverages sold, during the prohibited hours,
1389 based upon the timely sale of tickets, chits, decanters or other devices.
- 1390 (e) No location manager, nor other employee of a location, shall permit violations of subsections (b)
1391 through (d).
- 1392 (f) On-premises consumption licensees may sell malt beverages by the pitcher, or wine by the bottle or
1393 decanter.
- 1394 (g) Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in
1395 their premises, provided the hotel and the franchisee meet all the requirements of this chapter.
- 1396 (h) It shall be unlawful for any person to employ knowingly in any pouring outlet in any capacity
1397 whatsoever, including performers, entertainers and musicians, any person who has plead guilty or
1398 has been convicted of soliciting for prostitution, pandering, letting premises for prostitution, keeping a
1399 disorderly place, illegally dealing in drugs, sex offenses or for any charge relating to the manufacture
1400 or sale of intoxicating liquors, other alcohol related offenses or for violations of local other
1401 jurisdictions ordinances regarding alcoholic beverages within the last five years prior to the
1402 application.
- 1403 (i) It shall be the duty of the management of a pouring outlet to maintain a copy of this chapter at the
1404 outlet and to instruct each employee on its terms.

- 1405 (j) The state law and regulations relating to the sale of beer, wine, and distilled spirits, as revised,
 1406 promulgated by the state department of revenue, and especially as related to retail sale for
 1407 consumption on premises are hereby incorporated into and made a part of this article as if fully set
 1408 out in this section.
- 1409 (k) A on-premises consumption licensee shall make immediate report to the ARB of any change in the
 1410 interests in or ownership of the pouring outlet and/or any change in the information as stated in the
 1411 original application for license.
- 1412 (l) The sale of alcoholic beverages for consumption by persons in any back room or side room which is
 1413 not open to general public use is prohibited, except that private parties or conventions, which have
 1414 been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and,
 1415 provided further that this prohibition shall not apply to the sale of alcoholic beverages for
 1416 consumption hereunder to the registered guests of any hotel in their designated rooms.
- 1417 (m) It shall be unlawful for any sales to be made outside of the building, premises or place of business
 1418 licensed for such sale except as permitted herein.
- 1419 (n) Serving standing patrons is discouraged. The purpose of this section being the prohibition of bars
 1420 and the encouragement of restaurants within the city. However, 25 percent of all patrons may be
 1421 served while standing when waiting for seating as long as the maximum occupancy capacity of the
 1422 premises is not violated; and such standing does not create a fire safety or violation under National
 1423 Fire Protection Association (NFPA) standard code as adopted by the city. The determination of 75
 1424 percent seating shall be based upon the required seating in the facility mandated by the NFPA
 1425 standard.
- 1426 (o) All sales shall be made in bar glassware and no sales shall be made in paper cups or any other
 1427 temporary-type receptacle, nor shall any sale be made by the package, except that hotels may
 1428 provide such sales for their guest for service in their room.
- 1429 (p) All licensees hereunder shall display in prominent places their current prices of alcoholic beverages,
 1430 also minimum, admission and cover charges. The licensee shall file a copy of same with the ARB
 1431 and shall furnish to any customer that so desires an itemized bill of charges which shall not exceed
 1432 the price list furnished to the ARB. Upon any increase or decrease of prices, a new list must be filed
 1433 with the ARB.
- 1434 (q) No licensee or employee or agent of a licensee shall engage in any of the following practices in
 1435 connection with the sale or other disposition of alcoholic beverages for consumption on the
 1436 premises:
- 1437 (1) The giving away of any alcoholic beverage in conjunction with the sale of any other alcoholic
 1438 beverage;
- 1439 (2) The sale of two or more alcoholic beverages for a single price, including the sale of all such
 1440 beverages a customer can or desires to drink at a single price;
- 1441 (3) The sale or serving of two or more alcoholic beverages at substantially the same price
 1442 customarily charged for one such alcoholic beverage;
- 1443 (4) Requiring or allowing the purchase of a second or subsequent alcoholic beverage at the same
 1444 time another alcoholic beverage is purchased or before the first such beverage has been
 1445 substantially consumed, by any one person;
- 1446 (5) The sale or delivery to any person or group of persons of an unlimited number of alcoholic
 1447 beverages during any set period of time for a fixed price, except at private functions not open to
 1448 the public; or
- 1449 (6) Increase the volume of alcohol contained in a drink without increasing proportionately the price
 1450 regularly charged for such alcoholic beverage.
- 1451 (r) No licensee shall advertise or promote in any way, whether within or without the licensed premises,
 1452 any of the practices prohibited under subsection (q) above.

1453 (s) No provision of this section shall be construed to prohibit a licensee from offering free food or
1454 entertainment at any time; or to prohibit the licensee from including an alcoholic beverage as a part
1455 of a meal package; or to prohibit the sale or delivery of wine by the bottle or carafe when sold with
1456 meals; or to prohibit any hotel or motel from offering room service or a complimentary social hour to
1457 its registered guests.

1458 (t) No on-premises consumption license establishment may allow BYOB on the licensed premises.

1459 (u) All on-premises consumption licenses shall collect and pay a tax of three percent on the sale of
1460 alcoholic beverages by the drink in the city in accordance with chapter 17, article 6 of the Hapeville
1461 Code of Ordinances.

1462 (Ord. No. 2002-14, § 1(9-1-65), 10-1-2002; Ord. No. 2004-01, § 1, 1-6-2004; Ord. No. 2004-24,
1463 § 4(9-1-65), 12-21-2004; Ord. No. 2007-13, § 1, 7-17-2007; Ord. No. 2007-17, §§ 1, 2, 10-2-
1464 2007; Ord. No. 2008-16, § 5, 10-21-2008; Ord. No. 2009-14, §§ 50, 51, 10-6-2009; Ord. No.
1465 2011-15, § 5, 12-6-2011)

1466 Sec. 5-6-4. - Entertainment at pouring outlets.

1467 (a) Bands or orchestras and patron dancing shall be permitted at on-premises consumption locations if
1468 the following conditions are met:

1469 (1) Where adequate space exists after consideration of required NFPA occupancy and seating;

1470 (2) Where all fire and safety regulations are met; and

1471 (3) Where the appropriate license fee has been fully paid.

1472 (b) If an on-premises consumption location provides music, dancing or other entertainment provisions
1473 for such security attendance and protection as, in the opinion of the chief of police, are adequate to
1474 meet the need therefore can be recommended to the licensee by the ARB.

1475 (Ord. No. 2002-14, § 1(9-1-66), 10-1-2002; Ord. No. 2009-14, § 52, 10-6-2009)

1476 Sec. 5-6-5. - Off-premises and special event licenses.

1477 (a) Notwithstanding any other provision of this Code, the city council may grant a license to permit the
1478 off-premises pouring of malt beverages, wine, and liquor under the following terms and conditions:

1479 (1) An off-premises license may only be issued to licensees who hold in good standing an alcohol
1480 pouring license issued by the city, and no such licensee shall be permitted to pour any alcoholic
1481 beverage off-premises which cannot be lawfully poured on the licensee's premises.

1482 (2) An application for an off-premises pouring license shall contain the following information:

1483 a. Name of licensee.

1484 b. Address of licensee.

1485 c. Type of on-premises pouring license held by licensee.

1486 d. Type of off-premises license required by licensee.

1487 (3) Reserved.

1488 (4) Reserved.

1489 (b) It shall be unlawful for an off-premises licensee to pour any malt beverages, wine, or liquor at any
1490 off-premises location until the licensee shall first obtain an off-premises pouring permit. Such permit
1491 may be issued by the city council for any period up to three days. Any permit for a period longer than

- 1492 three days must be issued by the city council. An off-premises permit may be issued in accordance
1493 with the following:
- 1494 (1) No permit for a particular off-premises location shall be issued if the requested building is a
1495 "prohibited location" as set out in section 5-6-18(a), or fails to meet all requirements of the
1496 building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator
1497 for an on-premises pouring outlet.
- 1498 (2) It shall be unlawful for any off-premises licensee to sell liquor at an off-premises location unless
1499 food is served at the event.
- 1500 (3) Unless otherwise provided for in this section, all regulations of this code controlling the pouring
1501 of alcoholic beverages on premises shall govern the pouring of alcoholic beverages off
1502 premises.
- 1503 (4) No off-premises license shall be valid until the licensee pays an annual license fee as set out in
1504 section 5-3-15
- 1505 (5) The amount of sales sold off premises shall be included in the licensee's gross income figures
1506 for the purpose of establishing the amount of the mixed drink taxes due from the licensee to the
1507 city.
- 1508 (c) The ARB may recommend and the city council may approve up to three special event licenses for an
1509 applicant in a single calendar year. Each special event license shall allow alcohol beverage sales for
1510 up to 12 days in a single calendar year and can be used no more than two consecutive days per
1511 calendar year up to the 12-day limit. In order to qualify to receive such license, the applicant must
1512 comply with the following terms and conditions:
- 1513 (1) The applicant must be licensed for sale of alcoholic beverages by the state;
- 1514 (2) The application must provide the information requested under subsection (a)(2) above;
- 1515 (3) All distances and hours of operation set forth for on-premises consumption must be obeyed;
- 1516 (4) All identification badge requirements must be met; and
- 1517 (5) An annual license fee, as set out in section 5-3-15, must be paid in full.
- 1518 (Ord. No. 2002-14, § 1(9-1-67), 10-1-2002; Ord. No. 2004-02, §§ 6—8, 1-27-2004; Ord. No.
1519 2004-24, § 3(9-1-67), 12-21-2004; Ord. No. 2005-09, § 2(9-1-67), 10-4-2005; Ord. No. 2009-14,
1520 §§ 53—55, 10-6-2009; Ord. No. 2014-06, § 1, 6-3-2014)
- 1521 Sec. 5-6-6. - General regulations.
- 1522 (a) The building or proposed building to house an on-premises consumption location shall meet all
1523 requirements of the building inspector, the fire marshal, and the traffic engineer, and planning and
1524 zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking,
1525 buffers, and other issues.
- 1526 (b) The state regulations relating to the sale and distribution of distilled spirits, as revised, promulgated
1527 by the state department of revenue, are hereby incorporated into and made a part of this article as if
1528 fully set out in this section.
- 1529 (c) No drive-in windows shall be permitted.
- 1530 (Ord. No. 2002-14, § 1(9-1-68), 10-1-2002)
- 1531 Sec. 5-6-7. - Required.

- (3) Unless otherwise provided for in this section, all regulations of this code controlling the pouring of alcoholic beverages on premises shall govern the pouring of alcoholic beverages off premises.
 - (4) No off-premises license shall be valid until the licensee pays an annual license fee as set out in section 5-3-15
 - (5) The amount of sales sold off premises shall be included in the licensee's gross income figures for the purpose of establishing the amount of the mixed drink taxes due from the licensee to the city.
- (c) The ARB may recommend and the city council may approve up to three special event licenses for an applicant in a single calendar year. Each special event license shall allow alcohol beverage sales for up to 12 days in a single calendar year and can be used no more than two consecutive days per calendar year up to the 12-day limit. In order to qualify to receive such license, the applicant must comply with the following terms and conditions:
- (1) The applicant must be licensed for sale of alcoholic beverages by the state;
 - (2) The application must provide the information requested under subsection (a)(2) above;
 - (3) All distances and hours of operation set forth for on-premises consumption must be obeyed;
 - (4) All identification badge requirements must be met; and
 - (5) An annual license fee, as set out in section 5-3-15, must be paid in full.

(Ord. No. 2002-14, § 1(9-1-67), 10-1-2002; Ord. No. 2004-02, §§ 6—8, 1-27-2004; Ord. No. 2004-24, § 3(9-1-67), 12-21-2004; Ord. No. 2005-09, § 2(9-1-67), 10-4-2005; Ord. No. 2009-14, §§ 53—55, 10-6-2009; Ord. No. 2014-06, § 1, 6-3-2014)

Sec. 5-6-6. - General regulations.

- (a) The building or proposed building to house an on-premises consumption location shall meet all requirements of the building inspector, the fire marshal, and the traffic engineer, and planning and zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking, buffers, and other issues.
- (b) The state regulations relating to the sale and distribution of distilled spirits, as revised, promulgated by the state department of revenue, are hereby incorporated into and made a part of this article as if fully set out in this section.
- (c) No drive-in windows shall be permitted.

(Ord. No. 2002-14, § 1(9-1-68), 10-1-2002)

Sec. 5-6-7. - Required.

It shall be unlawful for any person to pour or offer to pour any distilled spirits, wine or malt beverages within the corporate limits of the city without having an on-premises consumption license, or to carry on such activity in violation of the terms of such license or this chapter.

(Ord. No. 2002-14, § 1(9-1-69), 10-1-2002)

Sec. 5-6-8. - Separate license for each location; surrender.

- (a) A separate license shall be required for each on-premises consumption location, and a separate application shall be made for each such place.

- (b) Immediately upon the sale or closing of an on-premises consumption location, it shall be the duty of the licensee to surrender its license to the ARB.
- (c) Upon the resignation or termination of employment of a person who holds the license for a location who is not himself the owner of the location, the location owner or board of directors, if applicable, shall immediately file an application for another licensee.

(Ord. No. 2002-14, § 1(9-1-70), 10-1-2002; Ord. No. 2009-14, § 56, 10-6-2009)

Sec. 5-6-9. - License for on-premises consumption; fee.

Licenses under this article shall be classified as follows:

- (1) Liquor pouring. Location for pouring liquor, which shall permit only the sale of liquor by the drink for consumption on the premises.
- (2) Wine pouring. Location for pouring wine, which shall permit only the sale of wine by the drink for consumption on the premises.
- (3) Malt beverage pouring. Location for pouring malt beverages, which shall permit only the sale of malt beverages by the drink for consumption on the premises.

(Ord. No. 2002-14, § 1(9-1-71), 10-1-2002)

Sec. 5-6-10. - Contents.

- (a) [Application.] The application shall state:
 - (1) As to the applicant, full name, birth date, present address and addresses for the past five years (including compliance with O.C.G.A. § 3-4-23 when the applicant has been a resident of the city for less than 12 months immediately proceeding [preceding] application) business address and business addresses of employers and their addresses for the last five years, names of spouse, complete record of all arrests, convictions and guilty pleas for violations of all laws, city, other cities, counties and states, county, state and federal, of both applicant and spouse, and the disposition of all charges within the last five years prior to the application.
 - (2) As to the applicant's location manager (if not the same as the applicant), the same information as required of the applicant in subsection (1) above.
 - (3) Exact location (street address and otherwise) of proposed business, including zoning district. The location must be properly identified.
 - (4) Name and address of owner or landlord and/or resident manager of property proposed for location and whether or not there is a building proposed to be used already erected thereon.
 - (5) Trade name (or proposed trade name) of proposed business.
 - (6) Names and addresses of all persons having any financial interest in the outlet by way of ownership of building, property, or stock, receipt of income from the business or otherwise.
 - (7) Such other information as may be required by the city council, the ARB, the chief of police, the city manager, the city attorney or the clerk.
- (b) Approvals. The application shall contain evidence of the following persons' approval of the licensee and of the owner and the manager of the liquor establishment:
 - (1) Building inspector (i.e., building permit, certificate of occupancy, or other evidence).
 - (2) Traffic engineer.
 - (3) Fire marshal/fire chief.

- (4) Chief of police/assistant chief of police.
- (5) Planning and zoning coordinator.
- (c) Oath. The application shall be sworn to.
- (d) Surveyor's certificate. The application shall be accompanied by a current certificate from a registered surveyor containing the following information:
 - (1) A scale drawing of the building or proposed building, as situated on the proposed lot.
 - (2) The proposed off-street parking facilities available to the building and all outdoor lighting on the premises.
 - (3) The exact location of the business, including street address, ward, and county tax map number.
 - (4) Current zoning classification of the location.
 - (5) The straight-line distance in yards from nearest property line to property line from each of the following: the nearest school building, school ground, or college campus; and the nearest alcoholic treatment center owned and operated by the state or any county or municipal government therein.
- (e) [On-premises consumption.] Only the distance requirements set forth in O.C.G.A. § 3-3-21, if any exist, for on-premises consumption shall be applicable.
- (f) False information. An application under this chapter containing known false information may result in the disapproval, revocation, suspension or failure to renew the license applied for and prosecution as a felony.

(Ord. No. 2002-14, § 1(9-1-72), 10-1-2002; Ord. No. 2009-14, § 57, 10-6-2009)

Sec. 5-6-11. - Sham applicant; de facto applicant or location manager.

A "sham" means any information provided for an application which is not true, accurate, or is spurious, or deceitful.

- (1) It shall be unlawful for any person to file, or permit to be filed, an application for license under this article wherein a sham applicant or a sham location manager is named.
- (2) It shall be unlawful for any person to file an application for license containing his name as applicant, or the name of an outlet manager, when such person is not the de facto applicant or the de facto location manager, as the case may be.
- (3) It shall be unlawful for any person to permit his name to be used on an application for license where such person will not be the de facto owner of the license or the de facto location manager, as the case may be.
- (4) It shall be unlawful for any person to file an application for license, or permit his name to be used in such application, where the application contains a nominal applicant or nominal location manager for the purpose of avoiding the provisions of this article restricting applicants or managers to persons and without criminal records, or restricting economic interests in outlets, or for any other elusive purpose.

(Ord. No. 2002-14, § 1(9-1-73), 10-1-2002)

Sec. 5-6-12. - Surveyor's certificate containing false information.

- (a) It shall be unlawful for any applicant under this article to submit with his application any surveyor's certificate containing known false information and/or measurements.

- (b) It shall be unlawful for any surveyor to submit, or allow to be submitted, a certificate containing known false information.
- (c) A violation of subsection (b) may result in prosecution as for a felony offense.
- (d) Substantial errors in measured distances, as determined by the city engineer, shall be prima facie evidence that the distances submitted are known to be false.
- (e) The amount of the license fee for each class shall be as set forth in the license fee schedule under section 5-3-15

(Ord. No. 2002-14, § 1(9-1-74), 10-1-2002)

Sec. 5-6-13. - Application, qualification; regulation.

It is the intention of this article that alcoholic beverages be sold only at bona fide restaurants, hotels and private clubs as defined in this chapter and under the restrictions set out in this article and not at walk-in bars or sham establishments.

(Ord. No. 2002-14, § 1(9-1-75), 10-1-2002; Ord. No. 2009-14, § 58, 10-6-2009)

Sec. 5-6-14. - Action by ARB and city council.

- (a) After proof of advertisement is filed, the clerk shall notify the chief of police, who shall investigate the reputation of the location and make a full report to the ARB. The clerk shall also circulate the application to the building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator for their investigation and recommendation.
- (b) The clerk or his/her designee when assured that all requirements have been complied with and the application is complete shall refer the application, together with any objections filed, to the ARB. The ARB shall, after review of the applicant and the proposed location, recommend action to city council. The ARB shall afford the applicant a hearing prior to making a recommendation. Pursuant to subsection 5-3-8(d), the recommendation of the ARB shall be deemed to be the decision of the mayor and council if the applicant does not appeal such recommendation to the mayor and council within 30 days of the ARB recommendation by filing a written appeal with the alcohol beverage clerk.

(Ord. No. 2002-14, § 1(9-1-76), 10-1-2002; Ord. No. 2009-14, § 59, 10-6-2009)

Sec. 5-6-15. - Approval of application; expiration in 90 days; extension for cause.

Approval of an application under this article by the city council shall expire after 90 days from the date of such approval, unless the applicant has procured, and paid the fee for, the approved license. If the application is approved and all fees paid the same shall lapse if no action is taken on the license by applicant within six months of issuance. The city council may extend the approval up to 90 days for good cause shown such as fire, flood, war and other uncontrollable occurrences, provided the request therefore is made within the original 90-day period.

(Ord. No. 2002-14, § 1(9-1-77), 10-1-2002; Ord. No. 2009-14, § 60, 10-6-2009)

Sec. 5-6-16. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application where subject matter being litigated.

- (a) No applicant under this article may submit, and the ARB shall not review, an application which is substantially the same as an application submitted within the previous six months that has been denied, unless directed by the city council.
- (b) Either the ARB or the city council, or both, may defer action upon any application, the subject matter of which is substantially the same as the subject matter of litigation then pending in the city, state, or federal courts until such time as the litigation is resolved.

(Ord. No. 2002-14, § 1(9-1-78), 10-1-2002)

Sec. 5-6-17. - Considerations and guidelines for grant or denial.

The ARB, and the city council in making its determinations on an initial application, shall be guided by the following factors as to whether or not to grant a license under this article:

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
- (2) The proximity of school grounds, school buildings, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
- (3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
- (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (5) The criminal record of the applicant and the location manager and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
- (6) A report of the chief of police, the building inspector, the fire marshal, the traffic engineer, and the planning and zoning manager relating to the use or sale of alcohol at the proposed location.
- (7) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and other matters relating to the use or sale of alcohol at the proposed location have been met.
- (8) Evidence presented to the ARB for or against the application relating to the sale or use of alcohol at the proposed location.
- (9) Whether or not granting of the application is in the best interest of the health, safety and welfare of the city.
- (10) Whether any license for sale of liquor, beer, or wine or alcohol previously issued for the location has been revoked for cause by the ARB.
- (11) The history or reputation of the building or establishment (proposed for business) for prostitution or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violations of the law relating to the sale or use of alcohol at the proposed location; or the overtaxing of existing city infrastructure and personnel. Such determination of overtaxing will be made based upon reports of crimes and emergencies reported and responses made to the site when compared to the same factors found at all retail facilities averaged together as found in the city established by an annual study.
- (12) Whether or not the applicant or outlet location is in violation of other local ordinances or state laws relating to the crimes and issues referenced in subsection (11) as related to the sale or use of alcohol at the proposed location.
- (13) Whether or not the application or location manager has violated other jurisdictions laws regarding alcohol beverage licensing.

(Ord. No. 2002-14, § 1(9-1-79), 10-1-2002; Ord. No. 2006-08, § 13, 6-13-2006; Ord. No. 2009-14, § 61, 10-6-2009)

Sec. 5-6-18. - Prohibited locations, prohibited persons, incomplete application.

- (a) Prohibited locations. It shall be prohibited to obtain a license for on-premises consumption within the following areas of the city:
- (1) Within any residential zoning district or other prohibited district as set out in the zoning ordinance.
 - (2) In any existing building or establishment having a history of, or reputation for, prostitution or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violations of the law relating to the sale or use of alcohol at the proposed location; or the overtaxing of existing city infrastructure and personnel.
- (b) Prohibited persons. It shall be prohibited for the following persons to obtain a license for an on-premises consumption location:
- (1) A person who does not comply with any residency requirements under state law.
 - (2) A person who has been convicted of a felony relating to violence, illegal substances, gambling, theft, or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or the taxability thereof within five years preceding the application.
 - (3) A person whose license under this chapter has been revoked for cause or who has had a license under this chapter revoked for cause.
 - (4) A person who is under 18 years of age or who is not of sound mind and memory.
- (c) Incomplete application. An application under this article filed and submitted before containing substantially all the information required may be refused by staff.

(Ord. No. 2002-14, § 1(9-1-80), 10-1-2002; Ord. No. 2006-08, § 14, 6-13-2006; Ord. No. 2009-14, § 62, 10-6-2009)

Sec. 5-6-19. - Becoming a prohibited person.

Any licensee under this article who becomes a "prohibited person" as defined in section in this chapter shall, within three days of the event, make the fact known to the ARB and shall surrender his license. Such surrender being appealable to the city council.

(Ord. No. 2002-14, § 1(9-1-81), 10-1-2002)

Sec. 5-6-20. - Renewal; denial of renewal.

- (a) All licenses under this article shall be issued on a calendar-year basis; however, the same may be suspended or revoked at any time for violations set out in this chapter and may be renewable upon payment of the appropriate fee, except as is set out in subsections (d) and (e) below.
- (b) Each licensee shall make written application for renewal of his license on or before October of each year on forms provided by the city, and the license fee shall be paid in full on or before December 15 of each year.

- (c) The application shall be referred to the city staff, who shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.
- (d) If any city official reports any activity which constitutes probable cause for not renewing a license, the renewal shall not be made. All renewals shall be referred to the ARB for its consideration.
- (e) The ARB shall afford the licensee a public hearing, and in passing upon the application for renewal, the recommended action shall be guided by the following factors applicable to an initial application: subsections (5), (6), (8), (9), (10), (12), and (13), of section 5-6-17
- (f) At the public hearing, the ARB may recommend to the city council granting, or denying for cause, the renewal of any license issued under this article.

(Ord. No. 2002-14, § 1(9-1-82), 10-1-2002; Ord. No. 2004-02, § 9, 1-27-2004; Ord. No. 2004-24, § 3(9-1-82), 12-21-2004; Ord. No. 2006-08A, § 5, 7-11-2006; Ord. No. 2007-15, § 3, 10-2-2007; Ord. No. 2009-14, § 63, 10-6-2009)

Sec. 5-6-21. - Revocation, refusal to renew, suspension, probation.

- (a) Summary action. There shall be no summary seizure of licenses under this article unless there exists in the city a state of emergency duly declared; after any such seizure, a hearing shall be held as soon as practicable except where the applicant/holder has allowed the license to lapse from lack of use.
- (b) Action by ARB and council. The ARB shall have full power and authority to recommend to the city council: revocation, refusal to renew, suspending, or placing on probation any alcoholic beverage license for a violation of this chapter, city ordinance, or of the state or federal laws, where such violation relates to the sale, manufacture, or use of alcoholic beverages or when the continued operation of the licensed business is detrimental to the health, safety, or welfare of the public as determined by failure to comply with the aforementioned alcohol-beverage-related laws. Before taking any such action, the city council shall require a hearing, before it and/or the ARB, as relevant in accordance with section 5-3-8(d), at least five days' notice of said hearing shall have been given to the affected licensee. The ARB shall make relevant recommendations which may be reviewed pursuant to subsection 5-3-8(d). The city council shall make all final determinations either by adopting the ARB recommendations or as otherwise set out in subsection 5-3-8(d).

(Ord. No. 2002-14, § 1(9-1-83), 10-1-2002; Ord. No. 2006-08, § 9, 6-13-2006; Ord. No. 2007-15, § 4, 10-2-2007; Ord. No. 2009-14, § 64, 10-6-2009)

Sec. 5-6-22. - Effect of changes of circumstances on application.

The recommendation of approval of an application by the ARB, and/or the granting of a license by the clerk, may be suspended or revoked, after notice and hearing, if any change in the information supplied, or in the physical layout represented in the plat submitted, occurs without the approval of the ARB. An applicant anticipating any such change shall submit all details thereof to the ARB which shall report the same to the city council.

(Ord. No. 2002-14, § 1(9-1-84), 10-1-2002)

Sec. 5-6-23. - Private clubs.

- (a) Private clubs shall be subject to the requirements for on-premises consumption licenses as set out in this chapter, except as otherwise provided.
- (b) Private clubs shall not be subject to section 5-6-1 and [subsection] 5-6-2(a).

- (c) Private clubs may sell alcoholic beverages only to their members, and shall be required to maintain the same percentage of food-drink sales as is required of restaurants under subsection 5-6-2(c). Private clubs shall further be required to submit monthly reports to the ARB (i) clearly indicating its sales receipts for food and its sales receipts for alcoholic beverages pursuant to subsections 5-6-2(c) and 5-6-2(d), and (ii) attesting that they have at least 75 regular dues-paying members.
- (d) No alcoholic beverage license shall be granted to a private club organized or operated primarily for the selling or serving of alcoholic beverages.

(Ord. No. 2009-14, § 65, 10-6-2009)

ARTICLE 6.1. - ON-PREMISES CONSUMPTION UNDER 2,000 SQUARE FEET/OPEN SIX HOURS OR LESS IN DAY

Sec. 5-6.1-1. - Regulation of on-premises consumption establishments under 2,000 square feet/open less than six hours in day.

- (a) This article applies only to on-premises consumption establishments under 2,000 square feet (including any outside serving area) that are open to the public six consecutive hours or less in a day.
- (b) Only on-premises consumption establishments under 2,000 square feet (including any outside serving area) that are open to the public six consecutive hours or less in a day may obtain an on-premises consumption under 2,000 square feet/open six hours or less in day license.
- (c) All provisions set forth in article 6 shall apply fully to on-premises consumption under 2,000 square feet/open six hours or less in day licensees, except such licensees shall only be required to:
 - (1) Serve one meal per day;
 - (2) Be open for service five days a week; and
 - (3) Have at least 40 percent of its receipts come from the sale of food.

(Ord. No. 2011-15, § 6, 12-6-2011)

ARTICLE 6.2. - ON-PREMISES ARTS LICENSES

Sec. 5-6.2-1. - Regulation of on-premises arts licenses.

- (a) An on-premises arts license may be issued to a nonprofit arts organization whose primary purpose is to present productions or performances of an artistic or cultural nature.
- (b) An on-premises arts license permits the licensee to sell alcoholic beverages only to patrons of the productions or performances for consumption inside the licensed premises in connection with the productions or performances.
- (c) No licensee or employee or agent of a licensee under this section shall permit any exterior or interior advertising concerning the sale of alcoholic beverages on the licensed premises.
- (d) No licensee or employee or agent of a licensee under this section shall engage in any of the following practices in connection with the sale or other disposition of alcoholic beverages:

- (1) The giving away of any alcoholic beverage in conjunction with the sale of any other alcoholic beverage;
 - (2) The sale of two or more alcoholic beverages for a single price, including the sale of all such beverages a customer can or desires to drink at a single price;
 - (3) The sale or serving of two or more alcoholic beverages at substantially the same price customarily charged for one such alcoholic beverage;
 - (4) Requiring or allowing the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been substantially consumed, by any one person;
 - (5) The sale or delivery to any person or group of persons of an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public; or
 - (6) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage.
- (e) No licensee or employee or agent of a licensee under this section shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (d) above.
 - (f) The building or proposed building shall meet all requirements of the building inspector, the fire marshal, the traffic engineer, and planning and zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking, buffers and other issues.
 - (g) No licensee under this section may allow BYOB on the licensed premises.
 - (h) All on-premises arts licensees shall collect and pay a tax of three percent on the sale of alcoholic beverages by the drink in the city in accordance with chapter 17, article 6 of the Hapeville Code of Ordinances.
 - (i) The state regulations relating to the sale and distribution of distilled spirits, as revised, promulgated by the state department of revenue, are hereby incorporated into and made a part of this article as if fully set out in this section.
 - (j) The regulations pertaining to special events licenses under section 5-6-5(c) shall apply to on-premises arts licenses.

(Ord. No. 2013-14, § 5, 1-21-2014)

ARTICLE 6.3. - GROWLERS

Sec. 5-6.3-1. - Growler license.

- (a) The retail sale of growlers is authorized for establishments licensed pursuant to this article. The fee amount for a growler license shall be set forth in section 5-3-15
- (b) A growler license may be obtained only by establishments engaged in the retail sale of growlers.
- (c) In addition to the retail sale of growlers, a growler licensee is permitted to engage in the retail sale of beer and/or wine by the package. A package of beer or wine may not be broken for individual sale; however, the filling of growlers by means of a tapped keg or barrel shall not constitute the breaking of a package.
- (d) A licensee obtaining a growler license cannot hold any other category of alcohol beverage license.

- (e) Growlers may only be filled with beer or wine from kegs or barrels procured by the licensee from a duly licensed wholesaler.
- (f) After a growler is filled at the licensed premises, it must be securely sealed and removed from the premises in its original condition and cannot be opened or consumed on the premises.
- (g) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.
- (h) A growler licensee shall be authorized to offer without charge samples of draft beer or wine to patrons over the age of 21. Samples shall not exceed three ounces in volume nor shall any one individual be offered more than a total of 12 ounces of samples within a calendar day.
- (i) It shall be unlawful for a growler licensee or any employee thereof to be on duty at the licensed premises in an intoxicated condition. "Intoxication" shall be defined as when a licensee's or employee's alcohol concentration is 0.08 grams or more at any time while on duty. For purposes of this section, "on duty" shall mean being paid any salary, wage, or remuneration of any kind for services rendered during the time he or she is on the premises; on the licensed premises for the benefit of or at the direction of the licensee or its management (other than as a customer, patron, or guest); engaging in the sale, directly or indirectly, of any food or beverage; or taking a break during periods of any on-duty employment.
- (j) Subject to subsection (i) of this section, a growler licensee or employee thereof shall be permitted to taste draft beer and wine at the licensed premises for quality control or educational purposes only. Such tastings shall not exceed four ounces in volume per hour and eight ounces in volume total within a calendar day.
- (k) No food purchased at an establishment possessing a growler license may be consumed on premises.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-2. - General regulations.

- (a) The building or proposed building to house a growler licensee shall meet all requirements of the building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking buffers and other issues.
- (b) No screen, partition or thing which prevents a clear view into the interior of a growler store from the street, nor any booth within, shall be permitted.
- (c) No sale of beer or wine shall be permitted between the hours of 2:00 a.m. and 8:00 a.m. In addition, no sale of beer or wine shall be permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or any other days or times prohibited by state law.
- (d) The state regulations relating to the sale and distribution of beer and/or wine, as revised, promulgated by the state revenue department, are hereby incorporated into and made a part of this chapter as if fully set out in this section.
- (e) Any license holder/applicant shall make an immediate report to, and receive approval by, the ARB of any change in the interests in, or ownership of or of the license of a growler store and/or any change in the information stated in the original application for license. The ARB shall report the changes and its recommendations to the city council for the city council's final approval.
- (f) No drive-in windows for the sale of beer or wine shall be allowed.
- (g) The open parking area of any building or proposed building to house a growler store shall have an average maintained footcandle intensity of at least one footcandle with a minimum allowable intensity of three-tenths of a footcandle. The covered parking area of any building or proposed building to house a retail outlet shall have an average maintained footcandle intensity of at least two footcandles with a minimum allowable intensity of five-tenths footcandle.

- (h) Each growler store shall install and maintain in a secure location security cameras in the outlet of a type and number approved by the chief of police. Such cameras:
 - (1) Shall be placed in the outlet to record activities in the checkout or cash register area(s).
 - (2) Shall be capable of producing a retrievable image on film, tape, or any readable medium that can be made a permanent record and enlarged through projection or other means.
- (i) Each growler store shall post at least four copies of its complete price list or, in lieu thereof, place a price on each package for sale.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-3. - Required.

It shall be unlawful for any person to sell or offer to sell a growler within the corporate limits of the city without having the appropriate license for such sale, or to carry on such activity in violation of the terms of such license or of this chapter.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-4. - Separate license for each growler store; surrender.

- (a) A separate license shall be required for each growler store, and a separate application shall be made for each such place.
- (b) Immediately upon the sale or closing of a business, it shall be the duty of the licensee to surrender his license to the ARB.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-5. - Applications for growler license.

Applications for growler licenses shall be as follows:

- (1) Forms; submission. Each initial applicant shall make written application to the ARB for the privilege of engaging in the sale of growlers such applicant using forms provided by the clerk.
- (2) Where filed; fee. The application shall be filed with the clerk with a fee as set out in the fee schedule under section 5-3-15, for review of the applicant and of the proposed location and processing of the application.
- (3) Contents. The application shall state:
 - a. As to the applicants, full name, birth date, present address and addresses for the past five years, business address and business addresses of employers and their addresses for the last five years, name of spouse, complete record of all arrests, convictions and guilty pleas for violations of all laws, city, counties, state and federal, and other cities, counties, and states of both applicant and spouse, and the disposition of all charges within the last five years prior to the application.
 - b. As to the applicant's location manager (if not the same as the applicant), the same information as required of the applicant in subsection a.
 - c. Exact location (street address and otherwise) of proposed business, including zoning district. The location must be properly identified.

- d. Name and address of the owner or landlord and/or resident manager of property proposed for location and whether or not there is a building proposed to be used already erected thereon.
 - e. Trade name (or proposed trade name) of proposed business.
 - f. Names and addresses of all persons having any financial interest in the outlet by way of ownership of building, property, or stock, receipt of income from the business or otherwise.
 - g. Such other information as may be required by the city council, the ARB, the chief of police, the city manager, the city attorney or the clerk.
- (4) Approvals. The application shall contain evidence of the following persons' approval of the licensee and of the owner and the manager of the malt beverage/wine establishment:
- a. Building inspector (i.e., building permit, certificate of occupancy, or other evidence).
 - b. Traffic engineer.
 - c. Fire marshal/fire chief.
 - d. Chief of police/assistant chief of police.
 - e. Planning and zoning coordinator.
- (5) Oath. The application shall be sworn to.
- (6) Surveyor's certificate. The application shall be accompanied by a current certificate from a registered surveyor containing the following information:
- a. A scale drawing of the building or proposed building, as situated on the proposed lot.
 - b. The proposed off street parking facilities available to the building and all outdoor lighting on the premises.
 - c. The exact location of the business, including street address, ward, and county tax map number.
 - d. Current zoning classification of the location.
 - e. The distance in yards as measured in a straight line from nearest property line to nearest property line from each of the following: the nearest school building, school ground or college campus, and the nearest alcoholic treatment center owned and operated by the state or any county or municipal government therein.
 - f. If a business has been licensed since July 1, 1981, or before, the survey shall be required however no license will be denied based upon a failure to meet the distance requirements as set forth under O.C.G.A. § 3-3-21.
- (7) False information. An application under this chapter containing known false information may result in the disapproval, revocation, suspension or failure to renew the license applied for and prosecution as a felony.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-6. - Sham applicant; de facto applicant or location manager.

A "sham" means any information provided for an application which is not true, accurate, or is spurious, or deceitful.

- (1) It shall be unlawful for any person to file, or permit to be filed, an application for license under this division wherein a sham applicant or a sham location manager is named.

(2) It shall be unlawful for any person to file an application for license containing his name as applicant, or the name of a location manager, when such person is not the de facto applicant or the de facto location manager, as the case may be.

(3) It shall be unlawful for any person to permit his name to be used on an application for license where such person will not be the de facto owner of the license or the de facto location manager, as the case may be.

(4) It shall be unlawful for any person to file an application for license, or permit his name to be used in such application, where the application contains a nominal applicant or nominal location manager for the purpose of avoiding the provisions of this article restricting applicants or managers to persons without criminal records, or restricting economic interests in outlets, or for any other elusive purpose.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-7. - Surveyor's certificate containing false information.

- (a) It shall be unlawful for any applicant under this article to submit with his or her application any surveyor's certificate containing known false information and/or measurements.
- (b) It shall be unlawful for any surveyor to submit, or allow to be submitted, a certificate containing known false information.
- (c) A violation of subsection (b) may result in prosecution as for a felony offense.
- (d) Substantial errors in measured distances, as determined by the city engineer, shall be prima facie evidence that the distances submitted are known to be false.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-8. - Advertisement; proof thereof.

- (a) Each applicant under this article shall advertise his or her application for license at his or her own expense in the legal organ newspaper once a week for two weeks. Advertisements shall not be required for renewals. The advertisement shall appear after the application is filed and before the public hearing provided for in this article. The advertisement shall contain the name of the applicant, the purpose of the application, the proposed location of the business, and its owner's name, and the name of the proposed location manager. An advertisement shall run for each initial application.
- (b) The applicant, before consideration will be given to his application, shall file with the clerk a copy of the advertisement together with affidavits from the newspaper to the effect that it has been printed as required.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-9. - Action by ARB and city council.

- (a) After proof of advertisement is filed, the clerk shall notify the chief of police, who shall investigate the applicant and the reputation of the location and make a full report to the ARB. The clerk shall also circulate the application to the building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator for their investigation and recommendation.
- (b) The clerk or his/her designee, when assured that all requirements have been complied with and the application is complete, shall refer the application, together with any objections filed, to the ARB. The ARB shall, after review of the applicant and the proposed location, recommend action to the city council. The ARB shall afford the applicant a hearing prior to making a recommendation. Pursuant to

subsection 5-3-8(d), the recommendation of the ARB shall be deemed to be the decision of the mayor and council if the applicant does not appeal such recommendation to the mayor and council within 30 days of the ARB recommendation by filing a written appeal with the alcohol beverage clerk.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-10. - Approval of application; expiration in 90 days; extension for cause.

Approval of an application under this article by the city council shall expire after 90 days from the date of such approval, unless the applicant has procured, and paid the fee for, the approved license. If the application is approved and all fees paid the same shall lapse if no action is taken on license by applicant within six months of issuance. The city council may extend the approval up to 90 days for good cause shown such as fire, flood, war, and other uncontrollable occurrences, provided the request is made within the original 90-day period.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-11. - Substantially the same application not to be resubmitted or entertained within six months of previous application; deferral of action on application subject matter being litigated.

- (a) No applicant under this article may submit, and the ARB shall not review, an application which is substantially the same as an application submitted within the previous six months that has been denied, unless directed by the city council.
- (b) Either the ARB or the city council, or both, may defer action upon any application, the subject matter of which is substantially the same as the subject matter of litigation then pending in the city, state, or federal courts until such time as the litigation is resolved.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-12. - Considerations and guidelines for grant or denial.

The ARB, and the city council in making its determinations on an initial application, shall be guided by the following factors as to whether or not to grant a license under this article:

- (1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
- (2) The proximity of school grounds, school buildings, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
- (3) Whether the proposed location has adequate off street parking facilities or other parking available for its patrons.
- (4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (5) The criminal record of the applicant and the location manager, and their financial responsibility; provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.
- (6) A report of the chief of police, the building inspector, the fire marshal, the traffic engineer, and the planning and zoning manager relating to the use or sale of alcohol at the proposed location.
- (7) The information required in the application or statement and whether all requirements as to notice, advertisement, fire codes, building, zoning, parking, lighting and other matters relating to the use or sale of alcohol at the proposed location have been met.

- (8) Evidence presented to the ARB for or against the application relating to the sale or use of alcohol at the proposed location.
- (9) Whether or not the granting of the application is in the best interest of the health, safety, and welfare of the city.
- (10) Whether any license for sale of beer or wine or alcohol previously issued for the location has been revoked for cause by the city.
- (11) The history or reputation of the building or establishment (proposed for business) for prostitution or other sex offenses; fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; or other violations of the law relating to the sale or use of alcohol at the proposed location; or the overtaking of existing city infrastructure and personnel. Such determination of overtaking will be made based upon reports of crimes and emergencies reported and responses made to the site when compared to the same factors found at all retail facilities averaged together as found in the city established by an annual study.
- (12) Whether or not the applicant or outlet location is in violation of other local ordinances or state laws relating to the crimes and issues referenced in subsection (11) as related to the sale or use of alcohol at the proposed location.
- (13) Whether or not the applicant or location manager has violated other jurisdictions laws regarding alcohol beverage licensing.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-13. - Prohibited locations; prohibited persons; incomplete application.

- (a) Prohibited locations. It shall be prohibited to obtain a growler license within the following areas of the city:
 - (1) Within any residential zoning district or other prohibited zoning district established in the zoning ordinance.
 - (2) Within a measured 100 yards of any alcoholic treatment center owned and operated by the state or any county or municipal government therein.
 - (3) Within a measured 100 yards of any school building, school ground, or college campus.
- (b) Prohibited persons. It shall be prohibited for the following persons to obtain a growler license:
 - (1) A person who does not comply with any residency requirements under state law.
 - (2) A person who has been convicted of a felony relating to violence, illegal substances, gambling, theft, or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of malt beverages, wine or intoxicating liquors, or the taxability thereof within five years preceding the application.
 - (3) A person whose license under this chapter has been revoked for cause or who has had a license under this chapter revoked for cause.
 - (4) A person who is under 18 years of age or who is not of sound mind and memory.
- (c) Incomplete application. An application under this article filed and submitted before containing substantially all the information required may be refused by staff.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-14. - Becoming a prohibited person.

Any licensee under this article who becomes a "prohibited person" as defined in this chapter, shall, within three days of the event, make the fact known to the ARB and shall surrender his license, such surrender being appealable to the city council.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-15. - Renewal; denial of renewal.

- (a) All licenses under this article shall be issued on a calendar-year basis; however, the same may be suspended or revoked at any time for violations set out in this chapter and may be renewable upon payment of the appropriate fee, except as is set out in subsections (d) and (e) below.
- (b) Each licensee shall make a written application for renewal on or before October 15 of each year on forms approved by the clerk, and the license fee shall be paid in full no later than December 15 of each year.
- (c) The application shall be referred to city staff, who shall report on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.
- (d) If any city official reports any activity which constitutes probable cause for not renewing a license, the renewal shall not be made. All renewals shall be referred to the ARB for its consideration.
- (e) The ARB shall afford the licensee a public hearing, and in passing upon the application for renewal, the recommendation shall be guided by the following factors applicable to an initial application: subsections (5), (6), (8), (9), (10), (12), and (13) of section 5-6.3-12. The city council may grant or deny for cause the renewal of any license issued under this article.
- (f) At the public hearing, the ARB may recommend to the city council granting, or denying for cause, the renewal of any license issued under this article.

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-16. - Revocation, refusal to renew, suspension, probation.

- (a) Summary action. There shall be no summary seizure of licenses under this article, unless there exists in the city a state of emergency duly declared; after any such seizure, a hearing shall be held as soon as practicable except where the applicant/holder has allowed the license to lapse from lack of use.
- (b) Action by ARB and council. The ARB shall have full power and authority to recommend to the city council: revocation, refusal to renew, suspending, or placing on probation any alcohol beverage license for violation of this chapter, city ordinance or of the state or federal laws where such violation relates to the sale, manufacture or use of alcoholic beverages or when the continued operation of the licensed business is detrimental to the health, safety or welfare of the public as determined by failure to comply with the aforementioned alcohol-beverage-related laws. Before taking any such action, the city council shall require a hearing, before it and/or the ARB, as relevant in accordance with subsection 5-3-8(d); at least five days' notice of said hearing shall have been given to the affected licensee. The ARB shall make relevant recommendations which may be reviewed pursuant to subsection 5-3-8(d). The city council shall make all final determinations either by adopting the ARB recommendations or as otherwise set out in subsection 5-3-8(d).

(Ord. No. 2014-04, § 5, 4-15-2014)

Sec. 5-6.3-17. - Changes of circumstances.

The recommendation of approval of an application by the ARB, and/or the granting of a license by the clerk, may be suspended or revoked, after notice and hearing, if any change in the information supplied, or in the physical layout represented in the plat submitted, occurs without the approval of the ARB. An applicant anticipating any such change shall submit all details thereof to the ARB which shall report the same to the city council.

(Ord. No. 2014-04, § 5, 4-15-2014)

ARTICLE 7. - TAXES AND REPORTS

Sec. 5-7-1. - Rate of taxation for malt beverages.

In addition to the annual license fees required by this chapter, there is hereby levied upon each wholesale dealer selling malt beverages within the city an excise tax, on such malt beverages so sold, as follows:

- (1) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of five cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (2) All malt beverages sold in or from a barrel or bulk container, and being commonly known as tap or draft beer, shall not be subject to the excise tax provided for in subsection (1), but in lieu thereof there is hereby imposed upon each wholesale dealer selling such malt beverages within the city an excise tax of \$6.00 for each barrel or bulk container having a capacity of 15½ gallons sold by such wholesale dealer within the city and at a like rate for fractional parts thereof.
- (3) This tax shall apply to all malt beverages except as except under O.C.G.A. § 3-5-90.

(Ord. No. 2002-14, § 1(9-1-86), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-2. - Method of payment.

The tax levied under this article shall be paid to the city by each wholesale dealer on all malt beverages sold within the city as follows: Each wholesale dealer selling, shipping or in any way delivering malt beverages to a retailer in the city shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all such deliveries on or before the tenth day of the month next succeeding the calendar month in which such sales are made.

(Ord. No. 2002-14, § 1(9-1-87), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-3. - Payment of tax; report.

The summary report made by each wholesale dealer to the city shall show the exact quantities of malt beverages, by size and type of container, and the amount of excise tax collected.

(Ord. No. 2002-14, § 1(9-1-88), 10-1-2002)

Sec. 5-7-4. - Right to audit.

The city shall have the right to audit, and to require production of records from, each wholesaler of malt beverages supplying retailers in the city and each retailer so supplied.

(Ord. No. 2002-14, § 1(9-1-89), 10-1-2002)

Sec. 5-7-5. - Failure to make timely report; penalty.

- (a) The failure to make a timely report and remittance under this article shall render a wholesale dealer liable for a penalty equal to ten percent of the total amount due during the first 30-day period following the date such report and remittance were due and a further penalty of 25 percent of the amount of such remittance for each successive 30-day period or any portion thereof during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to 50 percent of the amount of the remittance which would be required under an accurate and truthful report and prosecution for a felony offense.
- (b) Such failure to make a timely report or remittance, or the filing of a false or fraudulent report, shall also constitute grounds for the revocation of the license issued by the city to the wholesale dealer and prosecution for a felony offense.

(Ord. No. 2002-14, § 1(9-1-90), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-6. - Payment of fee to wholesaler; payment revocable.

The city may pay to each wholesaler for the service of computing and remitting the taxes collected from retailers under this article a fee of three percent of such remittances, such payment to be revocable by the city at any time. Such payment shall be forfeited if any report or payment of tax under this article is not submitted to the city by the time required in this article.

(Ord. No. 2002-14, § 1(9-1-91), 10-1-2002)

Sec. 5-7-7. - Sale prohibited when tax not paid.

It shall be unlawful for any person to sell at retail or otherwise within the city any malt beverage on which the tax required in this article has not been paid to the wholesaler or distributor or the city.

(Ord. No. 2002-14, § 1(9-1-92), 10-1-2002)

Sec. 5-7-8. - Rate of taxation for liquor.

In addition to the annual retail liquor license fee required by this chapter, there is hereby levied an excise tax computed at the rate of \$0.22 per liter, which shall be paid to the city on all liquor sold, displayed or stored in the city. The \$0.22 per liter shall be prorated down on miniatures, half pints, pints, fifths, half gallons and other quantities and on liquor gallons so that each bottle shall be taxed on the basis of \$0.22 per liter.

(Ord. No. 2002-14, § 1(9-1-93), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-9. - Method of payment.

The tax levied under this article shall be paid to the city by the wholesale distributor on all liquor sold to retailers in the city as follows: Each wholesale distributor selling, shipping or in any way delivering liquor to any such retailer shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.

(Ord. No. 2002-14, § 1(9-1-94), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-10. - Summary of purchase invoices.

Each wholesale distributor of liquor shall furnish to the city a summary of all purchase invoices for liquor sold to each retailer in the city on or before the tenth of each month following such purchases. Such invoices shall show the amount of excise tax paid.

(Ord. No. 2002-14, § 1(9-1-95), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-11. - Right to audit, failure to timely report; penalty.

The city shall have the right to audit, and to require production of records from, each wholesaler of liquor supplying retailers in the city and each retailer so supplied. The same penalties shall apply for failure to timely and accurately report and remit as are set out in section 5-7-5.

(Ord. No. 2002-14, § 1(9-1-96), 10-1-2002)

Sec. 5-7-12. - Payment of fee to distributor; payment revocable.

The city may pay to each wholesale distributor for the service of computing and remitting the taxes collected from retailers under this article a fee of three percent of the remittances, the payment to be revocable by the city at any time. Such payment shall be forfeited if any report or payment under this article is not submitted to the city by the time required in this article.

(Ord. No. 2002-14, § 1(9-1-97), 10-1-2002)

Sec. 5-7-13. - Rate of taxation for wine.

- (a) In addition to the annual retail wine license fee required by this chapter, there is hereby levied an excise tax computed at the rate of \$0.22 per liter which shall be paid to the city on all wine sold, displayed or stored in the city. The \$0.22 per liter tax rate shall be proportionally applied to smaller and larger quantities of wine so that each container shall be taxed on the basis of \$0.22 per liter.
- (b) This tax shall apply to all wine except as exempt under O.C.G.A. § 3-6-70.

(Ord. No. 2002-14, § 1(9-1-98), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-14. - Method of payment.

The tax levied under this article shall be paid to the city by each wholesale distributor on all wine sold to retailers in the city as follows: Each wholesale distributor selling, shipping or in any way delivering wine to any such retailer shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each retailer on or before the tenth day of the month following.

(Ord. No. 2002-14, § 1(9-1-99), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-15. - Summary of purchase invoices.

Each wholesale distributor of wine shall furnish to the city a summary of all purchase invoices for wine sold to each retailer in the city on or before the tenth of each month following such purchases. Such invoices shall show the amount of excise tax paid.

(Ord. No. 2002-14, § 1(9-1-100), 10-1-2002; Ord. No. 2002-17, § 3, 11-12-2002)

Sec. 5-7-16. - Right to audit, failure to timely report; penalty.

The city shall have the right to audit, and to require production of records from, each wholesaler of wine supplying retailers in the city and each retailer so supplied. The same penalties shall apply for failure to timely and accurately report and remit as are set out in section 5-7-5.

(Ord. No. 2002-14, § 1(9-1-101), 10-1-2002)

Sec. 5-7-17. - Payment of fee to wholesaler; payment revocable.

The city may pay to each wholesaler for the service of computing and remitting taxes collected from retailers under this article a fee of three percent of such remittances, such payment to be revocable by the city at any time. Such payment shall be forfeited if any payment of tax under this article is not submitted to the city by the time required herein.

(Ord. No. 2002-14, § 1(9-1-102), 10-1-2002)

Sec. 5-7-18. - Tax on alcoholic beverages on-premises for consumption.

Chapter 17, article 6 (section 17-6-1 through section 17-6-10 of this Code) shall govern taxes on the sale of alcoholic beverages by the drink.

(Ord. No. 2002-14, § 1(9-1-103), 10-1-2002)

ARTICLE 8. - ART GALLERY ALCOHOL PERMIT

Sec. 5-8-1. - Applicability.

A person or entity operating an art gallery may offer complimentary alcoholic beverages to patrons for consumption within the premises by obtaining an art gallery alcohol permit, which shall be renewed annually. The cost of the permit shall be \$50.00 for the calendar year.

As used herein, "art gallery" means an establishment whose primary purpose is to exhibit:

- (1) A work of visual art such as a painting, sculpture, drawing, mosaic, or photograph;
- (2) A work of calligraphy;
- (3) A work of graphic art such as an etching, a lithograph, an offset print, a silk screen, or any other work of similar nature;
- (4) A craft work in materials, including but not limited to clay, textile, fiber, wood, metal, plastic, or glass; or
- (5) A work in mixed media such as collage or any combination of the art media set forth in this subsection.

(Ord. No. 2014-01, § 1, 5-6-2014)

Sec. 5-8-2. - Regulations.

- (a) An art gallery alcohol permittee shall not, directly or indirectly:
 - (1) Sell alcoholic beverages;
 - (2) Charge an entrance fee or cover charge in connection with the offering of complimentary alcoholic beverages;
 - (3) Serve alcoholic beverages for more than four hours in any one day;
 - (4) Serve alcoholic beverages more than 15 days in any calendar year;
 - (5) Allow any alcoholic beverages to be consumed outside the facility;
 - (6) Allow BYOB; or
 - (7) Engage in any exterior or interior advertising concerning the consumption of alcoholic beverages on the permitted premises.
- (b) An art gallery alcohol permittee shall provide the city at least 15 days written notice prior to any art gallery exhibit or display at which alcoholic beverages will be complimentary offered.
- (c) An art gallery alcohol permittee's building shall meet all requirements of the building inspector, the fire marshal, the traffic engineer, and planning and zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking, buffers and other issues.
- (d) An art gallery alcohol permit may be revoked, non-renewed, suspended, or placed on probation in accordance with section 5-6-21(b).

(Ord. No. 2014-01, § 1, 5-6-2014)