CHAPTER 5 - ALCOHOLIC BEVERAGES

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ARTICLE 1. - LICENSING GENERALLY

Sec. 5-1-1. - Purposes.

The purposes of this chapter shall include, but not be limited to, the following:

(a) Compliance with and effectuation of state law;

(b) Promotion and effectuation of the city's land use and zoning policies/plans;

(c) Prevention of the unlawful sale and use of alcohol;

(d) Protection of schools, homes, churches, parks and other entities; and

(e) Protection of the public health, safety and welfare.

The businesses of manufacturing, distributing, selling, handling and otherwise dealing in or processing alcoholic beverages are privileges and not rights pursuant to O.C.G.A. § 3-3-1, and such privileges shall not be exercised within the city limits without full compliance with the licensing, regulatory, and revenue requirements of local, state and federal rules, regulations, and laws, including this chapter.

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

(a) No person shall engage in the manufacture, sale or distribution of alcoholic beverages in the city without first having obtained a license therefor, provided that wholesalers and distributors maintaining no fixed place of business, warehouse or other facility in the city and possessing a valid state license may make sales and deliveries to licensed retailers and to persons licensed for the sale of alcoholic beverages for consumption on the premises without obtaining a city license.

(b) Except as specifically authorized in this chapter, no person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefor, nor may any licensee engage in any activity in violation of 1) the terms of this chapter or 2) an issued license.

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

(d) All licensees hereunder must, within a six-month period after the issuance of a license, open for business the establishment referred to in the license and begin the sale of the product or products authorized by the license. Failure to open the establishment and begin the sale of such products within the six-month period shall serve as automatic forfeiture and cancellation of the unused license pursuant to the provisions of this chapter. No refund of a license fee shall be made to the licensee upon any forfeiture, abandonment, revocation, suspension, or cancellation of a license. Notwithstanding the provisions of this chapter, an alcohol license fee may be refunded on a pro-rata basis by vote of the Mayor and Council, upon an applicant's showing of good cause. All requests for refunds shall be made at least ninety days in advance of the date on which the applicant seeks for such license to cease, terminate and/or expire.

(e) Immediately upon the sale or closing of a business licensed under this chapter, it shall be the duty of the licensee to surrender such license to the City Clerk. The failure to surrender such license within 30 days of the sale or closing of a business shall be a violation of this chapter.

(f) Any licensee who is an employee of a corporation, and who is separated from his employment, whether he resigns, retires or is fired, shall immediately file notice of such with the city clerk, in writing. If such employee is no longer the designated licensed representative for the establishment due to such separation, he shall immediately surrender his license to the clerk. Failure to surrender such license, if removed from the place of business, shall be a violation and shall be punished as provided by state law.

(g) Any license holder/applicant shall promptly notify the city manager, in writing, of any change in the interests in or ownership of the licensed business, the licensee and/or any change in the information stated in the original application for license. Any such change shall be subject to the requirements of this chapter and shall require the city manager's approval. A license holder/applicant's failure to notify the city manager of any such change within thirty (30) days of the change shall be a violation of this chapter and grounds for revocation by the city. Upon filing timely notice of such change, the licensee may continue to operate under the license until a decision is rendered by the City.

Sec. 5-1-3. - Regulatory classes.

The following regulatory classes are established:

(1) Retail beer/wine store;

(2) Distilled Spirits store;

(3) On-premises:

i. On-premises consumption

ii. On-premises arts;

iii. Off premises and special event;

iv. Alcoholic beverage caterer;

v. Ancillary wine tasting;

(7) Growler;

(8) Microbrewery;

(9) Wholesale;

(10) Manufacturing.

With respect to wholesale and manufacturing:

(a) The regulations for class retail beer/wine shall include requirements applicable to beer/wine wholesale and manufacture except where specified otherwise in this chapter.

(b) The regulations for class package store shall include requirements applicable to liquor wholesale and manufacture except where specified otherwise in this chapter.

Sec. 5-1-4. – General Application Requirements.

(a) Applicant*:* License for corporations shall be issued in the name of the corporation and applied for by and in the name of the designated stockholder, officer and/or employee primarily responsible for the operation of the licensed premises. License for partnerships shall be issued in the name of the partnership and shall be applied for by and in the name of the partner and/or employee primarily responsible for the operation of the licensed premises.

(b) A change in a corporation or partnership's named representative may be permitted if his/her replacement meets the requirements of new license applicants. A corporation or partnership shall promptly file notice of any change in its named representative with the city clerk, and failure to do so within a period of thirty (30) days after such change shall be grounds for revocation by the city. Upon filing timely notice of such change, the licensee may continue to operate under the license until a decision is rendered by the City. All other license shall be applied for and issued in the name of the person and/or employee primarily responsible for the operation of the licensed premises.

(c) Contents of application. The applicant shall submit to the City Clerk an application containing the following:

(1) The Applicant's full name, birth date, residential addresses for the past five years, name and location of their employers for the last five years, spouse's name, both the applicant and their spouse's criminal history showing all arrests, convictions, guilty pleas and dispositions for alleged violations of any local, state and/or federal law for the last five years prior to the application, and, where applicable, the name of the partnership or corporation for whom they are applying, and any trade, business and/or organizational name under which the licensed premises may operate.

(2) The type of license under this chapter for which the applicant is applying.

(3) Exact location of the proposed business location, including complete street address, suite number (if applicable), County Tax Parcel ID, zoning district and nearest intersection).

(4) A copy of the lease to the premises, and/or proof of ownership of the premises, and/or proof of other authorization for use of the premises.

(5) Name and address 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.

(6) Photographs of location. Applicants shall submit front, side and rear photographs of the alcohol beverage license desired location as part of the application process. If the location is located in another building, such as a hotel, pictures of the exterior building located on a city street may be submitted.

(7) The application shall be accompanied with a fee as set out in the fee schedule under Article 10.

(8) *Local bonding requirements.* A performance and tax liability bond payable to the city in the amount of $5,000.00 must be posted and filed with the city, along with the application, for the first five years an applicant seeks an alcohol beverage license under this chapter. In addition, all applicants who have been found to be in violation of any state regulation relating to the sale and distribution of alcoholic beverages as promulgated by the state department of revenue or any provision of this chapter must post and file with the city, along with the application, a performance and tax liability bond payable to the city in the amount of $5,000.00 for the five years immediately following the violation. The bond shall be conditioned upon the faithful observance and performance by the applicant of the rules and regulations contained in this chapter, and upon the payment of any taxes, license fees, or other sums due to the city pursuant to this chapter. Upon violation of this chapter, or any part thereof, the amount of the bond to be forfeited will be determined based on the nature of the violation after a hearing is provided in accordance with the provisions of this chapter. Forfeiture of any bond pursuant to this section may be in addition to any other action that may be taken against a licensee for violations of this chapter.

(9) Surveyor's certificate. All applicants seeking a package store license shall be required to submit a current certificate from a registered surveyor with their application. All other applicants shall be required to submit such certificate upon request by the city manager. The surveyor’s certificate shall contain 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.

(10) Advertisement; proof thereof. After the application is filed, the applicant shall advertise his application for license at his own expense in the city's designated legal organ once a week for two weeks. Advertisements shall not be required for renewals. 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. An application will not be deemed complete until the applicant has filed with the clerk a copy of the advertisement together with affidavits from the newspaper evidencing such publication as required. The applicant's failure to promptly file a copy of the advertisement together with affidavits may result in dismissal of the application.

(11) Required training. The applicant, and its named designated representative(s), seeking a license under this article shall submit with the application a certificate of attendance from an alcohol awareness training program.

(12) Completed applications. All applications under this chapter shall not be deemed completed until all required information is accurately submitted, all criminal background checks are returned and attached to the application, all surveys are attached and such application has been reviewed and stamped complete by the alcohol beverage clerk or his/her designee. No time frame designated hereunder shall begin to run until an application is deemed complete. Premature or incomplete submission of an application may result in the city's refusal to accept the same until the application is complete.

(13) In additional to any other notice requirements set forth under this chapter, all notices under this chapter required to be submitted to the city, and/or any of the city's officials or employees, shall be submitted in writing and in a manner evidencing the city's receipt, to be valid.

Sec. 5-1-5. - Transferability of licenses.

Licenses to engage in the business of selling alcoholic beverages shall not be transferable to any other person or location. If a licensee seeks to relocate the licensed premises to another location within the city, application shall be made as for an original license, provided however a new license fee shall not be required for the remainder of the license year.

Sec. 5-1-6. - Issuance and Display of License.

(a) Licenses are issued on a calendar-year basis; however, such license may be abandoned, suspended, probated, or revoked as set forth in this chapter. Licenses may be issued at any time during a calendar year for the remainder of the calendar year.

(b) New businesses starting after the beginning of the calendar year shall pay license fees prorated on the basis of the annual license fee.

(c) The sale or conveyance of an alcohol beverage sale licensed business requires a new license application, license, and all associated fees.

(d) All holders of local and state alcohol beverages licenses shall prominently display the same at the licensed location in an area accessible to city personnel. State licenses need not be displayed if the state prohibits such display.

Sec. 5-1-7. - Election day sales.

The sale of alcoholic beverages on election days is authorized, in accordance with state law.

Sec. 5-1-8. - Conduct prohibited, generally.

The following conduct is prohibited upon any premises in the city licensed to sell, serve or disperse alcohol beverages:

(a) Improper attire: The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

(b) Lewd Acts: Live entertainment where any person appears in the manner described in paragraph (a) of this subsection or where such persons (or person) perform(s) acts of or acts which simulate any of the following:

(1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.

(2) The touching, caressing or fondling of the breasts, buttocks, anus or genitals.

(3) The displaying of the male or female pubic hair, anus, vulva or genitals.

(c) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct prohibited under this chapter.

(d) Unauthorized alcohol use in City owned buildings and facilities: It shall be unlawful for any person to serve, possess and/or consume any alcoholic beverage within any city building or facility unless prior written authorization of the city manager is first obtained. Service of alcoholic beverages within a city building or facility shall not require an alcohol beverage license under this chapter provided it is in accordance with the requirements of this section. As used herein, city building or facility shall mean any and all city parks and any building owned or leased by the city.

(e) On duty consumption: Unless otherwise permitted in this chapter, it shall be unlawful for the licensee or any manager or employee thereof of a license premise to consume any

intoxicating beverage while on duty at the same, or to be on duty at the same in an intoxicated condition. "Intoxication" shall be defined as when a licensee's, manager's, or employee's alcohol concentration is 0.08 grams or more at any time while on duty as defined below. For purposes of this section, any licensee, or interest holder thereof, manager, or employee of a licensee who is on the establishment's premises shall be presumed to be "on duty" if he is:

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

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

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

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

(f) Furnishing of alcohol to persons underage: It shall be a violation of this chapter for any person:

(1) under 21 years of age to purchase and/or possess any alcoholic beverage;

(2) to serve, provide and/or sale an underage person an alcoholic beverage;

(3) to fail to check the identification of any person so to result in an underage person being sold, served, and/or provided an alcoholic beverage.

(i) The prohibitions contained in this section with respect to underage persons shall not apply with respect to the sale, purchase, or possession of alcoholic beverages for consumption:

(a) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state;

(b) At a religious ceremony; or

(c) In the home with parental consent.

(ii) Additionally, where such conduct is not otherwise prohibited by state law, nothing contained in this section shall be construed to prohibit any underage person from:

(a) Dispensing, serving, selling, or handling alcoholic beverages as a part of employment in any licensed establishment;

(b) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or

(c) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.

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

(g) Sale alcohol beverages where firearms and weapons are sold. It shall be unlawful for any person to sell, or offer for sale, firearms, knives or other weapons and intoxicating beverages at the same business establishment.

(h) Sham applicant; de facto applicant or location manager:

(1) It shall be unlawful for any person to file, or permit to be filed, an application for license with the city 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.

(i) Surveyor's certificate containing false information.

(1) 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.

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

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

(4) 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.

(j) Prohibited persons. It shall be prohibited for the following persons to obtain an alcohol license with the city:

(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.

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

(k) Back or side room sales. The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to general public use is prohibited, except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and, provided further that this prohibition shall not apply to the sale of alcoholic beverages for consumption hereunder to the registered guests of any hotel in their designated rooms.

(l) No drive-in windows for the sale of alcoholic beverages in the city shall be allowed.

Sec. 5-1-9. - Discontinuance of business.

Any licensee hereunder who shall begin the operation of the business and sale of product or products as authorized in the license, but who shall, for a period of six consecutive months thereafter, cease to operate the business and sale of the product or products authorized in the license, shall upon completion of the six-month period automatically forfeit his license, which license shall by virtue of failure to operate, be cancelled without the necessity of any further action of the city. Provided, however, that where a business temporarily ceases operation solely to make substantial improvements or substantially refurbish the existing improvements which will enhance the taxable value of the property on which the business is located, and where there is no change in the licensee or interest holders thereof any business and/or alcoholic beverage license may be reissued routinely upon application therefore and payment of required fees when the business is ready to resume operations; provided, however, said cease of operations shall not exceed six consecutive months from the expiration date of the license then in existence at the time the operations cease. In order for an applicant's license to be reissued, the licensee must submit a written request to the ARB. Upon good cause shown by the applicant, the ARB may recommend reissuance of the license or an additional six-month extension of the unused license to the mayor and council.

Sec. 5-1-10. - Exception of operating prior to July 1, 1981.

Restrictions in this chapter on the sale of alcoholic beverages near alcoholic treatment centers owned and operated by any city, any county, or the state shall not apply to any hotel or business licensed for sales of wine or malt beverages, if such license was in effect on July 1, 1981.

Sec. 5-1-11. - Violations.

Any person violating any of the provisions of this article shall be deemed guilty of an offense and, upon conviction thereof, shall be punished as provided in accordance with the city Charter. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person and shall be punished accordingly. Additionally, all persons, firms, partnerships, entities, and corporations engaged in the sale or distribution of alcoholic beverages shall observe all laws, rules and regulations of the state as they pertain to the operation of their respective

businesses and any violation of the same shall be determined to be a violation of this section and punishable in accordance with state law and this chapter.

Sec. 5-1-12. - Changes of circumstances.

Unless expressly provided otherwise herein, licensees and applicants shall file written notice with the city clerk notice any changes in their initial alcohol license application, within (10) days of any such change.

Sec. 5-1-13. - Renewal.

(a) All licenses under this article shall be issued on a calendar-year basis and may be renewable upon payment of the appropriate fee; however, the same may be suspended or revoked at any time as set forth in this chapter.

(b) Each licensee shall file a written application for renewal with the city clerk 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 the ARB, who shall report to the city manager with any information relevant to the renewal they possess on the licensee's activity, if any, and upon activity at the location of the licensed business, if any, during the year.

(d) The city manager shall grant or deny for cause the renewal of any license issued under this article.

Sec. 5-1-14. - Brown-bag, "BYOB" prohibitions and exemptions.

It shall be unlawful for any person to bring in his own alcoholic beverage (BYOB) in any retail establishment, without regard to whether such establishment is licensed to serve alcoholic beverages. This section shall not prohibit any person dining at an establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine for consumption into said establishment, where the establishment’s policies permit the same. For purposes of this paragraph, the term retail establishment shall not include a private hotel room or other similar guest room or a private club.

Sec. 5-1-15. - Number of package stores.

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

Sec. 5-1-16. - Consumption on city streets prohibited; limited in certain area.

(a) *Drinking alcohol on city streets prohibited.* Except as permitted otherwise in this chapter, it shall be unlawful for any licensed establishment to dispense any alcoholic beverage in an open container for removal from the premises, and it shall be unlawful for any person to

remove from an alcoholic beverage establishment any open container of alcoholic beverage or to drink or attempt to drink any alcoholic beverage from any open container or to possess in any open container any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private, within the corporate limits of the city.

(b) *Outside consumption of alcoholic beverage at city sponsored events; number and size limited.* From time to time, the city council may approve city sponsored special events at which the outside consumption of alcohol may be permitted during set time periods and at designated locations. The following regulations shall apply during any such city sponsored special events:

(1) *One drink on-street limit.* Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can or bottle, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.

(2) *Size limited to 16 ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size.

(3) *Drinking from can or bottle prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can or bottle to possess in an open can or bottle any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.

(c) *Drinking alcohol in parked motor vehicle prohibited.* It shall be unlawful for any person to consume any alcoholic beverages while in the confines of a motor vehicle when the vehicle is parked on any city street, alley, way or parking lot.

(d) *Open container of alcohol in moving vehicle prohibited.* It shall be unlawful for any person to possess an open container of an alcoholic beverage while operating a vehicle in the city or while a passenger in or on a vehicle being operated in the city.

ARTICLE 2. - DEFINITIONS APPLICABLE TO ALL CLASSES

Sec. 5-2-1. - Definitions.

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

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

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

Alcoholic beverage caterer means any retail dealer licensed pursuant to this chapter who provides alcohol at authorized events or functions.

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

ARB means the city's regulatory body known as the alcohol review board.

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

Beer or *malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing the percent of alcohol by volume sufficient to constitute a beer or malt beverage as defined by state law, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

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

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

Brewery means any establishment where malt beverages are manufactured.

Brewpub means any eating establishment in which malt beverages are manufactured. For purposes of this paragraph, the term "eating establishment" means an establishment which is licensed to sell distilled spirits, beer, malt beverages, or wines and which derives at least fifty-one percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

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

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

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

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

Contiguity means a premises connected by open hallways or rooms without doors or dividers.

Distilled spirits or *spirituous liquor* means any alcoholic beverage obtained by distillation or containing the percent of alcohol by volume sufficient to constitute a distilled spirit as defined by state law.

Election day means one hour before the polls open to one hour after the polls close.

Food means all edible substances appropriate for human consumption as determined by the health department inspecting the city's restaurants and lounges as sold or provided to the public

in a restaurant as defined in this chapter. Food shall not be construed to mean: olives, cherries, limes, lemons, salt, pepper, pineapples, celery, tomato juice, or any other fruit, vegetable or dairy product such as ice cream, cream, yogurt, milk or soft drinks, water, tonic water, other non-alcoholic carbonated or non-carbonated beverages when such items are used in alcoholic beverages or mixed drinks as an essential part of the beverage, mixed drink, or as a garnish thereon.

Food caterer means any person who, for consideration, prepares food for consumption off the premises.

His or *her* means a word importing male or female, which shall be applied to either sex interchangeably in this chapter.

Growler means a glass, plastic or ceramic bottle not to exceed sixteen ounces that is filled by a licensee or employee of a licensee with beer or wine from a barrel, keg, or cask for off premises consumption.

Hotel means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether conducted in the same building or in a separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation:

(1) Which maintains 50 or more rooms used for the sleeping accommodations of such guests;

(2) Which maintains an adequate and sanitary kitchen and dining room equipment to serve food as required therein;

(3) Which operates one or more public dining rooms (excluding banquet rooms) with a combined seating capacity of at least fifty, where meals are regularly served to guests; provided that consistent with the definition of "lounge" in this section, in no event shall the seating capacity of the lounge exceed that of such public dining room;

(4) Which employs sufficient personnel to serve food as required in this chapter; and

(5) Which derives at least as much gross income from the sale of such meals prepared, served, and consumed in the hotel as it does from its sale of alcoholic beverages.

Individual means a natural person.

Intoxication means a condition where the licensee's, manager's, or employee's alcohol concentration is 0.08 grams or more at any time while on duty.

Licensee means the individual to whom a license is issued or, in the case of partnership or corporation, all partners, officers, and directors of said partnership or corporation.

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

Lounge means a separate room connected with, a part of, and adjacent to, a restaurant or room located in a hotel as defined herein with all booths, stools, and tables being open and unobstructed to the view of any other customers in such lounge, or the manager thereof.

Malt beverage. See "Beer."

Manufacturer means any maker, and/or producer, of bottled alcoholic beverage. The term also means:

(1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; provided, however, that a vintner that blends wine with distilled spirits to produce a fortified wine shall not be considered a manufacturer of distilled spirits;

(2) In the case of malt beverages, any brewer; and

(3) In the case of wine, any vintner.

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

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

Microbrewery is the term used in this chapter to collectively refer to breweries and brewpubs.

Monthly means on the basis of whole months.

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

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

"*Open container*" means any container which is immediately capable of being consumed from, or of which the seal has been broken.

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

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

Pour means sell for beverage purposes, sell for consumption on the premises, sell by the drink, and the process of patrons bringing their own liquor, wine or malt beverages for the purposes of mixing drinks and/or consuming same on the premises. The sale of mixes or setups or advertising to "bring your own" or the possession by patrons on the premises of liquor, wine

or malt beverages, not purchased at the licensed facility shall be prima facie evidence of pouring and shall be prohibited.

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

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

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

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

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

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

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

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

(4) Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary. As used herein, a "fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include any commission or any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bill under club regulations shall not be considered profits from the sale of alcoholic beverages.

Redecorate shall not include repair nor freshening, change of theme or scheme, or work of any kind which is incident to a repair.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actual and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room seating capacity of at least 50 persons, including patios which are immediately adjacent to and a part of the main licensed facility and wherein the same services are offered as inside the main licensed facility, with said seating capacity complying with the Code; and having employed therein a sufficient number and kind of employees to prepare, cook, and serve edible food to its guests.

Retail beer/wine store means any location which sells malt beverages, wine or malt beverages and wine in unbroken packages at retail only to consumers and not for resale, such as, but not limited to, convenience and grocery stores, beer shops, and wine shops. Additionally, retail beer and/or wine stores shall be referred to as "retail beer/wine stores." Likewise, the words "beer" and "malt beverage" shall be synonymous.

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

State law means the laws, rules, regulations and/or policies promulgated by the state of Georgia and/or its departments and/or agencies, including the Official Code of Georgia.

Taxpayer means any person made liable by law to file a return or to pay tax.

An *underage* person pertains to and includes any person to whom the sale of alcoholic beverages is prohibited by state law because of age.

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

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

Sec. 5-2-2. – Terms not expressly defined.

Except where the context clearly indicates a different meaning, any term in this chapter not expressly defined herein shall have the same meaning as when used in a comparable provision of the "Georgia Alcoholic Beverage Code," O.C.G.A. § 3-1-1 et al.

ARTICLE 3. – ALCOHOL REVIEW BOARD

Sec. 5-3-1. - ARB establishment; composition.

There is hereby established an alcohol review board (sometimes referred to as the "ARB") which shall have the responsibility for verification and review of all applications for alcoholic beverage license and renewals in the city and who shall consist of the following members:

(a) City manager

(b) Building inspector

(c) Traffic engineer

(d) Fire chief

(e) Police chief

(f) Planning and zoning coordinator

Sec. 5-3-2. - Alcoholic beverage clerk.

The city clerk or his/her designee shall be the alcoholic beverage clerk, and shall be responsible for all files and records, the in-take of completed and supplemented applications, and other such tasks as designated by the ARB.

Sec. 5-3-3. - Investigation of application, issuance, denial and appeal.

(a) All applications for new or renewal licenses, and accompanying fees, shall be submitted to the city clerk who shall, upon subsequent receipt of proof of advertising from the applicant, promptly refer such applications to the ARB for its review and recommendation. The members of the ARB shall forward their comments and recommendation on the application to the city manager within thirty (30) days. The city manager shall then make an independent review of each application and ARB member's recommendation.

(b) Applicants for new or renewal licenses shall furnish all data, information and records considered pertinent to such application by the ARB to the city clerk, and the failure to furnish such data, information and records within thirty (30) days from the date of the request may subject the applicant to dismissal of the application.

(c) The city manager shall render a decision with respect to applications for new licenses, permits, renewals and transfers of locations within sixty (60) days from the date of the filing of a completed application. The sixty (60) day period under this section shall be tolled during period where the city manager has requested and is awaiting receipt from the applicant of supplemented information pertinent to the application. If the city manager does not render a decision with respect to the application within sixty (60) days from the date of the filing of a completed application, subject to any time tolled, the application shall be considered approved until revoked and/or a decision by the city manager on the application is rendered, whichever occurs first.

(d) The city manager shall grant all applications for alcoholic beverage licenses meeting the standards of this chapter. The approval of an application under this article 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 license shall lapse if no action is taken on the license by the applicant within six months of issuance. The city manager may extend expiration period up to 90 days for good cause shown, such as fire, flood, war, and other uncontrollable occurrences, provided that a written request for extension is submitted to the city clerk by the application within the original 90-day period.

(e) In the event the city manager denies, revokes, suspends, refuses to renew, or renders an unfavorable decision with respect to an alcohol license or permit, such decision shall be transmitted to the applicant, in writing, with the reason(s) for such action. Any decision rendered by the city manager under this chapter shall be final and deemed to be the decision of the mayor and council unless the applicant files a notice of appeal with the city clerk to the city council within fourteen (14) days of the applicant's receipt of such decision. A hearing before the city council shall be held not more than thirty (30) days from the date of filing of the applicant's notice of appeal, where the city council may vote to ratify or reject the city manager's decision.

(f) In all instances in which an application or license is revoked, suspended or denied, the applicant may not reapply for an alcohol license for at least six months from the date of such decision by the city manager or city council, whichever occurs later.

(g) 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.

Sec. 5-3-4. – Criteria for denial, renewal, suspension, or revocation.

The ARB, city manager and the city council in making its determinations and recommendations on an alcohol license application, request, revocation, suspension or renewal, shall be guided by the following factors:

(1) The nature of the neighborhood immediately adjacent to the subject 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 subject 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 and financial responsibility of the licensee, applicant and their named representatives, provided that nonpayment of federal, state, county or city taxes shall be prima facie evidence of lack of financial responsibility.

(6) The reports of the ARB members relating to the use or sale of alcohol at the subject location.

(7) The applicant, business or licensee's meeting of the requirements of this chapter and state, federal and local laws, including as such pertains to notice and distance requirements, fire codes, building, zoning, parking, storage, sanitation codes, parking buffers, lighting and other matters relating to public welfare and safety and the use or sale of alcohol at the proposed location.

(8) Evidence presented to the ARB relating to the sale or use of alcohol at the subject location.

(9) Whether or not the granting of the application or request 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 subject location or applicant 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 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, licensee or subject location is in violation of other local ordinances or state laws relating to misconduct, nuisances or crimes as related to the sale or use of alcohol at the subject location.

(13) Whether or not the applicant, licensee t or their named representatives have violated other jurisdictions laws regarding alcohol beverage licensing.

(14) Evidence of fraudulent, false, omitted, and/or misleading information provided by the applicant, licensee, and/or their employee's in securing, renewing and/or maintaining the alcohol license;

Sec. 5-3-5. – Effect of revocation by State.

The State of Georgia's revocation of any state license to sell any alcoholic beverage shall result in the automatic revocation a license issued under this chapter without any action by the city.

Sec. 5-3-6. Periodic inspection and audits.

The members of the ARB and their designees shall have the authority to inspect establishments and their financial records licensed under the alcoholic beverage ordinances of the city during the hours in which the premises are open for business. The inspections shall be made for the purpose of verifying compliance with the requirements of this chapter.

ARTICLE 4. - RETAIL BEER/WINE STORES

Sec. 5-4-1. - Retail beer/wine stores, regulations generally.

The following regulations shall apply to licensed retail beer/wine establishments:

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

(b) No sale of malt beverage and/or wine by the package shall be permitted between the hours of 2:00 a.m. and 8:00 a.m. In addition, no sale of malt beverages and/or wine by the package 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.

(c) The state regulations relating to the sale and distribution of malt beverages and/or wine by the package, 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.

(d) The open parking area of any building or proposed building to house a retail beer/wine 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.

(e) Each retail beer/wine 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.

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

(g) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or opening of any door of any retail beer/wine store, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior and exterior of the store is visible day and night.

Sec. 5-4-2. - Separate license for each retail beer/wine store.

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

Sec. 5-4-3. - Classification of licenses.

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

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

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

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

Sec. 5-4-4. - Prohibited locations.

(a) *Prohibited locations.* It shall be prohibited to obtain a license for the sale of malt beverages 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.

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

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

ARTICLE 5. – RETAIL PACKAGE STORES, DISTILLED SPIRITS

Sec. 5-5-1. - Additional Application Requirements.

In addition to the general application requirements set forth under article 1, applicants under this article shall:

(1) Show within the initial license application their 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 preceding the submission of their application.

(2) Within three days after filing the initial license application, identify the proposed location by posting a sign not less than 24 inches by 36 inches in size, with letters of at least 2½ inches on the front door of the building proposed to be used (if facing the right-of-way of the city street upon which the building fronts; otherwise, within three feet of the right-of-way), or upon a prominent place on the lot where the building is proposed to be constructed, facing the street. The sign shall be captioned "Liquor License Application Pending" and shall designate the name and address of the applicant, the type of license and the date of the application, and no other advertisement or wording. The sign shall remain posted until final action on the license application by the city manager, or city council, if appealed. An application will not be deemed completed until an applicant has filed with the clerk a photograph of the sign erected pursuant to this section.

Sec. 5-5-2. - Retail package stores, regulations generally.

The following regulations shall apply to retail package establishments licensed to sell distilled spirits:

(a) The building or proposed building to house a retail outlet for the sale of liquor by the package 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) No screen, partition or thing which prevents a clear view into the interior of a retail outlet from the street, nor any booth within, shall be permitted.

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

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

(e) 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.

(f) The open parking area of any building or proposed building to house a package store location 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 location shall have an average maintained footcandle intensity of at least two footcandles with a minimum allowable intensity of five-tenths of a footcandle.

(g) Each location for a package store shall install and maintain security cameras in a secure location in the package store 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.

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

(h) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or opening of any door of any retail package store, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such retail store shall be so lighted that the interior and exterior of the store is visible day and night.

Sec. 5-5-3. - Required.

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

Sec. 5-5-4. - Separate license for each outlet.

(a) A separate license shall be required for each package store, and a separate application shall be made for each such place.

(b) Any licensee who is an employee of a corporation, who is separated from his employment, whether he resigns, retires or is fired, shall immediately notify the office of the clerk of such separation Monday through Friday, 8:00 a.m. until 5:00 p.m. If such employee removes the package store license from the establishment, he shall immediately surrender such license to the clerk. Failure to surrender such license, if removed from the place of business, will be a violation and shall be punished as provided by law.

Sec. 5-5-5. - Classification of licenses.

Licenses under this article shall be classified as follows:

(1) *Class R.* Retail liquor package store, which shall permit only the sale of liquor in packages at retail.

(2) *Class W.* Wholesale liquor distributor, which shall permit only the sale of liquor at wholesale.

(3) *Class M.* Manufacturers, which shall permit only the manufacture, bottling and packaging of distilled spirits.

Sec. 5-5-6. - Prohibited locations.

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

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

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

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

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

Sec. 5-5-7. - No broken packages.

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

ARTICLE 6. - ON-PREMISES CONSUMPTION

Sec. 5-6-1. - 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. Additionally, applicants under this article shall show within the initial application their 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 preceding the submission of their application.

Sec. 5-6-2. - Qualification.

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

Sec. 5-6-3. - Separate license for each location.

(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) 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.

Sec. 5-6-4. - License for on-premises consumption.

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.

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

The following regulations shall apply to licensed on-premises consumption establishments:

(a) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article.

(b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8:00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.

(c) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted on Sundays between the hours of 8:00 a.m. and 12:30 p.m.

(d) In no event shall drinks be mixed or sold, nor malt beverages sold, during the prohibited hours, based upon the timely sale of tickets, chits, decanters or other devices.

(e) On-premises consumption licensees may sell malt beverages by the pitcher, or wine by the bottle or decanter.

(f) Hotels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises, provided the hotel and the franchisee meet all the requirements of this chapter.

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

(h) It shall be unlawful for any person to employ knowingly in any pouring outlet in any capacity whatsoever, including performers, entertainers and musicians, any person who has plead guilty or has been convicted of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in drugs, sex offenses or for any charge relating to the manufacture or sale of intoxicating liquors, other alcohol related offenses or for violations of local other jurisdictions ordinances regarding alcoholic beverages within the last five years prior to the application.

(i) It shall be the duty of the licensee and designated representative of a licensed establishment to maintain a copy of this chapter at the licensed location and to instruct each employee on its terms.

(j) The state law and regulations relating to the sale of beer, wine, and distilled spirits, as revised, promulgated by the state department of revenue, and especially as related to retail sale for consumption on premises are hereby incorporated into and made a part of this article as if fully set out in this section.

(k) All on-premises consumption licenses 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.

(l) Serving standing patrons is discouraged. The purpose of this section being the prohibition of bars and the encouragement of restaurants within the city. However, twenty-five percent of all patrons may be served while standing when waiting for seating as long as the maximum occupancy capacity of the premises is not violated; and such standing does not create a fire safety or violation under National Fire Protection Association (NFPA) standard code as adopted by the city. The determination of seventy-five percent seating shall be based upon the required seating in the facility mandated by the NFPA standard.

(m) All licensees hereunder shall display in prominent places their current prices of alcoholic beverages, also minimum, admission and cover charges. The licensee shall file a copy of same with the city manager and shall furnish to any customer that so desires an itemized bill of charges which shall not exceed the price list furnished to the city manager. Upon any increase or decrease of prices, a new list must be filed with the city manager.

(n) No licensee or employee or agent of a licensee shall engage in any of the following practices in connection with the sale or other disposition of alcoholic beverages for consumption on the premises:

(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.

Sec. 5-6-6. - Sales outside of licensed premises.

It shall be unlawful for any person to sell alcoholic beverages on the streets or sidewalks within the city, or elsewhere, outside of the building, premises, or place of business licensed for such sale, except that businesses with licenses to dispense alcoholic beverages by the drink for consumption on the premises may serve such beverages only within the confines of the licensed building structure; provided, however, that any business with such license which has an outside patio area on private property or on privately leased public property that is actually and permanently attached to the main building may serve alcoholic beverages in an enclosed patio area. The structure enclosing the patio shall be a minimum of three feet above ground level, although it does not have to be solid or restrict visibility into or out of the patio/open area. The structure must be approved by the city's community development and fire departments. No bar, whether permanent or temporary, may be set up in such outside areas. Businesses with licenses to dispense alcoholic beverages by the drink for consumption on the premises within the city may also apply for a special use permit to sale alcoholic beverages at temporary events specifically authorized by the city for outside sales. Outside sales under this section shall be limited to the Downtown Development Zone and other areas as may be approved by the city council from time to time.

Sec. 5-6-7. - Regulation of lounges; reporting food sales.

(a) All lounges shall submit a quarterly report to the city manager. As used in this section, lounges must prove that at least 51 percent of the receipts of such business shall come from the sale of food.

(b) For purposes of this section, the calculation of receipts for alcoholic beverages shall be made pursuant to the scheduling of pricing and the regulations contained in this chapter.

Sec. 5-6-8. - Regulations of restaurants; reporting food sales.

(a) A restaurant holding an alcohol beverage license must (i) be open to the public at least six hours per day, serving at least two meals per day, with a minimum serving time of three hours per meal; and (ii) serve meals at least six days a week with the exception of weeks including holidays, vacations, and periods of redecorating. Before any repair, redecorating or any period of closure other than nationally recognized or religious holidays, vacations or emergencies, the details of such repair or redecorating shall require approval by the city manager who shall first submit such information to the ARB for review and recommendation. Where closure is the result of a catastrophic emergency, postclosure review can be applied for; however, such review request must be applied for by the license holder no later than thirty days postclosure or the same closure may be prosecuted as a violation of this section and may result in administrative proceedings as well.

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

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

(d) The principle business of a restaurant shall be the sale of food. As used in this section, principal business shall mean that at least fifty-one percent of the receipts of such business shall come from the sale of food.

Sec. 5-6-9. - Entertainment at pouring outlets.

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

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

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

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

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

Sec. 5-6-10. - 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] 5-6-5(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 this article. Private clubs shall further be required to submit monthly reports to the city manager clearly indicating its sales receipts for food and its sales receipts for alcoholic beverages pursuant to this article 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.

Sec. 5-6-11. - Off-premises and special event licenses.

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

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

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

a. Name of licensee.

b. Address of licensee.

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

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

(b) It shall be unlawful for an off-premises licensee to pour any malt beverages, wine, or liquor at any off-premises location until the licensee shall first obtain an off-premises pouring permit. Such permit may be issued by the city manager for any period up to three days. Any permit for a period longer than three days must be approved by the city council. An off-premises permit may be issued in accordance with the following:

(1) No permit for a particular off-premises location shall be issued if the requested building is a "prohibited location" as set forth in this chapter or state law, or fails to meet all requirements of this chapter and state law for an on-premises pouring outlet.

(2) It shall be unlawful for any off-premises licensee to sell liquor at an off-premises location unless food is served at the event.

(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) 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 manager 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 this chapter, must be paid in full.

Sec. 5-6-12. - 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 this article.

(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) 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.

(h) 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.

Sec. 5-6-13. - Alcoholic beverage caterers.

Reserved.

Sec. 5-6-14. - Ancillary wine tasting license.

(a) The holder of a wine license shall be eligible for an ancillary wine tasting license to provide samples of wine offered for sale to customers under the conditions set forth in this section.

(b) Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.

(c) Wine tasting for customers shall only be conducted at a wine counter area constituting no more than ten percent of the entire floor area of the premises.

(d) Wine sampling for customers shall be limited to no more than one time per day for a period of not to exceed two consecutive hours. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period.

(e) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.

(f) No open containers of wine shall be removed from the licensed premises.

(g) Not more than two times per week for a period of not to exceed two consecutive hours, the holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.

(h) Holders of an ancillary wine tasting permit shall not charge for samples or tastings, but may accept donations for a charitable organization of their choice.

Sec. 5-6-15. – Bed and breakfast license.

(a) A bed and breakfast may obtain a bed and breakfast to sell alcohol on premises at the licensed location. Such license shall be limited to the sale of beer and wine.

(b) A bed and breakfast licensed under this article shall:

(1) Comply with all local, state and federal licensing and operational requirements;

(2) Have a full-service kitchen at the licensed location approved by the health and fire departments;

(3) Restrict its sell of alcohol to overnight customers staying on the premises and its customers who are served food that is to be consumed on the premises while dining or attending a culinary class. More than one bottle of wine shall not be sold to any customer in a three day period. A bed and breakfast shall not allow customers to take alcoholic beverages in any form away from the licensed premises, except that overnight customers may be permitted to remove one unsealed bottle of wine per patron for consumption off premises at the end of their overnight stay;

(4) Submit reports to the City Manager as required under this article.

Sec. 5-6-16. - Reports, required.

(a) All reports required under this article shall clearly indicate the sales receipts of the licensed establishment for food and the sales receipts for alcoholic beverages. The report shall be post marked on or before the last day of the calendar month after the calendar quarter. For the purposes of reporting, food shall be defined as all edible substances appropriate for human consumption as determined by the health department inspecting the city's restaurants and lounges as sold or provided to the public in a restaurant as defined in this chapter. Food shall not be construed to mean: olives, cherries, limes, lemons, salt, pepper, pineapples, celery, tomato juice, or any other fruit, vegetable or dairy product such as ice cream, cream, yogurt, milk or soft drinks, water, tonic water, other non-alcoholic carbonated or non-carbonated

beverages when such items are used in alcoholic beverages or mixed drink as a essential part of the beverage, mixed drink, or as a garnish thereon.

(b) The report shall identify, by name and nature of service provided, all persons laboring on the premises, including the services of all independent contractors, performers, servers, entertainers, or other non-employee personnel, not to include, however, persons who are called to the premises from other licensed businesses to perform services repairs or construction on equipment or building premises.

(c) The failure of a licensed establishment to submit a report required under this article shall be considered cause for probation, suspension, revocation or other appropriate action. The reports described herein shall be in a form recognized by certified public accountants and shall utilize common and generally recognized accounting principles and shall be submitted under oath. Those submitting the reports shall be prosecuted for fraudulent statements under O.C.G.A. § 16-10-20 in a court of competent jurisdiction, if such reports are not true.

(d) For the purposes of determining whether a licensed establishment is qualified to operate under the license during December and on January 1 of each year, the preceding quarter's receipts shall be utilized on making such determination, unless such business is new and had not been open long enough to provide the quarterly reports required herein. Where the business has not been open long enough to provide quarterly reports, then such reports as are available shall be used by the city manager to determine if the business shall be allowed to operate in December and on January 1 each year. If no quarterly reports are available, whatever sales receipts for daily sales from the outset of the business will be submitted to the city manager for review in order to make the determination. In such cases, suspension, probations, revocations, or other actions based solely on food sales receipts will not occur until after three months of receipts have been submitted. However, nothing in this section shall prohibit actions under this chapter for other violations of state, federal or local laws.

ARTICLE 7. - GROWLERS

Sec. 5-7-1. - Growler license.

(a) The retail sale of growlers is authorized for establishments licensed pursuant to this article.

(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) 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.

(j) No food purchased at an establishment possessing a growler license may be consumed on premises.

Sec. 5-7-2. – Growlers license, regulations generally.

The following regulations shall apply to licensed growler establishments:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

Sec. 5-7-3. - 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.

Sec. 5-7-4. - Separate license for each growler store.

A separate license shall be required for each growler store, and a separate application shall be made for each such place.

Sec. 5-7-5. - Prohibited locations; prohibited persons; incomplete application.

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.

ARTICLE 8. – MICROBREWERIES

Sec. 5-8-1. - Microbrewery license, regulations generally.

The following regulations shall apply to licensed retail beer/wine establishments:

(a) A microbrewery license may be obtained only by establishments operating as a brewery or a brewpub.

(b) A microbrewery licensee, or employee thereof, shall be permitted a limited exception to general consumption prohibitions under article 1 of this chapter 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.

(c) An individual applying for a microbrewery license shall indicate on their application whether he or she intends to open and operate a brewery or brewpub. All microbrewery licensees are expected to operate their breweries or brewpubs, as the case may be, in accordance with Chapter 5 of Title 3 of the Official Code of Georgia Annotated, as said Chapter may be amended from time to time.

(e) All operations by a microbrewery shall be conducted within an enclosed building. Production space shall not exceed 15,000 square feet.

(f) No microbrewery may manufacture on the licensed premises more than 160,000 gallons of malt beverages in a calendar year.

(g) No screen, partition or thing which prevents a clear view into the interior of a microbrewery from the street, nor any booth within, shall be permitted.

(h) The state regulations relating to the manufacture, sale, and distribution of beer, as revised from time to time, 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.

(i) The open parking area of any building or proposed building to house a microbrewery 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.

(j) Each microbrewery 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.

Sec. 5-8-2. - Separate license for each microbrewery.

A separate license shall be required for each microbrewery, and a separate application shall be made for each such location.

Sec. 5-8-3. - Provisions applicable to breweries only.

(a) A microbrewery licensee operating a brewery shall be authorized to provide guided tours of said brewery, during which a “free tasting” of malt beverages or beer may be conducted by the brewery. Said tours and tastings shall be permitted in accordance with the Official Code of Georgia, as amended from time to time.

(b) If “free tastings” are to be provided by a brewery pursuant to this section, said brewery must have a tasting room encompassing a minimum floor area of 1,500 square feet for conducting said “free tastings.”

(c) No “free tasting” of beer or malt beverages shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no pouring or tasting of beer or malt

beverages shall be permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or on any other days or times prohibited by state law. Promotional or educational tours of a brewery facility shall also only be permitted within these allowed timeframes.

(d) No more than 36 ounces of malt beverage samples may be offered to the same individual within one calendar day pursuant to "free tastings" offered by a brewery.

(e) All malt beverages or beer provided at the "free tasting" shall be served by a state licensed representative of the brewery and shall be malt beverages or beer brewed on-site by said brewery.

(f) The licensed brewery may elect to provide non-alcoholic food or beverages at no charge to customers or tour-attendees, either directly or indirectly.

(g) No person who is a participant in an educational or promotional tour may bring alcoholic beverages obtained off the premises of the licensed brewery to said brewery under any circumstances.

(h) Souvenirs may be provided by a brewery, including souvenir containers that may be used in "free tastings" sponsored by the brewery, in compliance with O.C.G.A. § 3-5-38, as amended from time to time. No brewery providing free souvenirs pursuant to this section shall provide, directly or indirectly, more than one souvenir to the same individual in one calendar day. An individual shall be 21 years of age or older to receive a free souvenir or "free tasting.

(i) Except as set forth in this section, a microbrewery licensee operating a brewery shall be subject to all sections of this chapter.

(j) Operation of a brewery shall prohibit a microbrewery licensee from obtaining any other category of alcohol beverage license available under this chapter for the same premises.

Sec. 5-8-4. - Provisions applicable to Brewpubs only.

(a) A microbrewery licensee operating a brewpub shall be authorized to operate an eating establishment that shall be the sole retail outlet for such malt beverages and that may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesaler and, provided further, in addition to malt beverages manufactured on the premises, each brewpub licensee shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.

(b) Notwithstanding any other provision of this section, a microbrewery licensee operating a brewpub may sell up to a maximum of 80,000 gallons annually of such malt beverages manufactured on its premises to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by said licensee to any person holding a retailer's license for the purpose of resale.

(c) Should a microbrewery licensee operating a brewpub offer for sale other alcoholic beverages produced by other manufacturers on the premises of the brewpub, the licensee shall also be required to obtain an on-premises consumption license.

(d) The holder of a microbrewery license who is operating a brewpub shall not be entitled by virtue of said microbrewery license to sell alcoholic beverages by the package for consumption off the premises.

(e) A microbrewery licensee operating a brewpub shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.

(f) Except as set forth in this section, a microbrewery licensee operating a brewpub shall be subject to all sections of this chapter.

(g) Brewpubs may not pour or serve malt beverages between the hours of 12:00 a.m. and 8:00 a.m. any day of the week. In addition, no sale or pouring of malt beverages or wine shall be permitted on Sundays before 12:30 p.m. and after 11:30 p.m., or on any other days or times prohibited by state law. Where in conflict with the operating hours permitted for other establishments offering on-premises consumption, the operating hours of this subsection shall control for brewpubs.

Sec. 5-8-5. - Prohibited locations; prohibited persons; incomplete application.

Prohibited locations. It shall be prohibited to obtain a microbrewery license within the following areas of the city:

(1) Any area not authorized for the location and operation of microbreweries pursuant to Article 28, "A-D Zone (Arts District Overlay)" of Chapter 93, "Zoning," of the City Code. Any microbrewery not in compliance with said provisions of Chapter 93 shall not receive a license from the City and shall not open or operate.

(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.

ARTICLE 9. – FEES, TAXES AND REPORTS

Sec. 5-9-1. - Fee chart depending upon the licenses sought.

All The fees established throughout this chapter shall be as set forth in the chart below. No license issued under this chapter shall be valid until the licensee pays the annual license fee as established and set forth under this chapter. Some fees may be cumulative depending upon the licenses sought. Where no fee is specifically provided for in this chapter, the fee shall be

$1,000.00. This fee schedule is subject to change by ordinance adopted by the mayor and council. The 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
Bed and Breakfast License	$1,000
Microbrewery License	$1,600.00
Growler License	$1,600.00
On-Premises Arts License	$250.00
Art Gallery License	$50
Alcohol Beverage Caterer Permit (Hapeville Licensee, per event)	Reserved
Alcohol Beverage Caterer Permit (Non-Hapeville Licensee, per event)	Reserved
Ancillary Wine Tasting	$100
Administration Fee	$200
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

Sec. 5-9-2. - 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.

Sec. 5-9-3. - 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.

Sec. 5-9-4. - 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.

Sec. 5-9-5. - 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.

Sec. 5-9-6. - 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 twenty-five 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 fifty 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.

Sec. 5-9-7. - 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.

Sec. 5-9-8. - 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.

Sec. 5-9-9. - 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.

Sec. 5-9-10. - 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.

Sec. 5-9-11. - 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.

Sec. 5-9-12. - 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 5-9-6.

Sec. 5-9-13. - 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.

Sec. 5-9-14. - 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.

Sec. 5-9-15. - 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.

Sec. 5-9-16. - 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.

Sec. 5-9-17. - 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 5-9-6.

Sec. 5-9-18. - 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.

Sec. 5-9-19. - 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.

ARTICLE 10. - ART GALLERY ALCOHOL LICENSE

Sec. 5-10-1. - 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.

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.

Sec. 5-10-2. - Art gallery license, regulations generally.

(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) 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 complimentarily 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.