

Chapter 6

ALCOHOLIC BEVERAGES*

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BUFORD CODE

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ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

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

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

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

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

Eating establishment means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen (a full service kitchen will consist of a three compartment pot sink, a stove or grill permanently installed, and refrigerator all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by vol-

ume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "fortified wine" includes, but is not limited to, brandy.

Hotel means any building or other structure providing sleeping accommodations for hire to the general public either transient, permanent or residential. Such hotels shall maintain a minimum of 50 rooms available for hire and have one or more public dining rooms with adequate kitchen. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment herein and the holder of such franchise shall be included in the definition of a hotel.

Indoor commercial recreational establishment is limited to establishments (i) regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least 70 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities, and (ii) wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family oriented in nature, generally to mean a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted. Bingo parlors, dance halls, night clubs, taverns, billiard parlors, video arcades, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments. Provided, that no indoor commercial recreational establishment shall offer alcoholic beverages for sale during the time it is sponsoring events which primarily attract persons under the lawful drinking age in the state.

Indoor publicly owned civic and cultural center means publicly owned establishments (i) regularly serving food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open deriving at least 70 percent of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities and (ii) wherein the sale of food and alcoholic beverages are incidental to its primary enterprise and activity on the premises. Indoor publicly owned civic and cultural centers may include renovated court-houses used as civic and cultural centers.

License means an authorization granted by the county to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

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

Liter means metric measurement currently used by the United States.

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means: (i) in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; (ii) in the case of malt beverage, any brewer.

Package means a bottle, can, keg, barrel, or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

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

Pouring permit means an authorization granted by the city to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

Retail consumption dealer means any person who sells alcoholic beverages for consumption on the premises at retail only to consumers and not for resale.

Retail package dealer means any person who sells unbroken packages, at retail only to consumers and not for resale.

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

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

(Ord. No. 1239-2, § 7-2002, 12-11-1995)

Cross reference—Definitions generally, § 1-2.

Sec. 6-2. Distance requirements.

(a) No person may sell or offer to sell any alcoholic beverage in or within 100 yards of a church or within 200 yards of any school building.

(b) The school building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common school and colleges of this state. The term "school building" includes only those structures in which instruction is offered.

**ORDINANCE/RESOLUTION TO AMEND SECTION 6-2 OF THE CODE
OF ORDINANCES OF THE CITY OF BUFORD TO PROVIDE FOR DISTANCE
REQUIREMENTS FOR THE SELL OF ALCOHOLIC BEVERAGES FOR
ON-PREMISE CONSUMPTION NEAR A CHURCH OR SCHOOL BUILDING**

WHEREAS, the City of Buford has previously adopted its Code of Ordinances, specifically Chapter Six (6) which governs and regulates the sell of alcoholic beverages;

WHEREAS; the City is desirous of amending Section 6.2 relating to the distance requirements for consumption on the premise establishments only (restaurants) consistent with O.C.G.A. § 3-3-21(b)(3);

WHEREAS, the City is desirous of balancing appropriate distance requirements near schools and churches while attempting to attract restaurants to its downtown business district and other areas while keeping competitive with other neighboring cities' distance requirements;

NOW THEREFORE, BE IT ORDAINED AND RESOLVED BY THE CITY COMMISSION OF THE CITY OF BUFORD AND IT IS HEREBY ORDAINED AND RESOLVED:

Section 1. Section 6.2 of the Code of Ordinances of the City of Buford is hereby amended to read as follows:

No person may sell or offer to sell any alcoholic beverage in or within 100 yards of a church or within 200 yards of any school building, provided however, alcoholic beverages may be sold within 50 yards of a church and 100 yards of a school building for the retail sale of alcoholic beverages for consumption on the premises only.

Section 2. The effective date of this ordinance shall be the date of adoption set forth below.

APPROVED AND ADOPTED BY THE BUFORD CITY COMMISSION ON THE 2nd DAY OF APRIL, 2001.

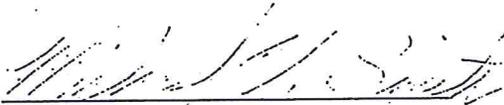
**CITY OF BUFORD, A GEORGIA
MUNICIPAL CORPORATION**



PHILLIP BEARD, Chairman



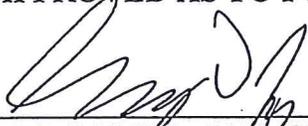

CHRIS BURGE, Commissioner


MICHAEL SMITH, Commissioner

ATTESTED TO BY:


KIM WOLFE, City Clerk

APPROVED AS TO FORM:


GREGORY D. JAN, City Attorney

(c) The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.

(d) For the purposes of this section, distance shall be measured in a straight line from the main entrance of the school or church building in question to the main entrance of the establishment for the sale of alcoholic beverages in question.

(e) No location which is licensed to sell alcoholic beverages on the effective date of the ordinance from which this section is derived shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of such location be denied a new license based upon the measurements set forth in this section.

(f) As to any location licensed in the future, if the distance requirements herein are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited herein shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property.
(Ord. No. 1239-2, § 7-2008, 12-11-1995)

Sec. 6-3. Advertising; location requirements; signs.

(a) No outdoor advertising or signs with respect to the promotions of the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any retail package outlet or on the exterior of any on the premises consumption dealer or in the windows of any such establishment that may be viewed from outside.

(b) No signs shall be erected anywhere in the incorporated area of the city advertising or promoting the sale of alcoholic beverages, except that a store displaying its merchandise may, in the same manner as such other merchandise is displayed, erect a sign or signs indicating the counter on which the merchandise is displayed provided the lettering of such signs does not exceed in size the lettering of signs on other counters where other products are sold. The name, brand or type

of alcoholic beverage served and the price per serving may be provided to customers on a regular printed menu.

(c) Retail package licensees shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed, the price of an alcoholic beverage exposed or offered for sale. No other sign may be exposed prominently within or without the retail establishment showing prices or indicating that alcoholic beverages are for sale on the premises.

(d) Alcoholic beverages may not be priced on signs, menus or any place else allowed by this chapter except as to single units or unbroken package quantities.

(Ord. No. 1239-2, § 7-2014, 12-11-1995)

Sec. 6-4. Adding to contents or refilling container prohibited.

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage manufacturer's container in any manner.

(Ord. No. 1239-2, § 7-2019, 12-11-1995)

Sec. 6-5. Failure to require and properly check identification.

It shall be a violation not to require and properly check identification to ensure an underage person is not sold, served, or have in his possession, alcoholic beverages while in a licensed establishment. The term "identification" in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

(Ord. No. 1239-2, § 7-2023, 12-11-1995)

Sec. 6-6. Sales to underage person prohibited.

(a) No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall do any of the following upon the licensed premises:

- (1) Sell or offer to sell any distilled spirits, wines, malt beverages, or any other alco-

holic beverage to any person under the age of 21 years. The prohibition in this subsection shall not apply with respect to the sale of distilled spirits to a person when such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purpose of this subsection (a)(1), the term "proper identification" means any document issued by a government agency containing a description of the person, such person's photograph or both, and giving such person's date of birth, including but not limited to a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

- (2) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, or who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to such licensee or his employees.
- (3) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- (4) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian, provided however, that such minors shall be permitted in eating establishments, indoor commercial recreational establishments, or private clubs as defined in this chapter without being accompanied by a parent, legal guardian, or custodian and provided further that this section shall not apply to minors who are employees under the terms of this chapter.

(b) The penalty for violation of this section by an individual shall be as provided in section 1-11.

(c) Any licensed establishment where three or more violations of this section, or O.C.G.A. § 3-3-23 have occurred within any 36-month period shall be punished as provided in section 1-11.

(d) As to the penalties in subsection (c) of this section, if there is a change in a majority of the licensed establishment's owners, partners or shareholders, the violations under the old ownership shall not count against the new owners. However, a different corporation, partnership or other association will be charged with the violations of its predecessor if a majority of the owners, partners or shareholders are the same.

(Ord. No. 1239-2, § 7-2024, 12-11-1995)

Sec. 6-7. Purchase or possession of alcoholic beverages by underage persons.

(a) No person under the age of 21 years shall purchase or possess any alcoholic beverage.

(b) No person under the age of 21 years shall attempt to purchase any alcoholic beverage or misrepresent his age in any manner whatsoever for the purpose of obtaining alcoholic beverages.
(Ord. No. 1239-2, § 7-2025, 12-11-1995)

Sec. 6-8. Sale on election days.

Pursuant to the delegation of authority granted to the city commission by O.C.G.A. § 3-3-20(b)(2)(B), the sale by wholesale and retail of alcoholic beverages, distilled spirits, wine and malt beverages shall be lawful during the polling hours of any election; provided however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(Ord. No. 1239-2, § 7-2036, 12-11-1995)

Sec. 6-9. Bring your own bottle (brown bagging) prohibited.

It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.

(Ord. No. 1239-2, § 7-2059, 12-11-1995)

Secs. 6-10—6-30. Reserved.

ARTICLE II. LICENSES

DIVISION 1. GENERALLY

Sec. 6-31. Sale in incorporated area of city; license a privilege.

(a) Alcoholic beverages may be sold in the incorporated area of the city under a license granted by the board of commissioners upon the terms and conditions provided in this article.

(b) All licenses under this article shall be a mere grant of privilege to carry on the business during the term of the license subject to all terms and conditions imposed by the city ordinances and state law.

(c) All licenses under this article shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled, and is subject to any further ordinances which may be enacted."

(d) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, city licensees are required to abide by all applicable state regulations and laws.

(Ord. No. 1239-2, § 7-2001, 12-11-1995)

Sec. 6-32. Sale or possession for sale without license or beyond boundaries of premises covered by license.

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the city to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license.

(Ord. No. 1239-2, § 7-2004, 12-11-1995)

Sec. 6-33. Separate application and license for each location of sale.

Separate applications for licenses under this article must be made for each location and separate licenses must be issued.

(Ord. No. 1239-2, § 7-2005, 12-11-1995)

Sec. 6-34. Application forms.

(a) All persons, firms or corporations desiring to sell alcoholic beverages shall make application on the form prescribed by the city manager.

(b) The application shall include but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and residence address of the partners; if a corporation, the names of the officers, the names and address of the registered agent for service of process, the name of the manager, and the name of all shareholders holding more than ten percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought. If the manager changes, the applicant must furnish the city manager and the city marshal or his designee, the name and address of the new manager and other information as requested within ten days of such change.

(c) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the city manager and to ensure compliance with the provisions of this article. Failure to furnish data, pursuant to such request shall automatically serve to dismiss the application with prejudice.

(d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

(e) In all instances in which an application is denied under the provisions of this chapter the applicant may not reapply for a license for at least two years from the final date of such denial.

(f) The city manager shall provide written notice to any applicant whose application is denied under the provision of this chapter. Such written notification shall set forth in reasonable detail the

reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.

(Ord. No. 1239-2, § 7-2006, 12-11-1995)

Sec. 6-35. Licensing qualifications.

(a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Where the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, and majority stockholders. In the case of a corporation the license shall be issued jointly to the corporation and the majority stockholder, if an individual. Where the majority stockholder, is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership the license will be issued to all the partners owning at least ten percent of the partnership or if no partner owns ten percent of the partnership then the general partner, managing partner or the partner with the greatest ownership will be licensed.

(c) No person, firm or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the city or his designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that the applicant, nor any of the other owners of the establishment, has been convicted or has pleaded guilty or en-

tered a plea of nolo contendere and has been released from parole or probation to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. Should any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be immediately revoked and cancelled.

(d) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten years prior to the filing of application for such license.

(e) It shall be unlawful for any city employee directly involved in the issuance of alcoholic beverage licenses under this chapter, to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the city.

(f) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the city previously revoked within two years prior to the filing of the application.

(g) The city manager may decline to issue a license when any person having any ownership interest in the operation of such place of business

or control over such place of business does not meet the same character requirements as set forth in this article for the licensee.

(h) All licensed establishments must have and continuously maintain in the city a registered agent upon whom any process, notice or demand required or permitted by law or under this article to be served upon the licensee or owner may be served. This person must be a resident of the city. The licensee shall file the name of such agent, along with the written consent of such agent with the city manager and shall be in such form as he may prescribe.

(i) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

(j) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

(k) The city manager, in his discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If in his judgment circumstances are such that granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(l) For purposes of this chapter, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the state first offender act (O.C.G.A. § 42-8-60). Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the

sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender. (Ord. No. 1239-2, § 7-2007, 12-11-1995)

Sec. 6-36. Fee scale.

Before a license under this article shall be granted, the applicant therefor shall comply with all rules and regulations adopted by the board of commissioners regulating the sale of alcoholic beverages, and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the board of commissioners and kept on file in the office of the city clerk. (Ord. No. 1239-2, § 7-2009, 12-11-1995)

Sec. 6-37. Display at place of business.

The city alcoholic beverage license shall at all times be kept plainly exposed to view, to the public, at the place of business of the licensee. (Ord. No. 1239-2, § 7-2010, 12-11-1995)

Sec. 6-38. Transferability of license.

(a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this article.

(b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur. Provided, that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the city manager.

(c) If a license is surrendered, or a licensee severs his association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined by the city manager to be the date of severance. Provided, no such sale shall be authorized until such time as a new application for a license is made, such application indicating that no change of ownership has occurred, except as

excepted herein. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.

(d) Nothing in this section, however, shall prohibit one or more of the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a total of ten percent or more of any class of stock.

(e) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license hereunder automatically, without the necessity of any hearing.

(f) Violation of this section shall result in revocation of the license being used and a penalty on the new ownership and the old ownership as provided in section 1-11. No license will be issued to the old or the new owner in the city for one year from the date of the violation.

(g) Should a licensee make application to the city manager for a transfer of location and should such a transfer of a location be approved, with no change of ownership of the business, the license fee paid for the previous license shall be applied to the new location. Each applicant for a transfer of location shall pay a transfer fee as set forth in the schedule of fees and charges on file in the office of the city clerk.
(Ord. No. 1239-2, § 7-2011, 12-11-1995)

Sec. 6-39. Automatic license forfeiture for nonuse.

Any holder of any license under this article who shall for a period of three consecutive months after the license has been issued cease to operate the business and sale of the product or products

authorized shall after such three-month period automatically forfeit the license without the necessity of any further action.

(Ord. No. 1239-2, § 7-2012, 12-11-1995)

Sec. 6-40. Expiration; renewal.

(a) All licenses granted under this article shall expire on December 31 of each year. Licensees who desire to renew their license shall file application, with the requisite fee heretofore provided, with the city manager on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30 shall pay in addition to such annual fee, a late charge of 20 percent. If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If license application is received after January 1, investigative and administrative costs will be assessed.

(b) All licenses granted under this article shall be for the calendar year and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full license fee shall be paid for a license application filed after July 1 of the license year except for applications for temporary licenses under section 6-54 which shall not be halved.

(c) Any person renewing any license issued under this article who shall pay the required fee or any portion thereof after January 1 shall, in addition to such annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

(Ord. No. 1239-2, § 7-2013, 12-11-1995)

Sec. 6-41. Audits.

(a) If the city manager deems it necessary to conduct an audit of the records and books of a licensee under this article, he shall notify the licensee of the date, time and place of the audit. The city manager may designate the city's auditor

or other designated person to perform any audit authorized in this chapter. The licensee shall cooperate with the audit or forfeit any license.

(b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly state sales and use tax reports.
- (5) Federal income tax return with all Form 1099's. The city manager can waive all or some of the requirements of the foregoing sentence if the city manager finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

(Ord. No. 1239-2, § 7-2015, 12-11-1995)

Sec. 6-42. Collections of sums due.

If any person shall fail to pay the sum due under this chapter, the city manager or designee shall issue an execution against the person so delinquent, and his property, for the amount of the delinquent fee or tax.

(Ord. No. 1239-2, § 7-2016, 12-11-1995)

Sec. 6-43. Retailer to purchase from licensed wholesaler only.

(a) No retailer shall purchase alcoholic beverages from any person, other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter. Provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(b) The city manager or his designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

(Ord. No. 1239-2, § 7-2017, 12-11-1995)

Sec. 6-44. Licensees to maintain copy of chapter; employees to be familiar with terms; responsibility for violations.

Each licensed alcoholic beverage dealer shall keep a current copy of this chapter in the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this chapter.

(Ord. No. 1239-2, § 7-2021, 12-11-1995)

Sec. 6-45. Employment of underage persons prohibited; exceptions.

(a) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.

(b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenient stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(c) It is unlawful for any person under the age of 18 years to work as an entertainer in any establishment licensed under this chapter without written consent from parents or guardian.

(Ord. No. 1239-2, § 7-2022, 12-11-1995)

Sec. 6-46. Premises.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of such building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of the city, regulations of the state revenue commis-

sioner and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by the customers therein.

(Ord. No. 1239-2, § 7-2030, 12-11-1995)

Sec. 6-47. Noise from establishments prohibited.

Noise will not be allowed that can be heard outside the physical boundaries of establishments licensed under this chapter.

(Ord. No. 1239-2, § 7-2032, 12-11-1995)

Cross reference—Noise control, § 38-31 et seq.

Sec. 6-48. Inspection of licensed establishments.

Sworn officers of the city marshal or his designee shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other county or city officer to conduct inspections authorized by other provisions of the city's ordinances.

(Ord. No. 1239-2, § 7-2034, 12-11-1995)

Sec. 6-49. Closure in cases of emergency.

The city marshal or his designee may immediately close an establishment licensed under this chapter in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.

(Ord. No. 1239-2, § 7-2035, 12-11-1995)

Sec. 6-50. Suspension or revocation of license.

(a) A license under this article may be suspended or revoked by the city manager where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter.

(b) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the city license shall thereupon be automatically revoked. The city marshal or his designee upon notice of this revocation from the city manager shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.

(c) Any licensed establishment that is found to be in violation of sections 6-76 and/or 6-77 shall be subject to immediate license revocation.

(d) The city manager shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.

(e) The city manager shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

(f) The city manager may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter any time such knowledge becomes known to the city manager.

(g) An act or omission of a licensee, owner of more than ten percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the licensee to suspension or revocation of

its license in accordance with the provisions of this chapter, when the city manager determines to his own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues. Provided, however, in the case of an employee, the city manager or his designee must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(h) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city.

(i) Wherever this chapter permits the city manager suspend any license issued hereunder but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

- (1) No suspension shall be for a period of time longer than the time remaining on such license.
- (2) The following factors shall be considered on any revocation or suspension as set out in this subsection:
 - a. Consistency of penalties mandated by this chapter and those set by the city manager.
 - b. Likelihood of deterring future wrongdoing.
 - c. Impact of the offense on the community.
 - d. Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

(Ord. No. 1239-2, § 7-2037, 12-11-1995)

Sec. 6-51. Hearings.

(a) No license under this article shall be denied, suspended or revoked without the opportunity for a hearing as provided in this section. This provision does apply to pouring permits for employees.

(b) The city manager shall provide written notice to the applicant or licensee of his order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this chapter. Any applicant or licensee who is aggrieved or adversely affected by a final action of the city manager may have a review thereof by appeal to the zoning board of appeals. Such appeal shall be by written petition, filed in the office of the city manager within 15 days after the final order or action of the city manager and in order to defray administrative costs, must be accompanied by a filing fee as set forth in the schedule of fees and charges on file in the office of the city clerk; except that the filing fee for appeals relating only to pouring permits for employees shall be as set forth in the schedule of fees and charges on file in the office of the city clerk. The city manager, at his discretion, may waive or reduce the filing fee amount if its determined the fee would create a hardship on the individual filing such appeal. The zoning board of appeals may, at the request of the appellant, refund the filing fee by a majority vote.

(c) Should the zoning board of appeals be unable to reach a decision by majority vote, the action taken by the city manager shall be upheld automatically. Any three members constitute a quorum.

(d) A hearing shall be conducted on each appeal within 30 days of the date of filing with the city manager unless a continuance of such date is agreed to by the appellant and the city manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the zoning board of appeals shall sign an affidavit to be part of the record that he is not related to or personal friends with any owner of the licensed establishment in question in the appeal being considered and that he has no financial interest

in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal, and the case shall be heard by the remaining members of the zoning board of appeals.

(e) The findings of the zoning board of appeals shall be forwarded to the city manager within 15 days after the conclusion of the hearing, and it shall be the duty of the city manager to notify the appellant of the action of the zoning board of appeals.

(f) The findings of the zoning board of appeals shall not be set aside unless found to be (i) contrary to law or ordinances, or (ii) unsupported by substantial evidence on the records as a whole, or (iii) unreasonable.

(g) The findings of the zoning board of appeals shall be final unless appealed within 30 days of the date of such finding by certiorari to the superior court of the county.
(Ord. No. 1239-2, § 7-2038, 12-11-1995)

Sec. 6-52. Notice.

For the purpose of this chapter, notice shall be deemed delivered when personally served by certified mail, within three days after the date of deposit in the United States mail.
(Ord. No. 1239-2, § 7-2039, 12-11-1995)

Sec. 6-53. Withdrawal of application.

Any license application made pursuant to this chapter may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees shall not be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.
(Ord. No. 1239-2, § 7-2041, 12-11-1995)

Sec. 6-54. Eligibility for issuance of temporary license.

Any nonprofit organization may be issued a temporary alcoholic beverages permit for a period not to exceed ten days in any one year. The nonprofit organization must make application and

pay the fee that may be required by the ordinances of this city. Such organizations shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.

(Ord. No. 1239-2, § 7-2058, 12-11-1995)

Sec. 6-55. Happy hour promotion and sales.

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

- (1) Offer or deliver any free alcoholic beverage to any person or group of persons.
- (2) Deliver more than one alcoholic beverage to one person at a time.
- (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not open to the public.
- (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public.
- (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public.
- (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (0.947 liter), except to two or more persons at any one time.
- (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week.

- (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.

(b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public and such schedule shall be effective for not less than one calendar week.

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

(d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as 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 more than one person.

(e) It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour" or similarly designated promotions.

(f) The city marshal or his designee shall have responsibility for the enforcement of this section.

(g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If any alcoholic beverage is included as part of a package of other goods and/or services, the alcoholic beverage must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverage at a price from which the total price of the alcoholic beverage has been deducted.
(Ord. No. 1239-2, § 7-2071, 12-11-1995)

Secs. 6-56—6-70. Reserved.

DIVISION 2. CONSUMPTION ON THE PREMISES

Sec. 6-71. Retail consumption dealers to store inventory only on premises.

No retail consumption dealer licensed under this chapter shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.
(Ord. No. 1239-2, § 7-2018, 12-11-1995)

Sec. 6-72. Poured alcohol to be transported by employees.

Poured alcoholic beverages will be transported from point of dispensing to the customer by permitted employees only.
(Ord. No. 1239-2, § 7-2020, 12-11-1995)

Sec. 6-73. Regulations as to employees and managers.

The following regulations apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

- (1) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the city marshal or his designee, indicating that the person is eligible for such permit.
- (2) This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook, or dishwasher.
- (3) No permit shall be issued until such time as a signed application has been filed with the city marshal or his designee, and upon paying a fee which shall be established by the board of commissioners of the city, and a search of the criminal record of the person completed. Such application shall include, but shall not be limited to, the name, date of birth, and

prior arrest record of the person though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

- (4) The city marshal or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this chapter, the city marshal or his designee shall issue a permit to the person, by mail, stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the city marshal or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.
- (5) No person shall be granted a pouring permit unless it appears to the satisfaction of the city marshal or his designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit. No person shall be granted a pouring permit who has been convicted, plead guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this chapter, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the state first offender act (O.C.G.A. § 42-8-60 et seq.). Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.
- (6) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (11) of this section, the alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the city marshal or his designee, or the city manager's staff.
- (7) No person shall be issued a permit if it is determined that the person falsified, concealed, or covered up any material fact by any device, trick, or scheme while making application to the police department for an alcoholic beverage pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from date of notification per certified mailing before a new application and fee may be resubmitted.
- (8) All permits issued through administrative error can be terminated and seized by the city marshal or his designee, or the city manager or his designee.
- (9) Replacement permits will be issued within 30 days of original date, upon paying

one-half of the fee charged for alcohol pouring permits. After 30 days of original application date, a new application and fee must be submitted.

- (10) All permits issued under this section remain the property of the city marshal or his designee, and shall be produced for inspection upon the demand of any officer or designee of the city marshal or his designee or employee of the city.
- (11) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid city pouring permit. For new employees, a receipt issued by the city marshal or his designee may be used for a maximum of 30 days from the date of its issue. Licensees are required by this chapter to inspect and verify that each employee required to do so has in their possession a valid current alcohol pouring permit.
- (12) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the city marshal or his designee, the name of the establishment, the license number and a list of all employees, with their home address and home telephone numbers twice annually; during the month of June and again during the month of December.
- (Ord. No. 1239-2, § 7-2027, 12-11-1995)

Sec. 6-74. Open area and patio sales.

(a) Alcoholic beverage sales can be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved to do so by the city manager.

(b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.

(c) The height of such structure shall be a minimum of 3½ feet above ground level. It does not have to be solid nor does it have to restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the county's fire department as required by their governing regulations or codes.

(d) The only exit from this type area is to be through the licensed establishment's main premises and through an approved fire exit (not for general public use unless an emergency exists). The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.

(e) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the city manager. Interior type patio/open sales areas must also meet the requirements of the city's development and fire codes.

(f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. Patio areas, as that term is used in this section, do not have to conform to the standards in this section.

(Ord. No. 1239-2, § 7-2028, 12-11-1995)

Sec. 6-75. No outside consumption.

(a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the responsibility of the licensee under this article to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption at a publicly owned or privately owned golf course.

(b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

(Ord. No. 1239-2, § 7-2029, 12-11-1995)

Sec. 6-76. Solicitation prohibited.

No retail consumption dealers licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase such beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for herself/himself or for others the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage, or money with which to purchase such beverage.

(Ord. No. 1239-2, § 7-2031, 12-11-1995)

Sec. 6-77. Amusement machines prohibited.

No licensee under this chapter shall allow on their premises any amusement machine. The term "amusement machine" as used in this section shall include pool tables, billiard tables, pinball machines, electronic games and other similar equipment, and any machine operated by means of the insertion of a coin, token or similar object, for the purpose of receiving the temporary services of such machine for recreation or a game of skill, whether or not a fee is charged for playing such machine. The term does not include vending machines which do not incorporate recreational features, nor does the term include any coin-operated mechanical musical devices, kiddie rides, newspaper stands, telephones, cigarette vending machines, or juke boxes.

(Ord. No. 1239-2, § 7-2033(c), 12-11-1995)

Cross reference—Amusements, ch. 10.

Sec. 6-78. Locations where permitted.

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

- (1) In eating establishments regularly serving prepared food, with a full service

kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), regularly serving food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

- (2) In indoor commercial recreation establishments.
- (3) In an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments); prepared to serve food every hour they are open and deriving at least 70 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities. When eating establishments are located in hotels, motels and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

(Ord. No. 1239-2, § 7-2044, 12-11-1995)

Cross reference—Zoning, app. B.

Sec. 6-79. License fee; investigative and administrative costs.

Each application for a license under this division shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of as set forth in the schedule of fees and charges on file in the office of the city clerk to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded; but such cost paid for investigation and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which

fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this division shall pay no investigative and administrative costs.

(Ord. No. 1239-2, § 7-2045, 12-11-1995)

Sec. 6-80. Hours and days of sale.

(a) Distilled spirits shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.

(b) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the city commission.

(c) The sale of distilled spirits for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least as much of its total annual gross income from the rental of rooms for overnight lodging.

(d) Distilled spirits may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1 of any year.

(Ord. No. 1239-2, § 7-2046, 12-11-1995)

Sec. 6-81. Consumption sales only.

Persons holding a license to sell distilled spirits for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle.

(Ord. No. 1239-2, § 7-2047, 12-11-1995)

Sec. 6-82. Advertising of application.

A notice of each application to sell distilled spirits by consumption shall be advertised in the

official gazette of the city once a week for two weeks immediately preceding consideration of the application.

(Ord. No. 1239-2, § 7-2048, 12-11-1995)

Sec. 6-83. Per drink excise tax.

(a) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee under this division and such licensee shall remit such tax to the city on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the city manager to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A. § 48-8-50; provided that such tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied under this section, to keep and preserve suitable records of the sales taxable under this section, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three years.

(b) Excise taxes received in the business license department after the 20th day of the month shall be charged a ten percent penalty.

(c) If the city manager deems it necessary to conduct an audit of the records and books of the licensee, he will notify the licensee of the date, time and place of the audit.

(Ord. No. 1239-2, § 7-2049, 12-11-1995)

Sec. 6-84. Hotel-motel in-room service license.

(a) The term "in-room service" means the provision of a cabinet or other facility located in a hotel-motel guest room which contains beer and/or wine only and which is provided upon written request of the guest and which is accessible by

lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.

(b) Any hotel-motel that acquires this in-room service shall also be required to obtain a consumption on the premises license and meet all of the requirements of this chapter.

(c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee as set forth in the schedule of fees and charges on file in the office of the city clerk shall be imposed to provide only beer and/or wine by in-room service.

(d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this section.

(e) Keys for in-room service shall only be sold to guests between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. until midnight on Sunday.

(Ord. No. 1239-2, § 7-2069, 12-11-1995)

Secs. 6-85—6-100. Reserved.

DIVISION 3. BEER AND WINE CONSUMPTION

Sec. 6-101. Type of retail establishments.

(a) No beer or wine shall be sold for consumption on the premises where sold except:

- (1) In eating establishments having a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open.
- (2) In indoor commercial recreation establishments.

- (3) In an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least 70 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities.

- (4) Or at a publicly owned golf course.

(b) These eating establishments must be located in zoning districts which permit restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

(Ord. No. 1239-2, § 7-2050, 12-11-1995)

Sec. 6-102. License fee; investigative and administrative costs.

Each application for a license under this division shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount as set forth in the schedule of fees and charges on file in the office of the city clerk to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued the license fee shall be refunded; but such cost paid for investigation shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this division who has in existence at the time of making the new application an existing license under this division shall pay no investigative and administrative costs.

(Ord. No. 1239-2, § 7-2051, 12-11-1995)

Sec. 6-103. Hours and days of sale.

(a) Beer and/or wine shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.

(b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the city commission.

(c) The sale of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least as much gross receipts annually from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least as much of its total annual gross income from the rental rooms for overnight lodging.

(d) Beer and/or wine may be sold for consumption on the premises from 12:00 midnight to 2:00 a. m. on any Monday which is New Year's Day, January 1, of any year.

(Ord. No. 1239-2, § 7-2052, 12-11-1995)

Secs. 6-104—6-120. Reserved.

DIVISION 4. PRIVATE CLUBS

Sec. 6-121. Definitions.

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

Fixed salary means the amount of compensation paid any member, officer, agent, or employee of a bona fide 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 a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

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 division.

- (2) Has at least 30 regular dues paying members.
- (3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:
 - a. Suitable kitchen and dining room space and equipment;
 - b. A sufficient number of employees for cooking, preparing and serving meals for its members and guest; and
 - c. Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Sports club means an association or corporation organized and existing under the laws of the state, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the city at least two years prior to an application for license under this division. Provided, however the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this division, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

(Ord. No. 1239-2, § 7-2053, 12-11-1995)

Cross reference—Definitions generally, § 1-2.

Sec. 6-122. Regulation of sale of alcoholic beverages.

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the city governing the sale of such beverages and upon payment of

such license fees and taxes as may be required by the existing ordinances, rules and regulations of the city.

(Ord. No. 1239-2, § 7-2054, 12-11-1995)

Sec. 6-123. Certain organizations exempt from food establishment.

Veterans organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the state income tax law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments.

(Ord. No. 1239-2, § 7-2055, 12-11-1995)

Sec. 6-124. License fee; investigative and administrative costs.

Each application for a license under this division shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount as set forth in the schedule of fees and charges on file in the office of the city clerk for distilled spirits and/or beer and/or wine to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but such cost paid for investigative and administrative costs shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this chapter. Any applicant for a license under this division who has in existence at the time of making the new application an existing license under this division shall pay no investigative and administrative costs.

(Ord. No. 1239-2, § 7-2056, 12-11-1995)

Sec. 6-125. Hours and days of sale.

(a) No alcoholic beverages shall be sold under this division for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.

(b) Alcoholic beverages shall not be sold for consumption at anytime in violation of any local ordinance or regulation or of any special order of the city commission.

(c) The sale of alcoholic beverages for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least as much gross receipts annually from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least as much of the total annual gross income from the rental of rooms for overnight lodging.

(d) Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1, of any year.

(Ord. No. 1239-2, § 7-2057, 12-11-1995)

Secs. 6-126—6-140. Reserved.

DIVISION 5. PACKAGE BEER AND WINE

Sec. 6-141. Type of retail establishment.

No beer and/or wine shall be sold at retail except in establishments located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use.

(Ord. No. 1239-2, § 7-2060, 12-11-1995)

Sec. 6-142. Hours and days of sale.

(a) Retail package licensees shall not engage in the sale of beer and/or wine except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale thereof.

(b) Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the city commission.

(c) No retail package alcoholic beverages shall be sold on Sunday.

(Ord. No. 1239-2, § 7-2061, 12-11-1995)

Sec. 6-143. Use of tags or labels to indicate prices.

Retailers shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed the prices of all beer and wine exposed or offered for sale.

(Ord. No. 1239-2, § 7-2062, 12-11-1995)

Sec. 6-144. Quantity sale requirements.

Single cans or bottles or other containers of alcoholic beverages may be sold.

(Ord. No. 1239-2, § 7-2063, 12-11-1995)

Sec. 6-145. License fee; investigative and administrative costs.

Each application for a license under this division shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount as set forth in the schedule of fees and charges on file in the office of the city clerk to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but such cost paid for investigative and administrative costs shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. As to any applicant for a license under this division who has in existence at the time of making the new application an existing license under this division, there shall be no investigative and administrative fee.

(Ord. No. 1239-2, § 7-2064, 12-11-1995)

Secs. 6-146—6-160. Reserved.

DIVISION 6. WHOLESALERS

Sec. 6-161. Application for license; special provisions regarding wholesale sales.

(a) Any person desiring to sell at wholesale any alcoholic beverages in the incorporated areas of the city shall make application to the city manager for a license to do so, which application shall be in writing on the prescribed forms, and pay any license as set by the board of commissioners.

(b) No person who has any direct financial interest in any license for the retail sale of any alcoholic beverages in the city shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the city.

(c) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter. Provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(d) No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesaler distributor shall be clearly marked on the delivery vehicle.

(Ord. No. 1239-2, § 7-2065, 12-11-1995)

Sec. 6-162. Excise tax and bond.

(a) There is hereby levied an excise tax computed at the rate of \$0.22 per liter or \$0.65 per ounce which shall be paid to the city commission on all distilled spirits and wine sold by wholesalers to retailers in the city. Such tax shall be paid to the city manager by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in the city as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees under this division, shall collect the excise tax at the time of delivery and shall remit the tax together with a summary of all

deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the business license department after the 20th day of the month shall be charged a ten percent penalty. The \$0.22 per liter or \$0.65 per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 cents per liter or \$0.65 per ounce. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting such tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Wholesalers collecting the tax authorized in this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be at the same rate authorized for deductions from state tax under O.C.G.A. § 48-8-50.

(b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the city at the rate of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft beer or malt beverage of 15½ gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

<i>Size of Container</i>	<i>Tax Per Container</i>
7 ounce	\$ 0.0291
8 ounce	0.0333
12 ounce	0.0500
14 ounce	0.0583
16 ounce	0.0666
32 ounce	0.1333
½ barrel (15½ gallons)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

(c) Each wholesale dealer prior to commencement of any business operation within the city shall post a performance bond with the city manager equal to 1½ times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed in this section. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the city manager.

(d) A wholesaler may be excused from posting the performance bond as provided in this section after demonstrating full and satisfactory compliance with the provisions herein for a period of 12 months subsequent to the commencement of business operations within the city. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this division and the payments of all sums as required by the provisions in this division.

(Ord. No. 1239-2, § 7-2066, 12-11-1995)

Cross reference—Taxation, ch. 70.

Sec. 6-163. Hours and days of sale.

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m. Monday through Saturday. There shall be no sales of alcoholic beverages on Sunday.

(Ord. No. 1239-2, § 7-2067, 12-11-1995)

Sec. 6-164. Audit.

If the city manager deems it necessary to conduct an audit of the records and books of a licensee under this division, he shall notify the licensee of the date, time and place of the audit.

(Ord. No. 1239-2, § 7-2068, 12-11-1995)

Chapters 7—9

RESERVED

