

Chapter 6 ALCOHOLIC BEVERAGES¹

¹Cross reference(s)—Businesses, ch. 22Cross reference(s)—; alcoholic beverages in cemeteries, § 26-37Cross reference(s)—.

State law reference(s)—Regulation of alcoholic beverages, O.C.G.A. § 3-3-1 et seq.

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:

Adequate parking means one parking space for each 100 square feet of customer service area within the premises of the applicant, but not less than five parking spaces. Such off-street parking shall have vehicular access to streets and shall be constructed of an all-weather surface. Where no parking space can reasonably be provided on the same lot, any public or private off-street parking lot may be utilized to fulfill such parking requirement, if the public or off-street parking lot is within 150 feet of the premises, and if the patrons of the licensee are allowed to use such lot.

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 beverages, wine or fortified wine.

Barrel means a container or other form of measurement consisting of 31 gallons as defined by O.C.G.A. § 3-5-1(1).

Beer tasting flight means a single service of malted beverages manufactured on the premises from which the ultimate consumer may sample for taste multiple products available from the microbrewery. The total volume of sampling not to exceed 24 ounces in the aggregate.

Brew pub means any eating establishment in which beer or malt beverages are manufactured or brewed on the same premises by a microbrewery for retail consumption. As used in this chapter, the term "eating establishment" also means an business location subject to the requirements of O.C.G.A. §§ 3-5-35 through 3-5-38 that may also be licensed to sell by the pour distilled spirits, malt beverages or wines, and which derives at least 60 percent of its total annual gross sales from the sale of prepared meals or food.

Brewer means a manufacturer of malt beverages.

Brown bag establishment means any establishment providing food or entertainment in the normal course of business in which the owners or their employees or agents knowingly allow patrons to bring in and consume on the premises the patrons' own alcoholic beverage.

Brown bagging means the act of a patron or patrons entering any establishment providing food or entertainment in the normal course of business and bringing in and consuming the patrons' own alcoholic beverages.

Case means a box or receptacle containing not more than 288 ounces of malt beverages on the average as defined by O.C.G.A. § 3-5-1(3).

Church means a permanent building in which persons regularly assemble for religious worship and the building is situated upon real estate owned by an entity qualified as an exempt religious organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Crowler means an aluminum container of 32 ounces for containing a malt beverage poured from a tap on a cask or keg on site in a taproom and securely sealed by the license holder of the microbrewery or its employees, and sealed and sold on the licensed premises for off premises consumption by the ultimate consumer.

Distance means the measurement in linear feet by the most direct route of travel on the ground in a straight line from the front door of the building enclosing the proposed premises of a licensee under this chapter to the front door of the main sanctuary of any church or the nearest property line of any school or residence.

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

Family means any person related to the holder of a license issued under the provisions of this chapter within the first degree of consanguinity or affinity, as determined according to the law of the state.

Fortified wine means any alcoholic beverage containing more than 21 percent alcohol by volume, made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "fortified wine" includes, but is not limited to, brandy.

Governing body means the mayor and council.

Growler means a glass retail container not to exceed 64 ounces approved specifically for containing a malt beverage poured from a tap on a cask or keg on site, packaged and securely sealed by the license holder of the microbrewery or its employees, and sold on the licensed premises for off premises consumption by the ultimate consumer.

Individual means a natural person.

License means the authorization by the governing body to engage in the sale of alcoholic beverages by the package or for the sale of alcoholic beverages for consumption on the premises, as may be permitted by the terms of this chapter. Such licenses shall be divided into the following classes:

- (1) *Class A*, which shall permit the retail sale of malt beverages and/or wine by the package, but not for consumption on the premises where sold.
- (2) *Class B*, which shall permit the retail sale of malt beverages and/or wine for consumption on the premises where sold in conjunction with the serving of a meal.
- (3) *Class C*, which shall permit the retail sale of distilled spirits, wine, and fortified wine, by the package but not for consumption on the premises where sold.
- (4) *Class D*, which shall permit the retail sale of distilled spirits, wine, and fortified wine for consumption on the premises where sold in conjunction with the serving of a meal.
- (5) *Class E*, which shall permit the retail sale of malt beverages, distilled spirits, wine, and fortified wine for consumption on the premises where sold in conjunction with the serving of a meal.
- (6) *Class F*, which shall permit the retail sale of alcoholic beverages for consumption only on the premises where sold, to be issued to a private club, such sales to be made only to members of the private club and their bona fide guests.
- (7) *Class G*, which shall permit the retail sale of malt beverages by the package and for consumption on the premises at a private club or restaurant.
- (8) *Class G-1*, which shall permit the retail sale of alcoholic beverages for consumption only on the premises where sold and malt beverages by package, but not for consumption on the premises where sold, by any nonprofit veterans' association organized under the laws of the state or the United States of America and meets the requirements of a "private club" as defined in this section. All applications for a license under this section shall be accompanied with proof that the veterans' association is in

good standing with its state or national governing body and proof of its nonprofit status under the provisions of the Internal Revenue Code of the United States of America.

- (9) *Class H*, which shall permit the wholesale sale of alcoholic beverages in the city.
- (10) *Class I*, which shall permit the operation of a microbrewery for the production of malt beverages in accordance with O.C.G.A. § 3-5-24.1.
- (11) *Class I-1*, which shall permit the operation of a microbrewery for the production of malt beverages in accordance with O.C.G.A. § 3-5-24.1 and the operation of a taproom for the pouring and sale of malted beverages for consumption on the premises and pouring and sale of malted beverages in limited quantities for consumption off of the premises.

Licensee means a person, real or artificial, holding any class of license issued under the terms of this chapter.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water containing not more than 14 percent alcohol by volume and including ale, porter, brown, stout, lager beer, and strong beer. The term "malt beverage" does not include sake, known as Japanese rice wine.

Manager means an individual person who has responsibility for management of the operations, including sale of alcoholic beverages, at the location to be licensed or supervision of management of the operations, including sale of alcoholic beverages, at the location to be licensed and who is a full-time employee of the corporation, partnership, proprietor, or other ownership entity.

Manufacturer means a producer or bottler of beer, wine or distilled spirits.

Meal means food consisting of more than one item, including but not limited to an appetizer, a salad, a soup, an entree, a dessert or any combination thereof. A combination of appetizers and/or snack foods such as pretzels, peanuts, corn chips, potato chips or similar products, when consumed together or separately, shall not be considered a meal.

Microbrewery means a manufacturer of craft style malted beverages as defined by O.C.G.A. § 3-5-1(2) and as further defined by O.C.G.A. § 3-5-24.1 which is a brewery producing no more than 3,000 barrels of malt beverages per year.

Package means distilled spirits, wine or malt beverages sold, offered or stored, including but not limited to, kegs, bottles, growlers, crows, can, or other original consumer container for sale at retail in sealed containers, not for opening or consumption upon the premises of the package outlet.

Package store means a specific building or facility within the city wherein a license may be issued for the retail sale of either package wine or package malt beverages, distilled spirits or both, depending upon the license held, consumption on the premises not being permitted.

Person means an 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 quasipublic.

Pour means to sell for beverage purposes, sell for consumption on the premises, or sell by the drink.

Premises means the definite enclosed or partitioned-in locality, whether a room, shop or building, wherein alcoholic beverages are sold under the terms of this chapter.

Private club means any nonprofit fraternal or veterans' association organized under the laws of the state, the United States of America, or any national organization which 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; has at least 75 regular dues-paying members; owns, hires, or leases a building or space within a building for the reasonable use of its members, which

building or space has suitable kitchen and dining room space and equipment and is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guests; and 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 in this subsection, the term "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 such person by its members at a prior annual meeting or by the governing body of the club out of the general revenue of the club and shall not include any commission on any profits from the sale of alcoholic beverages.

Private residence means a house or dwelling wherein not less than one and not more than three families customarily reside and shall not include an apartment house having facilities for housing four or more families, and also shall not include any residence which has been unoccupied for a period of at least four consecutive months immediately prior to filing an application under this chapter.

Quality control employee means a designated microbrewery employee directly involved with the brewing process such as a "brew master," etc. for the sole purpose of determining quality of the malted beverage product for any changes or modifications that may need to be made during the necessary steps for the manufacture of a malt beverage product, or the determination of the "finished" character of the malt beverage product for sale to the ultimate consumer.

Restaurant means a bona fide full-service restaurant as an established place of business:

- (1) Which is licensed to sell alcoholic beverages, distilled spirits, malt beverages, or wines for consumption on the premises;
- (2) Where meals with substantial entrees selected by the patron from a full menu are served;
- (3) Which has adequate facilities and sufficient employees for cooking or preparing and serving meals for consumption at tables in dining rooms on the premises; and
- (4) Which derives at least 60 percent of its gross income from the sale of such meals, prepared, served and consumed on the premises.

Retail alcoholic beverage license means the authorization by the governing body to engage in the sale of alcoholic beverages by the package or for the sale of alcoholic beverages for consumption on the premises.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

School means such state, county, city, church or other schools as teach subjects commonly taught in the common schools of the state and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, dance, medicine, dentistry, vocational occupation or other special subjects are taught.

Store manager means that individual who does or will actually manage or operate a package store or restaurant on a day-to-day basis and shall be responsible for any matter relating to the license.

Taproom means an establishment provided by the microbrewery with special space and accommodations on the premises, or directly adjacent to the premises of only one microbrewery, and operated for the sale of pre-packaged malt beverage containers, pouring by the glass for consumption on the premises, and pouring by crowler or growler on demand specifically for off premises consumption by the ultimate consumer.

Ultimate consumer means the last individual to purchase and consume any alcoholic beverage or product from any licensee contained within this Chapter, and no further legal sales of the alcoholic beverage is permitted beyond this individual.

Wholesaler means any person engaged in distribution of, or selling to retailers for the purpose of resale, any alcoholic beverages.

Wine means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, 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.

(Code 1988, § 3-1; Ord. No. 656, § 2, 11-23-1998; Ord. No. 671, 5-24-1999; Ord. No. 792, §§ 1, 2, 8-9-2004; Ord. No. 824, § 1, 8-22-2005; Ord. No. 854, § 1, 3-12-2007; Ord. No. 908, § 1(A.), 3-12-2012; Ord. No. 987, 9-24-2018; Ord. No. 997, §§ 1, 2, 9-23-2019)

Cross reference(s)—Definitions generally, § 1-2Cross reference(s)—.

Sec. 6-2. Moral character.

- (a) In this chapter, the phrase "good moral character" shall be construed to mean the propensity of the person to serve the public in the licensed area in a fair, honest and open manner.
- (b) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and when so used the person shall be notified and shall be permitted to rebut the evidence by showing that:
 - (1) At the current time he has the ability to, and is likely to, serve the public in a fair, honest and open manner; and
 - (2) He is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which he seeks a business license or business permit.
- (c) The following criminal records shall not be used, examined, or requested by the city in a determination of good moral character when used as a requirement to obtain a business license or business permit:
 - (1) Records of an arrest not followed by a conviction.
 - (2) Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
 - (3) Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner.
 - (4) Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

Sec. 6-3. Purpose.

This chapter has been enacted for the purpose of promoting the health and general welfare of the city, establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages, protecting and preserving schools and churches, giving effect to existing land use, and preserving residential areas with reasonable consideration being given to the character of the area and its peculiar suitability for particular uses and the congestion in roads and streets, and with a general view of promoting desirable living conditions, sustaining the stability of neighborhoods and property values, protecting against the evils of concentration of retail licenses for alcoholic beverages in one family or corporation, and preventing an undesirable person from engaging or having an interest in alcoholic beverages or the sale thereof in the city, considering the proximity to the proposed location of other establishments selling alcoholic beverages, considering adequate parking availability, and considering the feelings and attitudes of citizens residing in the area adjacent to the proposed location of the premises for which an application for a permit to sell alcoholic beverages has been made.

(Code 1988, § 3-2; Ord. No. 656, § 1, 11-23-1998)

Sec. 6-4. Compliance; inspection; inspection of licensed establishments by the police department.

- (a) It shall be unlawful for any person to sell or offer for sale, at wholesale or retail, any alcoholic beverages within the city, without having first complied with the provisions of this chapter.
- (b) The city administrator shall appoint one or more persons to conduct periodic inspections of the businesses regulated by this chapter and to report to the city administrator any violation of any laws or ordinances regulating such businesses or other regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law or city ordinance, other than infrequent minor traffic violations.
- (c) Sworn officers of the police department shall have the authority to inspect establishments licensed under this chapter during the hours in which the premises are open for business without prior notice to the city administrator. 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 city officer to conduct inspections authorized by other provisions of this Code and state law.

(Code 1988, § 3-3; Ord. No. 656, § 3.1, 11-23-1998; Ord. No. 933, § 1, 7-28-2014)

Editor's note(s)—Ord. No. 933, § 1, adopted July 28, 2014, changed the title of § 6-4Editor's note(s)— from "Compliance" to read as set out herein.

Charter reference(s)—Excise tax on wine, distilled spirits, and malt beverages, § 5-105Charter reference(s)—.

Sec. 6-5. Assisting violation.

Any person who shall assist or aid another in violating this chapter shall, upon conviction thereof by the judge of the municipal court, be punished as provided in section 1-7.

(Code 1988, § 3-26; Ord. No. 656, § 3.24, 11-23-1998)

Sec. 6-6. Production of records.

In conjunction with any application for license or in conjunction with any license which has been issued under the terms of this chapter, or in conjunction with the revocation, suspension or cancellation of any license, or in conjunction with any of the hearings contemplated by this chapter, or in conjunction with the payment or nonpayment of any excise tax levied or to be collected under this chapter, the mayor and council shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any licensee for the purpose of auditing the records of such licensee, securing compliance by such licensee with the provisions of this chapter, or proving or disproving violation of any part of this chapter by any licensee, or to show payment or nonpayment of any taxes, fees, charges, or the like due under this chapter.

(Code 1988, § 3-13; Ord. No. 656, § 3.11, 11-23-1998)

State law reference(s)—Maintenance of records, O.C.G.A. § 3-3-6.

Sec. 6-7. Prohibitions relating to underage persons; use of false identification; seller's duty to request proper identification.

- (a) Except as authorized in this section, it is unlawful within the corporate limits of the city:
- (1) For a person knowingly, directly or through another person, to furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age;
 - (2) For a person under 21 years of age to purchase or knowingly possess any alcoholic beverage;
 - (3) For a person under 21 years of age to misrepresent such person's age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage;
 - (4) For a person knowingly or intentionally to act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age; or
 - (5) For a person under 21 years of age to misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in subsections (a)(1), (2) and (4) of this section shall not apply with respect to the sale, purchase or possession of alcoholic beverages for consumption:
- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state; or
 - (2) At a religious ceremony.
- (c) The prohibitions contained in subsections (a)(1), (2) and (4) of this section shall not apply with respect to the possession of alcoholic beverages for consumption by a person under 21 years of age when the parent or guardian of the person under 21 years of age gives the alcoholic beverage to the person and when possession is in the home of the parent or guardian and such parent or guardian is present.
- (d) The prohibition contained in subsection (a)(1) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, and includes, without being limited to, a passport, a military identification card, a driver's license, or an identification card authorized under O.C.G.A. §§ 40-5-100—40-5-104, pertaining to proper identification, shall not include a birth certificate and shall not include any traffic citation or complaint form.
- (e) If such conduct is not otherwise prohibited pursuant to this chapter, nothing contained in this section shall be construed to prohibit any person under 21 years of age from:
- (1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishment;
 - (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured; or
 - (3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.
- (f) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification as provided for in subsection (d) of this section in order to

verify the age of such person. Failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.

- (g) Any person who is charged and then convicted for the first time only in the municipal court for the city of violating any prohibition contained in subsection (a) of this section shall be guilty of a misdemeanor and punished in accordance with section 1-7, except that any person convicted of violating subsection (a)(2) of this section shall, upon the first conviction only, be guilty of a misdemeanor and shall be punished by not more than 30 days' imprisonment or a fine of not more than \$300.00 or both.
- (h) No person shall be charged, prosecuted, tried, convicted or sentenced in the municipal court for any violation of the prohibition set out in subsection (a) of this section if such person has previously been convicted of any offense as set out in subsection (a) of this section.
- (i) Unless the officer has reasonable cause to believe such person is intoxicated, a law enforcement officer may arrest by issuance of a citation a person accused of violating only subsection (a)(2) of this section. The citation shall enumerate the specific charges against the person and either the date upon which the person is to appear and answer the charges or a notation that the person will be later notified of the date upon which the person is to appear and answer the charges. If the person charged shall fail to appear as required, the judge having jurisdiction of the offense may issue a warrant or other order directing the apprehension of such person and commanding that he be brought before the court to answer the charges contained within the citation and the charge of his failure to appear as required. Nothing in this subsection shall be construed to invalidate an otherwise valid arrest by citation of a person who is intoxicated.

(Code 1988, § 3-27; Ord. No. 656, § 3.25, 11-23-1998)

State law reference(s)—Possession by minor, O.C.G.A. § 3-3-23.

Sec. 6-8. Possession in public places.

- (a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to drink, consume, transport, carry any alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any city park, city maintained recreation facility, public parking lot or semi-public parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked in plain view of the public in conjunction with any business, enterprise, commercial establishment, office building, or apartment building.
- (b) The possession of beer and/or wine sold by the drink within a special outdoor area as provided for in section 6-108 and article V of this chapter.

(Code 1988, § 3-28; Ord. No. 656, § 3.26, 11-23-1998; Ord. No. 933, § 2, 7-28-2014)

Editor's note(s)—Ord. No. 933, § 2, adopted July 28, 2014, changed the title of § 6-8 Editor's note(s)— from "Possession or consumption in public place" to read as set out herein.

Cross reference(s)—Streets, sidewalks and other public places, ch. 82 Cross reference(s)—.

Secs. 6-9—6-30. Reserved.

ARTICLE II. LICENSE

Sec. 6-31. Required.

- (a) It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverage within the city without having first complied with the provisions of this article, and without having obtained a license therefor, granted by the mayor and council as provided in this article.
- (b) It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverage within the city for consumption on the premises and not in its original package, without having obtained a license therefor granted by the mayor and council as provided in this article.

(Code 1988, §§ 3-30, 3-50, 3-70, 3-111, 3-112, 3-118, 3-119; Ord. No. 656, § 4, 11-23-1998)

Charter reference(s)—Business licenses, permits and fees authorized, § 5-104 Charter reference(s)—.

State law reference(s)—License requirement, O.C.G.A. §§ 3-4-21.1, 3-4-90, 3-5-40.

Sec. 6-32. License constitutes grant of privilege.

- (a) All licenses issued under this article shall constitute a mere grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by the Charter, this chapter, and other applicable ordinances of the city and the constitution, laws and regulations of the state and the United States of America applicable thereto.
- (b) All licenses issued under this article shall have printed on the face the following words: "THIS LICENSE IS A MERE PRIVILEGE AND IS SUBJECT TO BEING REVOKED AND ANNULLED BY THE MAYOR AND COUNCIL OF THE CITY OF CALHOUN AND IS SUBJECT TO LAWS, ORDINANCES AND REGULATIONS HEREAFTER ADOPTED."

(Code 1988, §§ 3-61, 3-87, 3-90, 3-134; Ord. No. 656, § 5.14, 11-23-1998)

State law reference(s)—Alcoholic beverage business a privilege not a right, O.C.G.A. § 3-3-1.

Sec. 6-33. Application requirements and procedure.

- (a) *Required information.* All persons desiring to obtain a license under this article shall make written application to the mayor and council for such privilege, upon forms to be prepared and provided by the city administrator. Such application shall state the name and address of the applicant; the class of license desired; the place where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of all partners, whether general or limited; if a corporation, the names of all officers thereof, and all stockholders therein if its shares are not registered with the appropriate state and federal regulatory agency; and the names of all persons who have or will have a direct or indirect beneficial interest in the license, if issued. There shall be attached to and made a part of the application a financial statement detailing the amount of investment by the applicant; the amount and sources of loans, if any, to be used for construction and/or operation of the business; and the collateral used to secure such loan, if any. This statement and the information therein shall be treated confidentially to the extent permitted under the Georgia Open Records Law (O.C.G.A. § 50-18-70 et seq.) and shall be examined only by the city administrator, the mayor and council, and the city attorney. The application shall contain such other appropriate information as may be required by this article or by the mayor and council, and shall be sworn to by the applicant before filing.
- (b) *Failure to furnish information; personnel statement; failure to produce persons for interrogation.* All applicants shall furnish all data, information and records pertinent to the application requested of them by the police department. Failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. All applicants shall submit a

completed copy of the personnel statement Form ATT-17, state department of revenue, alcohol tax and control unit. The applicants, by filing an application, agree to produce for oral interrogation any persons requested by the police department and considered as being important in the ascertainment of the facts relative to such application or license issued under the terms of this article. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic dismissal of any application pending under this article.

- (c) *Survey.* Each applicant shall submit a survey by a registered land surveyor showing compliance with all distance requirements contained in this chapter.
- (d) *Processing time.* The city shall require not less than 25 days and not more than 45 days after the filing of the application for processing any application for license under the terms of this article.
- (e) *Processing fee.* Upon filing of the application with the city administrator, the applicant shall deposit in cash or by certified check a processing fee in the amount specified by the governing body to cover the expense of investigation and processing the application, which fee shall not be refundable and shall not apply against any license under this article. The fee shall be retained for application processing costs and the applicant is responsible for the entire license fee upon approval.
- (f) *Payment of license fee.* Upon approval of an application for license in accordance with the terms of this article, the license fee shall be paid by certified check prior to the issuance of a license and within ten days after approval.
- (g) *Refund of fee upon denial of license by state.* If the applicant is denied a license by the state, the license fee shall be refunded.
- (h) *Annual questionnaire.* The city shall require annual questionnaires to be filled out by current license holders before new yearly licenses are issued by the city clerk.

(Code 1988, §§ 3-31, 3-33, 3-62, 3-71, 3-81, 3-120, 3-121; Ord. No. 656, § 5, 11-23-1998; Ord. No. 792, § 4, 8-9-2004; Ord. No. 893, 5-9-2011; Ord. No. 933, § 3, 7-28-2014)

Sec. 6-34. Designation of store manager.

- (a) When a license for the sale of any alcoholic beverage is applied for by any domestic or foreign legal entity lawfully registered and doing business under the laws of the state, the applicant shall also name an individual manager, or an individual member of the management team, who shall be responsible for managing and overseeing the proposed business of selling alcoholic beverages.
 - (1) The manager must meet and maintain all requirements of an individual licensee as prescribed by this chapter; provided, however, any domestic corporation or legal entity lawfully registered and doing business under the laws of the state, or any foreign corporation or legal entity lawfully registered under the laws of another state and authorized by the secretary of state to do business in the state, which seeks to obtain any class of license under this chapter shall be required to designate a resident of the county or an adjacent county as a store manager, or an individual member of the management team, for purposes of the initial application and all annual renewals.
 - (2) Should the corporation have a change of management, or should the designated manager relocate so as to no longer be a resident of the county or an adjacent county after the initial application, but prior to the annual renewal, the corporate licensee shall immediately notify the city through the city clerk, city administrator or police chief of such change in writing no less than five business days from said change. For the duration of the time prior to the annual renewal, the corporation shall be permitted to provide the city the name of its authorized agent, who must be a natural person and resident of the state, authorized to receive notice of any violation of its license privileges or receive service of citation

or service of process under the laws of the state. At no time shall the designated agent be a corporation, limited liability company, partnership, or other form of business entity. The authorization described herein shall be delivered in writing with all other elements of the required application.

- (3) The corporation shall be required to designate an individual manager, or an individual member of the management team, who is a resident of Gordon County, or an adjacent county prior to the annual renewal of any license issued pursuant to this chapter.
- (b) Failure of a corporation or legal entity holding a retail alcoholic beverage license to immediately notify the city administrator or police chief of such a change in its authorized agent shall be grounds for suspension or revocation of the licensee's license, and shall be effective immediately upon notice having been provided by the city in writing.
- (c) If such a named authorized agent should cease to possess or maintain all of the qualifications and requirements as are required of an individual license holder for the sale of similar alcoholic beverages, except the county residency requirement, the license of the legal entity or corporation responsible for the authorized agent may be suspended until the corporation or legal entity names an authorized agent who does meet and possess all such qualifications and requirements.
- (d) When a license for the sale of alcoholic beverages is applied for by an individual person or partnership comprised of individual persons, the applicant shall also name a store manager who will be responsible for managing and overseeing the proposed business of selling alcoholic beverages. The manager must meet and maintain all requirements of an individual licensee as prescribed in this chapter, and must be a resident of the city or county or an adjacent county.

(Code 1988, § 3-18; Ord. No. 656, § 3.15, 11-23-1998; Ord. No. 824, § 2, 6-22-2005; Ord. No. 933, § 4, 7-28-2014; Ord. No. 996, § 1, 8-26-2019)

Sec. 6-35. Submitting false application.

Any material omission from or untrue or misleading information which is contained in an original, renewal or transfer application for a license under this article shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license.

(Code 1988, § 3-12; Ord. No. 656, § 3.10, 11-23-1998)

State law reference(s)—False application prohibited, O.C.G.A. § 3-3-27.

Sec. 6-36. Public notice of application; hearing.

- (a) No application for a license for the retail sale of alcoholic beverages shall be acted upon or issued by the mayor and council until after advertisement and public hearing thereon, as required in this section.
- (b) A public hearing upon all applications for a license under this article shall be held before the mayor and council at a regular meeting, not less than 25 days and not more than 45 days after the filing of the application. The applicant for the license shall give notice of the making of any application by advertisement at least once a week for two consecutive weeks prior to the date of hearing on such application, in a newspaper published in the city in which the legal advertisements and notices of the city are published, which advertisement shall be in the following form:

NOTICE OF APPLICATION FOR RETAIL ALCOHOLIC BEVERAGE LICENSE

The undersigned has made application to the Mayor and Council of the City of Calhoun for a Class _____ license to sell alcoholic beverages at _____. This application will be heard by the Mayor and Council at its regular meeting to be held at 7:00 p.m. on the _____ day of _____, ____.

	Signed: Applicant
--	----------------------

(The applicant shall fill in the correct and appropriate information.)

- (c) The applicant shall cause to be placed upon the location of the proposed business one or more signs stating the following:

RETAIL ALCOHOLIC BEVERAGE LICENSE APPLIED FOR. HEARING BEFORE THE MAYOR AND COUNCIL OF THE CITY OF CALHOUN, GEORGIA, ON THE _____ DAY OF _____. (Applicant shall fill in the correct date.)

- (d) The signs required by subsection (c) of this section shall each be not less than 24 inches by 36 inches and shall face toward all public streets, alleys, sidewalks, or other public property adjoining the proposed location. Such signs shall be placed where they can easily be seen from all public properties adjoining the proposed location.
- (e) Such applicant for retail sales, at the public hearing for such application, shall submit satisfactory proof to the mayor and council that the signs required by section (c) of this section were properly and adequately posted and were adequate to inform the public of the pending application and the public hearing thereon.

(Code 1988, §§ 3-35, 3-63, 3-72, 3-122; Ord. No. 656, § 5.1, 11-23-1998; Ord. No. 792, § 4, 8-9-2004)

Sec. 6-37. Investigation of application.

All applications required by this article shall be investigated by the police department and the report of investigation presented to the mayor and council for consideration with the application.

(Code 1988, §§ 3-73, 3-125; Ord. No. 656, § 5.2, 11-23-1998)

Sec. 6-38. Standards for granting or denial.

- (a) The mayor and city council, in passing upon any application for an alcoholic beverage license, at the final meeting thereon, shall be guided by the following factors as to whether to grant or to deny such application in the public interest and welfare:
 - (1) *Reputation, character.* The applicant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct this business.
 - (2) *Previous violations of local or state laws regarding the sale of alcoholic beverages.* If the applicant is a previous holder of a license to sell alcoholic beverages, whether or not he has violated any law, regulation or ordinance relating to such business.
 - (3) *Manner of conducting prior alcoholic beverage business.* If the applicant is a previous holder of a license to sell alcoholic beverages, the manner in which he conducted the business thereunder, especially as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinance relating to such business.
 - (4) *Location.* The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values. This shall also include:

-
- a. The character of the neighborhood immediately adjacent to the proposed location;
 - b. Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons; and
 - c. Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
- (5) *Number of licenses in trading area.* The number of licenses already granted for similar business in the trading area of the place for which the license is sought. This shall also include the proximity of the proposed location to any other establishment selling alcoholic beverages of any nature.
 - (6) *Dancing.* If dancing is to be permitted upon the premises for which the license is sought and the applicant has previously permitted dancing upon any premises controlled or supervised by him, the manner in which he controlled or supervised such dancing to prevent any violation of any law, regulation or ordinance.
 - (7) *Previous revocation of license.* If the applicant is a person whose license issued under the police powers of any governing authority has been previously suspended or revoked or who has previously had an alcoholic beverages license suspended or revoked.
 - (8) *Payment of taxes.* If the applicant and business are not delinquent in the payment of any local taxes.
 - (9) *Congregation of minors.* Any circumstances which may cause minors to congregate in the vicinity of the proposed location.
 - (10) *Prior incidents.* Evidence that a substantial number of incidents requiring law enforcement intervention have occurred within a square city block of the proposed location, if within the City of Calhoun, during the 12 months immediately preceding the date of application. This should also include calls for other emergency services in the area.
 - (11) *Previous denial or revocation.* The denial of an application, or the revocation of a license, occurring within the preceding 12 months, which was based on the qualifications of the proposed location.
- (b) The mayor and city council may, in their discretion, issue or deny any license when there is evidence that the type and number of schools, churches, libraries or public recreation areas or public housing in the vicinity of the place of business of the licensee causes minors to frequent the immediate area, even though there is compliance with the minimum distances.
 - (c) If the application is denied, the mayor and city council shall cause a written report to be prepared showing the reason or reasons for the denial. The mayor and city council shall return the application showing its denial, together with the written report, to the clerk of the city who shall notify the applicant of the denial within five days of the denial. Notice to the applicant shall be made in writing, showing the reason or reasons for the denial and the day and time of the next scheduled meeting of the mayor and council. The applicant may appeal the denial of the application by serving notice on the mayor and council requesting reconsideration of the application. The applicant shall serve said notice, in writing, within five days of the receipt of the denial of the application.
 - (d) On reconsideration, the mayor and council shall hear evidence offered by the applicant and any entity opposing the issuance of the license. The applicant may be represented by counsel, may offer testimony by witnesses or any other evidence and may question any opposing witnesses. At the close of the evidence, the mayor and council shall either uphold the denial or shall approve the issuance of a license.

(Code 1988, § 3-14; Ord. No. 656, § 3.12, 11-23-1998; Ord. No. 908, § 1(B, C.), 3-12-2012; Ord. No. 916, § 1, 11-12-2012)

Sec. 6-39. General qualifications of licensees.

No application for a license under this article shall be granted where the application investigation or the evidence presented at a hearing before the mayor and council shows any of the following conditions to exist:

- (1) That the applicant or any person owning a direct or indirect beneficial interest in the license for which application is made is of bad moral character, or does not have sufficient mental capacity to conduct the business for which application is made, or has been dishonorably discharged from the armed services of the United States.
- (2) That the applicant or any person having direct or indirect beneficial interest in the issuance of the license has had any license issued by the city or by any other city in the state, or by any other licensing authority in the state, relating to the manufacturing, distribution or sale of alcoholic beverages, previously suspended or revoked.
- (3) That the applicant, or any person who shall have a direct or indirect beneficial interest in the license, as a previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business within a ten-year period immediately preceding the date of the application for a license under this article.
- (4) That any applicant for a retail license under this article is related to any distributor or wholesaler of alcoholic beverages within the first degree of consanguinity or affinity, as computed according to the laws of the state.

(Code 1988, §§ 3-51, 3-79, 3-102; Ord. No. 656, § 5.7, 11-23-1998)

Sec. 6-40. Citizenship and residency requirements.

No license for the sale of alcoholic beverages shall be granted to an applicant unless such applicant is:

- (1) An individual at least 21 years of age who lawfully resides in the United States and a resident of Gordon County, Georgia or an adjacent county; provided, however, that residency in the county shall not be a requirement if the applicant designates a resident of the county as store manager and such designee is over the age of 21 and lawfully resides in the United States, who shall be responsible for all matters relating to the license;
- (2) A corporation organized under the laws of the state or authorized to do business therein, provided that said corporation shall be required to designate a manager in accordance with the provisions of section 6-34; or
- (3) A partnership, all of whose partners are at least 21 years of age and residents of the state for at least one year preceding the date of application.

(Code 1988, §§ 3-34, 3-36, 3-51, 3-128; Ord. No. 656, § 5.5, 11-23-1998; Ord. No. 792, § 3, 8-9-2004; Ord. No. 933, § 5, 7-28-2014; Ord. No. 996, § 2, 8-26-2019)

Sec. 6-41. City officials and immediate family ineligible for license.

It shall be unlawful to grant a license for the sale of alcoholic beverages to any elected official, city department head, city employee, or such person's immediate family. It shall further be unlawful for any elected official, city department head, city employee, or such person's immediate family to own any whole, partial or beneficial interest in any license to sell alcoholic beverages in the city.

(Code 1988, § 3-8; Ord. No. 656, § 3.6, 11-23-1998)

Sec. 6-42. Persons convicted of certain crimes or with previous license revocation ineligible for license.

- (a) It shall be unlawful to grant a license for the sale of any alcoholic beverage to:
- (1) A person who has been convicted of a felony, or of a crime involving moral turpitude, or of a crime involving a violation of the ordinances of the city relating to the use, sale, taxability or possession of alcoholic beverages or a violation of the laws of the state or the United States pertaining to the manufacture, possession, transportation or sale of any alcoholic beverage, or taxability thereof; or
 - (2) A person whose license under this article has been revoked for cause or who has had a license under this article revoked for cause within 24 months of the date of reapplication for the license.
- (b) Any licensee who becomes a "prohibited person" as defined in subsection (a) of this section shall, within ten days of such event, make such fact known to the mayor and council and shall surrender such person's license upon demand by the mayor and council.

(Code 1988, § 3-19; Ord. No. 656, § 3.16, 11-23-1998)

Sec. 6-43. Interest in license by persons convicted of certain crimes.

No license for the retail sale of alcoholic beverages shall be issued to any person, partnership or corporation where any individual having any interest therein, either as owner, partner, or stockholder, or having a direct or indirect beneficial or absolute interest, or the spouse of any such person, shall have been convicted or shall have taken a plea of nolo contendere, within a period of ten years immediately prior to the filing of such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance, except traffic violations. As used in this section, the term "conviction" shall include an adjudication of guilt or a plea of guilty or a plea of nolo contendere to any offense specified in this section, or the forfeiture of a bond. Where there is a conviction of a violation of a municipal ordinance, or where there is a plea of nolo contendere, the mayor and council may, after investigation, waive such conviction as a disqualification.

(Code 1988, §§ 3-77, 3-129; Ord. No. 656, § 5.6, 11-23-1998)

Sec. 6-44. Ownership of or interest in multiple licenses.

No person or individual shall be issued more than two retail alcoholic beverages licenses, nor shall any person or individual be permitted to have a beneficial interest in more than two retail alcoholic beverage licenses issued under this chapter, regardless of the degree of such interest. A class A license and class C license may be granted to one person for the same premises, provided all other provisions of this chapter are complied with.

(Code 1988, § 3-9; Ord. No. 656, § 3.7, 11-23-1998; Ord. No. 824, § 3, 8-22-2005)

State law reference(s)—Limitation on license, O.C.G.A. § 3-4-21.

Sec. 6-45. Limitation on number of licenses within family or corporation.

- (a) No person or member of such person's immediate family or a corporation shall own, hold or control any interest whatsoever in more than two class C licenses in the city.
- (b) As used in this section, an interest in the license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of the license, a general or limited partner in a partnership which owns all or any part of a license, a stockholder in any corporation which owns all or any part of a license, or

an owner, lessor, sublessor of, or stockholder in any corporation owning or leasing any real estate which is occupied by a package store, or shares in any income or corpus of any trust fund or estate having any interest in a package store. Notwithstanding any of the other provisions of this section, no person shall be deemed to have more than one interest in any one license.

- (c) All applications for license, whether original or for renewal, must be accompanied by a full and complete statement under oath of information relative to all interests, as defined in subsection (b) of this section, in package stores. This shall include:
- (1) The names and addresses of all persons with interest in the ownership of the business of selling packaged alcoholic beverages at retail, together with any interest each person or members of such person's immediate family has in any other retail liquor store;
 - (2) The ownership of the land and building where such retail business is operated;
 - (3) The amount of rental paid for such land and building, and the manner in which the rental is determined and to whom and at what intervals it is paid;
 - (4) The names and addresses (by affidavit of the owner, lessor, or sublessor of such land and building) of all persons having any whole, partial, beneficial, or any other interest in and to the land and building on and in which the retail package store is to be located;
 - (5) A copy of the proposed lease; and
 - (6) Any other information requested by the police department or the mayor and council pertinent to the application under investigation.
- (d) Any change in any of the relationships or ownership interest contained on the application must be filed with the mayor and council within 30 days after such change is made, and failure to do so shall be grounds for immediate cancellation and revocation by the mayor and council of any license issued under this article or for the immediate dismissal of any application for a license under this article.

(Code 1988, §§ 3-80, 3-131; Ord. No. 656, § 5.8, 11-23-1998; Ord. No. 824, § 4, 8-22-2005)

State law reference(s)—Limitation on licenses, O.C.G.A. § 3-4-21.

Sec. 6-46. Wholesale licensees prohibited from interest in other licenses.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or have an interest in any other license issued under the terms of this chapter.

(Code 1988, § 3-94; Ord. No. 656, § 5.20, 11-23-1998)

Sec. 6-47. Payment of outstanding taxes and other debts due city.

The city administrator shall cause an inquiry to be made into the tax records to determine if any applicant or other party interested in an application under this article has any outstanding taxes or special assessments that are delinquent, or any other monies owed to the city. No license shall be issued, nor shall a license be renewed, until all such debts are paid in full.

(Ord. No. 656, § 5.3, 11-23-1998)

Cross reference(s)—Taxation, ch. 86Cross reference(s)—.

Sec. 6-48. Issuance limited to designated areas.

- (a) *Wholesaler's license.* No license shall be issued to a wholesaler of alcoholic beverages except where the wholesale business is to be located in an area of the city which is zoned for commercial or industrial use.
- (b) *Retailer's license.* No license to engage in the sale of alcoholic beverages at retail shall be granted except in an area zoned for commercial or industrial use.

(Code 1988, § 3-75; Ord. No. 656, § 5.4, 11-23-1998)

Sec. 6-49. Ownership of premises or written lease required.

No retail or wholesale license for the sale of alcoholic beverages shall be issued to an applicant unless the applicant shall either own the premises for which the license is sought or shall have a written lease for the premises for which the license is sought for the full period for which the license is to be issued. If the applicant shall merely lease the premises for which the license is sought, the applicant shall attach a copy of the lease to the application for the issuance of a license for the sale of alcoholic beverages.

(Code 1988, § 3-21; Ord. No. 656, § 3.19, 11-23-1998)

Sec. 6-50. Completion of proposed licensed premises.

Where a building in which a retailer proposes to operate under the provisions of this chapter is at the time of application for such license not in existence, or not yet completed, a license may be issued for such location, provided the plans and specifications for the proposed building are filed with the city administrator and show clearly a compliance with the other provisions of this chapter and applicable ordinances of the city. No sale shall be allowed in such establishment until it has been completed in accordance with such plans and specifications and is in conformity with all other provisions of this chapter and other applicable ordinances of the city.

(Code 1988, § 3-82; Ord. No. 656, § 5.9, 11-23-1998)

Sec. 6-51. Time limit for commencement of business; forfeiture of license for nonuse.

- (a) All holders of licenses under this article must, within six months after the issuance of the license, open for business the establishment referred to in the license. Failure to open the licensee's establishment within six months after the issuance of such license shall cause the automatic forfeiture and cancellation of such license and no refund of the license fee shall be made to the license holder.
- (b) Any holder of a license under this article who shall begin the operation of the business authorized in the license but who shall, for a period of six consecutive months thereafter, cease to operate the business as authorized in the license shall, upon expiration of such six-month period, automatically forfeit such license, which license shall, by virtue of such failure to operate, be cancelled without the necessity of any further action of the mayor and council, and no refund of the license fee shall be made to the license holder.

(Code 1988, §§ 3-84, 3-132; Ord. No. 656, § 5.11, 11-23-1998)

Sec. 6-52. Application for relocation.

- (a) If the holder of any retail alcoholic beverage license for a prescribed location in the city desires to move his retail alcoholic beverage business to another location in the city, the license holder shall make application to

the mayor and council for permission to relocate the business. The application shall be in the same form and contain the same information as is required for an initial application for a retail alcoholic beverage license.

- (b) No fee shall be required for the processing of an application for relocation of a retail alcoholic beverage business.
- (c) The applicant for relocation of a retail alcoholic beverage business shall comply with the provisions of this article pertaining to newspaper advertisement and the posting of a sign upon the proposed new location of the business, as if the applicant for relocation of the business were making an initial application for the retail alcoholic beverage license.
- (d) In reviewing and acting upon an application for the relocation of a retail alcoholic beverage business and license, the mayor and council shall be guided by the same factors and considerations as if the application were an application for a new license.

(Code 1988, § 3-23; Ord. No. 656, § 3.21, 11-23-1998)

Sec. 6-53. Transfer generally; "grand fathered" locations.

- (a) Except as provided in this article, no license for the sale of any alcoholic beverage may be transferred from one person to another. Further, no license for the sale of any alcoholic beverage may be transferred from one location or premises to another without the prior approval thereof by the mayor and council in the manner described in this article.
- (b) Any previously licensed location for the sale of alcoholic beverages in accordance with this ordinance shall remain valid for a new license application by a new licensee, without regard for a change in any of the distances for the structures outlined in section 6-91 that occurred during the existence of the operation of the business for the prior licensee, so long as said application shall be made within 24 months of the sale, transfer, lease or other vacancy of the property caused by the prior licensee at said location.

(Code 1988, § 3-24; Ord. No. 656, § 3.22, 11-23-1998; Ord. No. 933, § 6, 7-28-2014)

Editor's note(s)—Ord. No. 933, § 6, adopted July 28, 2014, changed the title of § 6-53 Editor's note(s)— from "Transfer generally" to read as set out herein.

Sec. 6-54. Transfer on death of licensee; change in partners or stockholders.

- (a) Licenses issued under this article shall not be transferable except as otherwise provided in this article.
- (b) In case of the death of any person owning a license, or any interest therein, the license may, with the approval of the mayor and council and subject to the terms of this article, be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such heirs meet all other qualifications contained in this article. The license of such deceased person shall be held by the administrator, executor, or personal representative of such deceased person only for the time necessary to complete execution of such deceased person's estate and dispose of the license or such interest therein, but in no event to exceed six months.
- (c) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership and to assign such partner's interest in such partnership to one or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this chapter are fully complied with, and then only upon the approval of the mayor and council.

-
- (d) A licensee may take in partners or additional stockholders where it is determined that additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where it appears that the licensee personally will directly receive none of the additional capital investment. Under this subsection, an additional partner or new stockholder must be approved by the mayor and council, as provided in this article.

(Code 1988, §§ 3-89, 3-133; Ord. No. 656, § 5.16, 11-23-1998)

Sec. 6-55. Renewal.

- (a) *Annual renewal required.* All licensees under this article shall be required to renew their licenses annually and in a timely manner on or before January 1 of each year. The city shall require simplified annual applications from all previously approved license holders, exclusive of advertisement or waiting periods, but with approval by the mayor and council at a regularly scheduled meeting.
- (b) *Late renewal application after deadline.* Any licensee under this article that fails to renew their licenses annually and in a timely manner on or before January of each year shall have until January 30 in which to submit a renewal application in the same manner as outlined in subsection (a) of with the penalty fee of ten percent of the license fee to be assessed for failure to renew such license on or before January 1. There shall not be a suspension of the license during that time.
- (c) *Suspension of license and late application after January 30.* Any licensee under this article that fails to make a late renewal application pursuant to subsection (b) shall have their ability to sell immediately suspended upon written notice having been provided by the city. The licensee shall have until March 1 to file a late renewal application with the form mandated in subsection (a) with the penalty fee of 50 percent of the license fee to be assessed. The suspension shall remain in full effect until the party has appeared before the mayor and council to offer a sufficient explanation for the delinquent renewal.
- (d) *Failure to renew application.* Any licensee under this article that fails to renew their licenses annually in accordance with any of the previous subsections shall have their ability to sell any alcoholic beverage terminated upon the first day of March without any notice to be provided by the city. Said termination shall take effect immediately upon having been provided written notice of same by the city. Additionally, there shall not be any means to file an application for renewal, and the former licensee shall be required to make a new license application in accordance with the provisions mandated by section 6-33.

(Code 1988, §§ 3-60, 3-86; Ord. No. 656, § 5.13, 11-23-1998; Ord. No. 933, § 7, 7-28-2014)

Sec. 6-56. Fee schedule.

- (a) The annual alcoholic beverage license fee for each class of license for the sale of alcoholic beverages in the city shall be as prescribed by the mayor and council.
- (b) The annual alcoholic beverage license fee for any combination of licenses for the sale of alcoholic beverages in the city, as authorized under this article, shall be as prescribed by the mayor and council.
- (c) All license fees shall be paid annually, in advance, on or before January 1 of each year.
- (d) The license fee for each class of license for the sale of alcoholic beverages in the city issued after July 1 of any given year shall be one-half of the full annual license fee as provided in this article.
- (e) The license fee schedule is maintained in the office of the city administrator.

(Ord. No. 656, § 6, 11-23-1998)

Sec. 6-57. Payment of fees.

- (a) All annual license fees under this article shall be paid in advance on or before January 1 of each year, and for any new license granted under this article during a calendar year there shall be paid a pro rata license fee from the date the license is issued.
- (b) Each person selling alcoholic beverages in the city, except wholesalers not maintaining a place of business in the city, shall pay an annual license tax as prescribed by the governing body and filed in the office of the city administrator.
- (c) Any person licensed under this article shall be required to renew such license on or before January 1 of each year. A penalty of ten percent of the license fee shall be assessed for failure to renew such license on or before January 1.

(Code 1988, §§ 3-54, 3-85; Ord. No. 656, § 5.12, 11-23-1998)

Sec. 6-58. Grounds and procedure for suspension or revocation.

- (a) *Procedure.* Any license which has been issued or which may be hereafter issued by the city to any licensee for the sale of alcoholic beverages, either by package or for consumption on the premises, may be suspended for a time certain or revoked entirely for due cause as defined in this section, such suspension or revocation to be effective only after a hearing held before the mayor and council for the purpose of considering any such suspension or revocation. At least five days' prior written notice of the time, place and purpose of such hearing, including a specific statement of the charges upon which the suspension or revocation is being sought, shall be given to the holder of such license which is sought to be suspended or revoked.
- (b) *Hearing and decision.* A hearing held before the mayor and council pursuant to this section shall be conducted informally, and the technical rules of evidence shall not apply. All testimony shall be under oath. The holder of the license sought to be suspended or revoked shall be entitled to be represented by legal counsel, if desired, shall be able to cross examine any witness produced by the city, and shall be able to present witnesses and evidence in such license holder's own behalf. Pursuant to such hearing, a decision to suspend or revoke the license under consideration shall be upon a majority vote of the mayor and council hearing the evidence. The license holder shall be promptly notified in writing of the mayor and council's finding and decision affecting such person's license.
- (c) *Grounds.* Due cause for the suspension or revocation of any license shall include, but not be limited to, a violation of any laws or ordinances, both state and municipal, regulating the sale of alcoholic beverages, or a violation of regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law, or for the violation of any city ordinance other than traffic ordinances, or for the failure of the licensee or any employee of the licensee to promptly report to the city police department any violation of the law or ordinance, breach of the peace, disturbance or altercation resulting in violence on the premises, or for the violation of any validly promulgated law, ordinance or regulation pertaining to the sale of alcoholic beverages by any employee of the license holder involved in the sale of alcoholic beverages, failure to notify the city administrator or police chief of change in manager, failure of a manager to maintain all qualifications required under this chapter, failure to report a manager's violation, or failure to promptly replace an unqualified manager with a manager properly qualified under this chapter.
- (d) *Suspension during emergencies.* The mayor is hereby authorized to suspend any alcoholic beverage license issued under this article for any emergency situation such as civil disorders or natural disasters or in any situation in which the mayor deems such immediate suspension necessary for the protection of the health

and welfare of the citizens of the city. The suspension may be made effective immediately and shall remain in force until the mayor determines the emergency is over or until the next regular meeting of the mayor and council, or a meeting called prior to the next regular meeting, at which time the mayor and council, by majority vote, may determine that the emergency is ended.

- (e) *Fees not to be refunded.* When a license is suspended or revoked, the city shall not be required to refund any portion of the license fee to the holder of such suspended or revoked license.
- (f) *Appeals.* Appeals of the decision of the mayor and council shall be to the superior court of the county, filed within 30 days of the date of the written decision of the mayor and council.

(Code 1988, § 3-10; Ord. No. 656, § 3.8, 11-23-1998)

State law reference(s)—Authority to revoke or suspend license, O.C.G.A. § 3-3-2.

Sec. 6-59. Automatic revocation of city license upon revocation of state license or permit.

Whenever the state shall revoke any permit or license to sell at wholesale or retail any alcoholic beverages, the city license held by the same licensee to sell at wholesale or retail any alcoholic beverage within the city shall thereupon be automatically revoked without any additional action by the mayor and council or any officer of the city.

(Code 1988, § 3-11; Ord. No. 656, § 3.9, 11-23-1998)

Sec. 6-60. Revocation for violation of state regulations.

A violation of any rule or regulation pertaining to the sale or consumption of alcoholic beverages promulgated by the commissioner of the state department of revenue, alcohol and tax unit, by a licensee under the provisions of this article shall be cause for immediate revocation of any alcoholic beverage license issued by the city.

(Ord. No. 656, § 9, 11-23-1998)

Sec. 6-61. Removal of signs after revocation.

When any license for the sale of alcoholic beverages is revoked, all signs indicating that such beverages may be sold or purchased shall be immediately removed from both inside and outside the place of business. Upon receipt by the police department of the notice of revocation, the police department shall take the necessary steps to see that this section is enforced.

(Code 1988, § 3-88; Ord. No. 656, § 5.15, 11-23-1998)

Sec. 6-62. Reapplication after revocation of package store license.

When any license or permit to operate a retail package store under this article is revoked by the mayor and council, no application from the same applicant for such license shall be considered within 24 months of the time of such revocation by the mayor and council.

(Ord. No. 656, § 5.10, 11-23-1998)

Sec. 6-63. Special license for businesses conducting wine or malt beverage tastings.

Upon filing an application, the additional payment of a license fee of \$250.00 per year, and with the approval of mayor and city council at a regularly scheduled meeting following such application having been made, the city administrator may issue a limited pouring license for the sole purpose of a business to hold wine or malt beverage tastings. The permit shall allow the applicant to provide samples of wine to the public for consumption on the premises under the following conditions:

- (1) The applicant shall be an establishment licensed to sell wine, in original packages for off-premises consumption meeting all other requirements for any alcohol license in this article.
- (2) The applicant shall maintain on the premises and offer for sale at all times a variety of wines from not less than 15 manufacturers/brands of wine and/or malt beverages.
- (3) The applicant's establishment shall have minimum interior floor area of 100 square feet devoted to the storage, display and sale of wine and/or malt beverages.
- (4) The applicant for a wine or malt beverage tasting must hold a valid current license in the state for the sale of alcoholic beverages.
- (5) No tasting may be conducted on the premises of a malt beverage and wine store operating in connection with a licensed retail liquor store.
- (6) Wine tastings may only be conducted in connection with a bona fide instructional or educational promotion.
- (7) All wines secured for tasting purposes must be obtained through a retail or wholesale wine outlet.
- (8) Tastings must comply with all laws and regulations otherwise pertaining to the sale and distribution of alcoholic beverages in the state.
- (9) All applicants and permit holders must comply with all state statutes and sections of this article of the chapter, and other city ordinances concerning alcoholic beverages, including, but not limited to, those dealing with hours of operation, zoning and distance requirements.

(Ord. No. 933, § 8, 7-28-2014)

Sec. 6-64. Corkage services.

- (a) A restaurant that possesses a valid license for the retail sale of wine for consumption on premises may permit patrons to bring, possess and consume bottles of wine that are owned by the patron and brought onto the premises under the following conditions:
 - (1) No more than 750 milliliters of wine, per patron over the age of 21 per meal, shall be permitted to be uncorked.
 - (2) Only patrons seated at tables or booths shall be permitted to consume wine that has been provided by the patron.
 - (3) Wine may only be consumed by individuals who order and are served a meal by the licensee.
 - (4) Every bottle of wine brought onto the premises by a patron must be opened by restaurant personnel.
 - (5) A patron may remove an uncorked bottle of wine from the premises only if the requirements set forth in O.C.G.A. § 3-6-4 are met.
- (b) Restaurants may at their discretion charge corkage fees.

(Supp. No. 8)

Created: 2021-04-14 13:14:25 [EST]

(Ord. No. 933, § 8, 7-28-2014)

Sec. 6-65. Brown bagging prohibited; exception; sanction.

- (a) Except as otherwise provided in subsection 6-64(a)(5), it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes unless such business holds a valid alcoholic beverage license for the type of alcoholic beverage permitted to be brought into the establishment.
- (b) No food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment shall permit customers, guests or invitees to bring an alcoholic beverage onto the premises if any alcoholic beverage license associated with that establishment is suspended or revoked.
- (c) A violation of this section shall result in the suspension of the privilege to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of the establishment for a period of two years. Provided, however, if the violation occurs during the suspension or revocation of the alcoholic beverage license associated with the establishment, the suspension of the privilege shall be for a period of time that is the longer of the period of suspension or revocation of the alcoholic beverage license and two years.
- (d) This article shall not apply to a private event on any premises where the general public is not allowed entry. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this article.
- (e) Any owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink, or entertainment who violates this article shall, upon conviction thereof, be punished by a civil penalty of not less than \$200.00 and not more than \$1,000.00.

(Ord. No. 933, § 8, 7-28-2014)

Secs. 6-66—6-90. Reserved.

ARTICLE III. OPERATING REGULATIONS FOR LICENSED ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 6-91. Distance from schools, churches, polling places and residences.

- (a) No person knowingly and intentionally may sell or offer to sell:
 - (1) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds, or college campus;
 - (2) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus; or
 - (3) Any distilled spirits, wine, or malt beverages within 100 yards of an alcoholic treatment center owned and operated by this state or any county or municipal government therein.

(Supp. No. 8)

Created: 2021-04-14 13:14:25 [EST]

-
- (b) As used in subsection (a), the term "school building" or "educational building" 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 schools and colleges of this state and which are public schools or private schools as defined in [O.C.G.A.] subsection (b) of Code Section 20-2-690.
 - (c) No person knowingly and intentionally may sell any alcoholic beverages for consumption on the premises within 100 yards of any housing authority property. This subsection shall not apply at any location for which a license has been issued prior to July 1, 2000, nor to the renewal of such license.
 - (d) As used in subsection (d), the term "housing authority property" means any property containing 300 housing units or fewer owned or operated by a housing authority created by [O.C.G.A.] Article 1 of Chapter 3 of Title 8, the "Housing Authorities Law."
 - (e) No person shall knowingly and intentionally sell or offer to sell any alcoholic beverage within 250 feet of any polling place or of the outer edge of any building within which such polling place is established for any state or local election days, including primary, special, runoff or general elections.
 - (f) All distances required by this article shall be measured in accordance with the regulations promulgated by the state commissioner in current version of Section 560-2-2-.12. Measurement of Distance of the Rules and Regulations of The State of Georgia, and unless otherwise modified, shall be the following:
 - (1) In a straight line from the front door of the structure from which alcoholic beverages are sold or offered for sale; and
 - (2) To the front door of the building of a church, government-owned treatment center or a retail package store; or
 - (3) To the nearest property line of the real property being used for school or educational purposes.
 - (g) All renewal applications shall use the measurements required in the initial application and license.
(Code 1988, §§ 3-5, 3-78, 3-130; Ord. No. 656, § 3.3, 11-23-1998; Ord. No. 933, § 9, 7-28-2014)

Cross reference(s)—Zoning, app. A.

State law reference(s)—Sale near churches, etc., O.C.G.A. § 3-3-21; authority to regulate, O.C.G.A. § 3-4-49; sale on election day, O.C.G.A. § 3-3-20.

Sec. 6-92. Hours and days of operation; hours of consumption on alcoholic beverages sold by the glass.

- (a) Hours of operation for sale of alcoholic beverages by package. No sale of alcoholic beverages by the package shall be allowed by a licensed establishment on weekdays and Saturdays except between the hours of 6:00 a.m. and 11:00 p.m. The sale of alcoholic beverages by the package shall be allowed on Sundays between the hours of 12:30 p.m. and 11:00 p.m.
- (b) Hours of operation for pouring/sale of alcoholic beverages. No pouring or sale of alcoholic beverages for consumption on the premises shall be allowed except between the hours of 6:00 a.m. and 12:00 midnight on weekdays and Saturdays. The sale of alcoholic beverages by the drink on Sundays shall be allowed between the hours of 12:30 p.m. and 11:00 p.m. in any licensed establishment which derives at least 60 percent of its total annual gross sales from the sale of prepared meals or food.
- (c) Hours of operation for consumption of alcoholic beverages on the premises. No alcoholic beverage may be consumed on the premises of any licensed public establishment between the hours of 12:30 a.m. and 6:00 a.m. on weekdays and Saturdays. No alcoholic beverages may be consumed by the drink on Sundays

between 11:30 p.m. and 6:00 a.m. in any licensed establishment which derives at least 60 percent of its total annual gross sales from the sale of prepared meals or food.

(d) During the permissible hours of sale, the licensee may permit the sale of alcoholic beverages by decanter, pitcher, or other container. 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) No outlet manager, nor other employee of an outlet, shall permit violations of subsections (a) through (d).

(Ord. No. 911, § 1, 4-23-2012; Ord. No. 933, § 10, 7-28-2014)

Editor's note(s)—Ord. No. 911, § 1, adopted April 23, 2012, repealed § 6-92Editor's note(s)—, in its entirety and enacted new provisions to read as herein set out. Prior to this amendment, § 6-92Editor's note(s)— pertained to "Hours of operation." See Code Comparative Table for derivation.

Editor's note(s)—Ord. No. 933, § 10, adopted July 28, 2014, changed the title of § 6-92Editor's note(s)— from "Hours and days of operation" to read as set out herein.

State law reference(s)—Sale of alcoholic beverages on Sundays and on election days and on Christmas, O.C.G.A. § 3-3-20; sale of alcoholic beverages, limitation, O.C.G.A. § 3-3-20.

Sec. 6-93. Products for sale, display or offer other than distilled spirits.

(a) No retail dealer shall sell or offer for sale or display or keep in stock at its place of business where distilled spirits are offered for sale, any other product, except the following:

(1) Wines, but only if the retail dealer holds a valid and current license to sell wine at said place of business;

(2) Malt beverages or beer, but only if the retail dealer holds a valid and current license to sell malt beverages or beer at said place of business;

(3) Tobacco products, limited to tobacco, cigarettes, cigars, chewing tobacco, snuff, cigarette papers, lighters and matches;

(4) Chewing gum and breath mints;

(5) Beverages containing no alcohol and commonly used to dilute distilled spirits;

(6) Ice, ice chests, and cozies (individual can and bottle coolers);

(7) Paper, Styrofoam or plastic cups; and wine gift bags which are limited to a size to accommodate one 750 ml size bottle and which contain only products approved for sale or display by this regulation;

(8) State-approved lottery tickets and related state approved lottery materials, but only if the retail dealer is a state-approved retail lottery dealer location;

(9) Bar supplies, limited to:

a. Cork screws, openers, straws, swizzle stirrers, and bar related glass ware, bar related metal ware, bar related ceramic ware and bar related plastic ware.

b. Cocktail olives, onions, cherries, lemons and limes.

c. Beverage alcohol drink recipe booklets, bar guides, and consumer oriented beverage alcohol publications.

(b) Products copackaged with alcohol beverages are limited to the items approved for sale or display by this section, but shall not include alcohol beverage products of a different class.

(c) Retail dealers are not permitted to separate copackaged products for individual sale. Products packaged together are to be offered for sale and sold as a single unit.

(Code 1988, § 3-16; Ord. No. 656, § 3.13, 11-23-1998; Ord. No. 824, § 5, 8-22-2005)

Sec. 6-94. Reserved.

Editor's note(s)—Ordinance Number 824, adopted August 22, 2005, deleted section 6-94Editor's note(s)— in its entirety.

Sec. 6-95. Police supervision.

Anyone holding a license for the sale of alcoholic beverages shall, at all times, permit the police department to have complete supervision over the conduct of those people patronizing the establishment, and any dealer or licensee refusing to permit the police department to have full supervision, or interfering with such activities or hindering the proper policing of such establishments, will be subject to having the license suspended or revoked in the manner provided in this chapter.

(Code 1988, § 3-22; Ord. No. 656, § 3.20, 11-23-1998)

Sec. 6-96. Coin-operated devices.

No holder of a retail license for the sale of any alcoholic beverages, except for the sale of such beverages for consumption on the premises, shall permit on the licensed premises any slot machine, mechanical music box or jukebox, pinball machine, video arcade machine, or other coin-operated or token-operated machine for amusement purposes.

(Code 1988, § 3-25; Ord. No. 656, § 3.23, 11-23-1998)

Sec. 6-97. Allowing underage persons on premises.

No person who holds a license to sell alcoholic beverages shall allow anyone under the age specified by state law to be in, frequent or loiter about the premises of the licensee, unless such minors are accompanied by a parent, legal guardian, or responsible adult.

(Code 1988, § 3-99; Ord. No. 656, § 3.31, 11-23-1998)

State law reference(s)—Similar provisions restricting access to those under legal age, O.C.G.A. § 3-3-23.

Sec. 6-98. Misrepresentation of quantity, quality or brand name of alcoholic beverages.

It shall be unlawful for licensees under this chapter or their agents to add to the contents of a bottle or to refill empty bottles or in any manner misrepresent the quantity, quality or brand name of any alcoholic beverage.

(Code 1988, § 3-95; Ord. No. 656, § 3.27, 11-23-1998)

Sec. 6-99. Display of name of licensee and identification of business.

Each licensee for the sale of liquor by the package at retail shall have printed on the front window of the licensed premises the name of the licensee in uniform letters not less than four inches and not more than eight inches in height, and the words "Liquor," "Liquor Store" or "Package Store." Such signs shall not be illuminated.

(Code 1988, § 3-96; Ord. No. 656, § 3.28, 11-23-1998)

State law reference(s)—Signs, O.C.G.A. § 3-4-3.

Sec. 6-100. Display of prices.

Each retail licensee under this chapter shall have conspicuously displayed within the interior of the licensed premises not less than four copies of a printed price list of the alcoholic beverages offered for sale; provided, however, that a licensee, in lieu of having four copies of a printed list, may have the price placed on the bottle or on the shelf where alcoholic beverages are exhibited for sale.

(Code 1988, § 3-97; Ord. No. 656, § 3.29, 11-23-1998)

Sec. 6-101. Exterior advertisements.

Exterior advertisements for licensees under this chapter shall be restricted according to state law regarding distilled spirits and according to the zoning ordinances and exterior sign ordinances of the city.

(Code 1988, §§ 3-98, 3-142; Ord. No. 656, § 3.30, 11-23-1998)

State law reference(s)—Exterior advertising, O.C.G.A. § 3-4-3.

Sec. 6-102. Wholesale transactions and dealers.

- (a) All wholesale dealers or distributors shall be licensed by the state revenue department and shall comply with all laws and regulations of the state revenue department before they sell or deliver any alcoholic beverages in the city. Deliveries and sales shall be made only to retailers licensed under the provisions of this chapter and all deliveries shall be made in conveyances owned and operated by such wholesale dealers or distributors.
- (b) Retail dealers in alcoholic beverages licensed under the provisions of this chapter shall not buy or accept deliveries of alcoholic beverages from wholesalers, dealers or distributors except those who are licensed by the state revenue department.
- (c) All licensed retailers shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All alcoholic beverage stock shall be available at all times for inspection by the mayor and council or such body's duly authorized representatives. Any alcoholic beverage found in any retailer's stock that is sold or distributed by a wholesaler who is not licensed in accordance with the laws of the state to make sales and deliveries in the city shall be subject to immediate confiscation.
- (d) Upon each delivery by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of alcoholic beverages delivered, together with the price thereof and the excise tax due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery. The wholesaler shall retain the second copy of such invoice and shall keep it for a period of 12 months after the date of delivery. During such 12-month period, such invoices shall be made available for inspection by the mayor and council, or duly authorized representatives of the

mayor and council. Upon request of the city, a copy of such invoice shall be attached to any reports requested or required by the city.

- (e) Each retail licensee doing business in the city shall keep and maintain the original invoice of each sale to such licensee or purchase by such licensee from a wholesaler of any alcoholic beverages for at least 12 months after the date of such purchase and shall maintain records to show the sales of alcoholic beverages and any other records required by the city. The city, or its duly authorized representative, shall have the right to inspect the records of each licensee and make a complete audit of the records of each licensee at any time. Failure of a licensee to properly maintain records showing receipt of alcoholic beverages, payment therefor, and payment of the taxes due thereon to the appropriate wholesaler, and records which clearly show the sales, the amount of sales, and the types of sales of each licensee, may, at the discretion of the mayor and council, after a hearing as provided by this chapter, result in the revocation or suspension of such license.
- (f) In conjunction with any application for license, or in conjunction with any license which has been issued under the terms of this chapter, or in conjunction with the revocation, suspension or cancellation of any license, or in conjunction with any of the hearings contemplated by this chapter, or in conjunction with the payment or nonpayment of any excise tax levied or to be collected under this chapter, the mayor and council shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any licensee for the purpose of auditing the records of such licensee, securing compliance of such licensee with the provisions of this chapter, or proving or disproving violation of any part of this chapter by any licensee, or to show payment or nonpayment of any taxes, fees, charges, or the like due under this chapter.

(Ord. No. 656, § 8, 11-23-1998)

Sec. 6-103. "Sidewalk café" defined.

Sidewalk café means an area of food or beverage service located outside, but connected with, a part of, and adjacent to, an indoor restaurant or café located in the Historic District as defined by article II of chapter 60 of this Code of Ordinances.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-104. Conditions for sidewalk cafés.

- (a) Sidewalk cafés shall be so located and maintained that the following portion of the contiguous sidewalk shall remain unused and unobstructed.
 - (1) On all streets within the downtown historic district, where streetscape has been completed, at least an eight-foot wide portion of the sidewalk measured from the face of the curb of the street perpendicularly toward the property line of the adjacent indoor restaurant.
 - (2) A minimum of four feet shall be provided at all times between the sidewalk café area and the curb or nearest obstacle on all streets to allow for continuous unobstructed pedestrian traffic on the sidewalk.
 - (3) Permanent plantings, city owned waste receptacles, streetlight poles, and other permanent fixtures along the sidewalk must be considered when determining the boundaries set forth in a license/permit.
- (b) Any special construction proposed to encroach upon or occupy any of the public right-of-way shall be permitted only by prior approval of such plans by the city building inspector and a certificate of appropriateness from the historic preservation commission.
- (c) The sidewalk café operator shall at all times ensure that:
 - (1) No encroachment on public rights-of-way, other than as stated in this section, shall be allowed to exist.

-
- (2) All general provisions and clean community regulations of the refuse collection and disposal provisions are complied with.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-105. Regulations.

Except as otherwise provided, a sidewalk café shall comply with the following:

- (1) *Limitations on area.* The area in which a sidewalk café is operated shall abut the outside front wall of the restaurant of which it is an extension and shall not extend in either direction beyond the outside front wall of the restaurant.
- (2) *Divider required.* At restaurants where alcohol is served, the area permitted for a sidewalk café shall be separated from the remaining sidewalk area by a system of connected posts and railing that serves to contain crowds and maintain the boundaries of the café. The system shall be designed and constructed such that it resists movement and can be disassembled and removed, if necessary. The design must be included in the application and must be approved prior to issuance of a permit. Such divider shall not be less than three feet (36 inches) nor more than three feet six inches (42 inches) in height. All tables and chairs shall be located totally within the limits of the divider. It shall be the responsibility of the permit holder to maintain the divider in its exact approved location at all times.
- (3) *Sanitation.* It shall be the responsibility and duty of the sidewalk café operator to maintain the area in a clean, neat, and orderly manner at all times. It shall also be the responsibility of the sidewalk café operator to properly clean the area as specified by the city public works department. All tables and chairs are to be kept clean, sanitary, safe, and in structurally sound condition at all times.
- (4) *Removal of furnishings and suspension of operation.* All tables, chairs, and dividers of a sidewalk café shall be removed from the public sidewalk area from time to time and outside operations suspended as required by the city for sidewalk upkeep or for such other purposes as the city may determine, in its sole discretion for such purposes as, but not limited to:
 - a. Any permitted special event;
 - b. Any street, sidewalk or utility construction;
 - c. Any emergency situations; or
 - d. The protection of the health, safety and welfare of the public.
- (5) *Furnishings.* Furnishings shall not be secured to lamp posts, streetlights, trees or any other public street fixtures. Furnishings may not be stacked or stored outside on the public right-of-way at any time.
 - a. *Fences/barriers.* A physical barrier in compliance with this article shall serve to maintain the boundaries of the sidewalk café. Flower boxes or planters may be used to define the corner boundaries of the area.
 - b. *Menu boards and signs.* Menu boards, both portable and on walls, shall be subject to sign permit approval and shall comply with Historic Preservation Guidelines.
 - c. *Umbrellas.* Each table may be equipped with an umbrella that, when open, shall extend to at least the same diameter as the table it serves and shall be anchored with a weighted case. Any umbrella protruding into public space shall be positioned at a minimum height of seven feet. Each umbrella shall be maintained in good, clean, and operable condition.
 - d. *Tables and chairs.* Materials—Tables and chairs shall match and be made of safe, sturdy and durable material, such as wood, steel, or wrought iron. All furniture shall be commercial grade

and manufactured for outdoor commercial use. Vinyl tablecloths are not recommended. Small round or square tables shall seat no more than four people. Use of larger tables may be granted provided that all clearance requirements are met. Round tables shall be no larger than three feet diameter. Square tables shall be no larger than three feet wide and rectangular tables no more than three by four feet.

- (6) *Landscaping.* Flower boxes or planters may be used to define the corner boundaries of the seating area. The combined height of the planters and live plants shall not exceed four feet from sidewalk grade and no wider than two feet at the base. The planting areas shall be planted with seasonal blooming or ornamental evergreen live plants year round. The permit holder shall maintain flower boxes and planting areas. The flower boxes, planters and trash receptacles shall be portable and made of safe, durable and attractive materials such as wood, steel or colored concrete.
- (7) *Hours of operation.* A sidewalk café may be open for breakfast, lunch and/or dinner and any combination thereof, consistent with the business's normal hours of operation.
- (8) *Guidelines.* The city shall adopt standards and guidelines for consideration without amendment to this article.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-106. Liability and insurance.

Sidewalk café operators shall indemnify and hold harmless the city and its officials and employees from claims and liability arising out of the use of a sidewalk café. The sidewalk café operator shall obtain insurance covering the use of a sidewalk café and name the city as an additional insured with respect to such insurance. The city shall prepare guidelines with respect to any indemnification and insurance requirements of sidewalk café operators.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-107. Americans with Disabilities Act.

All sidewalk cafés shall fully comply with all requirements of the Americans with Disabilities Act as currently existing or as may be hereafter amended.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-108. Sidewalk cafés, open area and patio sales.

The consumption and/or sale of alcoholic beverages shall be allowed in sidewalk cafés that are in compliance with this chapter of the Code of Ordinances without creating a "public place" violation as outlined in section 6-8 under the following provisions:

- (1) All consumption and/or sale of alcoholic beverages shall occur in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person(s) except through a controlled access point;
- (2) The licensee must be in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its sidewalk café, open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress; and

-
- (3) In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic beverages to be carried from said premises to the designated area or vice versa by anyone but the licensee or employees of licensee.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-109. Catering license for off-premises pouring/sale of malt beverages and wine.

- (a) *Off-premises license issued by City of Calhoun.* Any person that holds a valid license issued by the City of Calhoun to sell alcoholic beverages for consumption on the premises may be issued an off-premises catering license that permits said person to sell and/or distribute alcoholic beverages by the drink off-premises at an authorized catered function. Any person seeking an off-premises catering license shall make application therefore, which shall be processed and decided according to the same guidelines set forth for other licenses under this chapter, including payment of the application fee and annual license fee. Upon issuance of an off-premises catering license, an event permit as set forth in this section shall be required for each authorized catered function.
- (b) *Off-premises license issued by other jurisdictions.* If a person is licensed by another municipality or county government to sell alcoholic beverages by the drink for consumption on the premises, then that person may apply to the City of Calhoun for an off-premises catering license, pursuant to the requirements of this article, allowing such person to sell and/or distribute alcoholic beverages by the drink at an authorized catered function, provided that such person obtains an event permit for each function as set forth in this section.
- (c) *Catering event permit application.* Any person authorized under paragraphs (a) or (b) of this section to sell and/or distribute alcoholic beverages at an authorized catered function shall apply for and obtain a catering event permit issued by the city clerk prior to serving alcohol at such function. Applications shall be submitted not less than 30 calendar days prior to the event and shall include:
- (1) The name of the individual licenses for sale by the drink for consumption on the premises, and the name and phone number of the employed representative for same who will be at the event;
 - (2) A plan of the event, which includes: (i) the date, location and hours of the event; (ii) the number of persons expected to be in attendance; (iii) the location of guest parking; and (iv) whether security, valet parking, or additional restroom facilities will be provided.
 - (3) The name and telephone number of the host or sponsor of the event, including the name and telephone number of the representative of the host or sponsor who will be at the event.
 - (4) Whether food is being provided by the applicant, and if not, the name and telephone number of the person providing food at the event;
 - (5) Any alcoholic beverage caterer not otherwise licensed by the City of Calhoun shall also be required to submit: (1) the name of the local jurisdiction issuing the off-premises catering license to the applicant; (2) a photocopy of the applicant's off-premises catering license; and (3) payment of a non-refundable \$50.00 event permit fee; and
- (d) *Event permit application review.* Within ten business days after receipt of an application for an event permit, the city clerk, in consultation with the fire, road, health and police departments, shall either approve or deny the event permit and communicate the same in writing to applicant. An event permit may be denied for any of the following reasons or combination of reasons:
- (1) The applicant, and/or event host or sponsor does not meet the requirements for an event permit or has on prior occasion(s) violated or failed to comply with this article or with any state rules or laws regarding alcoholic beverages;

-
- (2) The event location is a site where a violation of this article or the state laws or rules regarding alcohol has previously occurred;
 - (3) The plan of the event as proposed is likely to restrict and/or congest traffic on any of the public roads, rights-of-way, or sidewalks in the immediate vicinity of the event, or is likely to present a danger to the health and safety of guests at the event or members of the public;
 - (4) The plan of the event as proposed is likely to cause a disturbance of the peace at the time of the event, or is likely to intrude upon the privacy or property of citizens in the area of the event; and
 - (5) The plan of the event as proposed is inconsistent with the uses of or is prohibited at the event location.
- (e) *Catering event requirements.* All authorized catered functions permitted under this section receiving an event permit hereunder shall be subject to the following requirements and conditions:
- (1) A caterer may sell and/or distribute only malt beverages and/or wine as defined by section 6-1 of this Code;
 - (2) Malt beverages and wine may only be served at the location and on the date(s) specified in the catering event permit. Event permits shall be valid for a period not to exceed three consecutive calendar days;
 - (3) Food, the total cost of which must exceed the total cost of the malt beverages and wine served, must be served at the event;
 - (4) Copies of the event permits shall be posted and/or maintained at the front door or entrance of the event location at all times during the event. Caterers must also carry a copy of the caterer's off-premises catering license, copy of the City of Calhoun catering event permit, and any necessary state documents and permits in the vehicle transporting the alcoholic beverages to the event;
 - (5) Malt beverages and wine may only be served between the hours of 9:00 a.m. and 12:00 a.m. (midnight), except for events held on sites zoned for residential uses where only four events may be held per calendar year and malt beverage and wine may only be served between the hours of 12:00 p.m. (noon) and 10:00 p.m.
 - (6) No catering event permit will be issued for an event on Sunday allowing for the sale of any alcoholic beverages.
 - (7) The service of malt beverages and wine is subject to compliance with state laws and regulations regarding service of alcoholic beverages at such an event, including the receipt of any necessary state permits and filing of reports with the state revenue commissioner; and
 - (8) Caterers licensed by City of Calhoun shall pay excise taxes on the sale of alcoholic beverages, as calculated under this article and provide a report to the City of Calhoun on or before the time when other excise taxes are due for such licensees, while such caterers not licensed by the City of Calhoun shall pay excise taxes on the total quantity of alcoholic beverages brought into the municipality, as calculated under this article, and provide a report to the city within 15 days of the conclusion of the event. In addition, to the information required to determine the amount of tax due, the report shall state the quantity and type of alcoholic beverages transported from the licensee's primary premises to the location of the event.
- (f) *Violations.*
- (1) It shall be unlawful for any person licensed to sell alcoholic beverages to sell or distribute malt beverages and/or wine off the premises of such person's business without an off-premises catering license and catering event permit as set forth in this section.

-
- (2) It shall be unlawful for any person holding an off-premises catering license and/or event permit to sell or distribute malt beverages and/or wine in a manner inconsistent with such license, permit, or the requirements or conditions for authorized catered functions set forth in this section.
 - (3) It shall be unlawful for any person to serve, distribute, or sell malt beverages and/or wine in violation of this section or any other provision of this article regarding alcoholic beverages.
 - (4) Nothing contained in this section is intended to prohibit anyone from hosting a private function on private property where the host or individual actually renting the private property/facility provides alcohol to guests free of charge or permits the otherwise legal consumption of alcoholic beverages.
- (g) *Appeals.* Any applicant who is denied an event permit by the city clerk shall have the right to appeal that decision to the mayor and council. Such appeal shall be in writing and shall be filed within five business days of the denial of said event permit.

(Ord. No. 933, § 11, 7-28-2014)

Sec. 6-110. License for the sale and consumption of malt beverage and wine on the premises of small multi-purpose theater.

- (a) *Small multi-purpose theater defined.* A small multi-purpose theater is a facility located within the historic district as defined by article II of chapter 60 of this Code of Ordinances with a seating capacity between 200 and 749 persons which meets all of the following elements:
- (1) Offers live entertainment, plays, musicals, dinner theater or leases space for birthday parties, wedding receptions or similar events;
 - (2) Offers malt beverages and/or wine only when such beverages have been purchased by the licensee permanently located at such premises; except that a bona fide non-profit charitable organization may lease such premises and obtain a special event alcoholic beverage permit from the State of Georgia that allows such charity to receive alcohol donated by a licensed wholesaler;
 - (3) Provides no adult entertainment pursuant to article II of chapter 10 of this Code of Ordinances;
 - (4) Maintains a stage permanently constructed within the facility that is not less than 36 inches off of the floor to be occupied by patrons or seating, and is not less than 200 square feet in total surface and operates a dedicated office for admission ticket sales which is manned by a live employee for not less than 15 hours per week;
 - (5) Owners, applicant, managers and employees shall be responsible for keeping a clean, orderly place, and no patrons shall be allowed to stand, sit, mingle or assemble outside the building in parking lots or automobiles while drinking alcoholic beverages or causing a disturbance of any kind;
 - (6) Any individual leasing or renting the theater and wishing to impose any fees for cover charges, fees for admission/entrance, fees for contests/tournaments or live entertainment shall hold a valid business license and pay all applicable fees and taxes due on all revenues earned; except that a bona fide non-profit charitable organization shall be exempt from the requirements of this subsection; and
 - (7) At no time shall the proceeds from the sale of malt beverages and wine by the small multi-purpose theater exceed 50 percent of the gross annual proceeds from all sources of revenue.
- (b) *Temporary event license for sale and consumption of malt beverages and wine on the premises.* A small multi-purpose theater shall pay a fee and apply to the city clerk for temporary event license to allow for the sale for consumption on the premises of malt beverages and wine during scheduled events no later than 30 calendar days prior to same. Said temporary event license shall not exceed a duration of 72 consecutive hours. All small multi-purpose theaters shall be limited to no more than 12 temporary event licenses without

leave of the mayor and city council. Additional requests for a temporary event license exceeding 12 per year shall be permissible with the approval of the mayor and council at a regularly scheduled meeting.

- (c) *Hours for sale and limits to sales for consumption on the premises.* The application for a temporary event license shall include the date of the scheduled event and the expected duration of the performance. The sale for consumption on the premises shall be limited to one hour prior to the beginning of any performance, and no sales shall occur within 30 minutes of the conclusion of the performance. Additionally, all sales shall be limited to times otherwise permitted to alcohol beverage license holders by section 6-92 of this chapter. All sales shall be limited to two drinks per individual presenting legally sufficient identification per purchase.
- (d) All small multi-purpose theaters shall be subject to the other provisions of this chapter as well as the requirements of state law.
- (e) *Appeals.* Any applicant who is denied a temporary event license by the city clerk shall have the right to appeal that decision to the mayor and council. Such appeal shall be in writing and shall be filed within five business days of the denial of said license.

Secs. 6-111—6-120. Reserved.

DIVISION 2. EMPLOYEES

Sec. 6-121. Minimum age.

- (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 alcoholic beverages. Permitting violations of this section by the licensee, or repeated violations, shall constitute grounds for suspension, revocation or refusal to renew the license or other action with regard to such license.
- (b) This section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries, or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

(Code 1988, § 3-6; Ord. No. 656, § 3.4, 11-23-1998; Ord. No. 824, § 7, 8-22-2005)

State law reference(s)—Minimum age of employees, O.C.G.A. § 3-3-24.

Sec. 6-122. Employee identification cards.

- (a) Any person, including the licensee, who works in a business and sells, pours, or serves alcoholic beverages by the drink (pouring outlet) shall apply to the police department for a distilled spirits/and or malt beverage and wine employee identification card which card shall expire annually on the employee's birthday. The fees shall be as follows:
 - (1) For the initial card: \$25.00.
 - (2) For a replacement card: \$10.00.
 - (3) For a renewal of such card: \$10.00.

Fees shall be paid to the city police department.

- (b) While on duty in a pouring outlet, every person required to hold an employee identification card under subsection (a) of this section shall visibly wear his employee identification card on his person at all times.

-
- (c) All persons subject to the provisions of this section shall, within three days after the date of their first work in an establishment holding a license to sell as a pouring outlet, report to the city police department for the purposes of being fingerprinted and furnishing information for investigation as may be required by the police department.
 - (d) The police department shall investigate the employee applicants. A distilled spirits and beer/wine pouring employee identification card shall not be issued to any person who has pled guilty to or has been convicted of a felony within the last five years. The police department shall report any other detrimental information about an application to the city council, and may prohibit the issuance of a distilled spirits and beer/wine pouring identification card where the applicant's record indicates such employment would adversely affect the public health, safety or welfare, or violate the law. If there is a record of a violation of this chapter, the chief of police shall likewise notify the employer that such person is not eligible for continued employment.
 - (e) No licensee under the provisions of this article shall hire any person, or allow any person to work or assist in a pouring outlet until such person has procured a distilled spirits and/or malt beverage and wine employee identification card.
 - (f) The police department may, after reasonable notice and hearing (unless waived), revoke an identification card and demand its surrender where the employee violates the provisions of this article, or becomes one who adversely affects the public health, safety and welfare.
 - (g) It shall be the duty of all persons holding any license to sell alcoholic beverages in a pouring outlet to file with the chief of police the name of all employees, with their home addresses and home telephone numbers and places of employment. Changes in the list of employees with the names of the new employees must be filed with the chief of police within three days from the date of any such change.
 - (h) Any person violating section (b) of this section will pay a fine of \$30.00 for the first offense; \$75.00 for a second offense; \$150.00 for a third offense and the loss of the identification card for a period of not more than one year. Any manager on duty at the pouring outlet may also be fined in the same amounts for allowing an employee to violate this section.

(Code 1988, §§ 3-91, 3-147; Ord. No. 656, § 5.17, 11-23-1998; Ord. No. 862, § 1, 7-9-2007)

State law reference(s)—Fingerprinting, O.C.G.A. § 3-3-2.

Sec. 6-123. Employment of persons convicted of certain crimes.

No licensee shall employ in any premises for the sale of alcoholic beverages any person, in any capacity whatsoever, who has been convicted in this state or in any other state, or in the United States, or in any other country, within ten years immediately prior to the application for employment, of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or other charges relating to the manufacture or sale of intoxicating liquors, or any crime involving moral turpitude.

(Code 1988, § 3-92; Ord. No. 656, § 5.18, 11-23-1998)

Secs. 6-124—6-140. Reserved.

DIVISION 3. CONSUMPTION AND DELIVERY OF ALCOHOLIC BEVERAGES

Sec. 6-141. Consumption by licensee or employees.

It shall be unlawful for the licensee or any employee of a licensee for the sale of alcoholic beverages to drink any alcoholic beverages while at such licensed location or to be present at such location in an intoxicated condition. Permitting violations of this section by the licensee, or repeated violations, shall constitute grounds for suspension, revocation and refusal to renew the license or other action with regard to the license.

(Code 1988, § 3-7; Ord. No. 656, § 3.5, 11-23-1998)

Sec. 6-142. Consumption on premises of package stores.

Except as provided in this chapter for premises licensed to sell a type of alcoholic beverage for consumption on the premises, it shall be unlawful for anyone to open or consume any alcoholic beverage upon any premises for which a license to sell any retail package alcoholic beverage is issued.

(Code 1988, § 3-20; Ord. No. 656, § 3.17, 11-23-1998)

Sec. 6-143. Removal of alcoholic beverages in open containers from licensed premises.

- (a) No person licensed to sell alcoholic beverages by package sale or for consumption on the premises, or any employee or agent of such licensee, shall permit any person to remove from such premises any alcoholic beverage in any open container.
- (b) All premises licensed for the sale of alcoholic beverage by package sales or consumption on the premises shall post a notice at each exit stating "NO BEER, LIQUOR OR WINE MAY BE CARRIED IN AN OPEN CONTAINER OUT OF THIS BUILDING."

(Code 1988, § 3-20.1; Ord. No. 656, § 3.18, 11-23-1998)

State law reference(s)—Removal of alcoholic beverage, O.C.G.A. § 3-3-44.

Sec. 6-144. Drive-in window or curb service.

- (a) It shall be unlawful to sell or dispense distilled spirits from drive-in or service windows.
- (b) Curb service or other sale of distilled spirits outside the building licensed to sell is hereby expressly prohibited.

(Code 1988, § 3-100; Ord. No. 656, § 3.32, 11-23-1998)

Sec. 6-145. Delivery of distilled spirits off of licensed premises.

It shall be unlawful for any licensee under this chapter to make deliveries of any distilled spirits by the package beyond the boundaries of the premises covered by the license.

(Code 1988, §§ 3-93, 3-141; Ord. No. 656, § 5.19, 11-23-1998)

Sec. 6-146. Issuance of temporary permits for sale by nonprofit civic organizations of alcoholic beverages for consumption on the premises or off-premises.

- (a) No permit shall be issued by the City of Calhoun to a bona fide nonprofit civic organization to sell alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both. All such permits must be obtained from the Georgia Commissioner of Revenue as stated in the O.C.G.A. § 3-9-3.
- (b) The term "bona fide" nonprofit civic organization" means an entity which is exempt from federal income tax pursuant to the provisions of subsections c, d, or e of 26 U.S.C. Section 501.

(Ord. No. 908, § 1(D.), 3-12-2012)

Secs. 6-147—6-170. Reserved.

ARTICLE IV. EXCISE TAX²

²Cross reference(s)—Taxation, ch. 86Cross reference(s)—.

Sec. 6-171. Tax levied.

- (a) In addition to all other taxes or license fees heretofore or hereafter imposed upon all alcoholic beverage licensees engaged in the city in the business of selling alcoholic beverages, there is hereby imposed and levied upon all such dealers and licensees within the city an excise tax, to be computed and collected as set forth in this article.
- (b) The excise tax levied under this section shall be the maximum amount permitted by state law, such amount presently being the amount prescribed by the mayor and council based upon volume as the tax pertains to malt beverages, wine, and distilled spirits and by the drink as the tax pertains to distilled spirits. A schedule of such excise tax is maintained on file with the city administrator.

(Code 1988, §§ 3-32, 3-56, 3-152; Ord. No. 656, § 7, 11-23-1998)

State law reference(s)—Local tax authorized, O.C.G.A. §§ 3-4-60, 3-4-80, 3-4-90, 3-4-130, 3-5-40, 3-5-80, 3-6-40, 3-6-60.

Sec. 6-172. Collection by wholesale dealers.

- (a) *Duties of wholesale dealers; collection and remittance to city.* The excise tax imposed by this article shall be computed and payable monthly. Each wholesale dealer selling, shipping or delivering alcoholic beverages by the package to any alcoholic beverage licensee in the city shall, as a condition of the privilege of conducting such business in the city, be subject to the following:
 - (1) Each wholesaler shall keep and maintain true and correct records of all sales, shipments or deliveries of alcoholic beverages by the package to each licensee in the city, such records to be preserved for a period of not less than one year and to be made available on request for inspection by any duly authorized representative of the city.
 - (2) Each wholesaler shall collect from each licensee in the city, at time of delivery of alcoholic beverages, the amount of tax due under the terms of this article and hold such amount in trust for the city until such tax is remitted to the city as provided in this article.
 - (3) On or before the tenth day of each calendar month, each wholesaler shall make a verified and comprehensive report to the city, which shall correctly show and reflect all sales and deliveries of alcoholic beverages to or for licensees in the city for the calendar month immediately preceding the date of the report. The report shall show the name and address of each licensee, the quantities delivered to each licensee, the amount of excise tax collected under the terms of this section, and such other reasonable information as may be requested by the city. The report shall be accompanied by remittance payable to the city for all taxes collected or due, as shown on the report.
 - (4) The excise tax levied in this section is hereby levied upon the retailer licensed to do business in the city and it is the intent of this chapter to so levy this tax, but require the payment of the tax at the time of delivery by the retailer to the wholesaler, who shall have the responsibility of remitting the tax to the city on behalf of the retailer on or before the tenth day of each calendar month, as required in this section. If the tax due under this section is not paid on or before the tenth day of each calendar month, a ten percent penalty on the gross tax will be levied by the city against each defaulting retailing licensee for whom the tax is not paid on or before the tenth day of the month.
- (b) *Noncompliance by wholesale dealer or distributor.* If any wholesale dealer or distributor fails or refuses to make the reports required in this section, the city shall notify such dealer or distributor in writing. If the reports are not made and the taxes remitted within five days from the date of such notice, such wholesale dealer or distributor shall be prohibited from making any further deliveries in the city and the retail licensees

served by such wholesale dealer or distributor for whom the taxes have not been paid shall be subject to having their license suspended or revoked as provided in this chapter.

- (c) *Unlawful retail sales.* It shall be a violation of this chapter for any person to sell at retail within the city any alcoholic beverage on which the taxes provided for in this article have not been paid.
- (d) *Unlawful deliveries.* It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor, or other person, to deliver any alcoholic beverage to any retail dealer in the city without collecting, at the time of such delivery, the excise taxes provided for in this article.
- (e) *Penalties.* Any person violating any of the provisions of this article, or who shall assist any retail dealer in alcoholic beverages in the city to evade or avoid the payment of the taxes provided for in this article, shall be guilty of a violation of this section, and on conviction thereof in the municipal court shall be fined or sentenced as provided by section 1-7. Any such person so convicted shall also be subject to having such person's license suspended or revoked, if such person shall be a licensed dealer in alcoholic beverages.

(Code 1988, § 3-101; Ord. No. 656, § 7.1, 11-23-1998)

State law reference(s)—Imposition of tax, O.C.G.A. §§ 3-4-130—3-4-132.

Sec. 6-173. Tax on sales by the drink.

- (a) Every purchaser of distilled spirits or alcoholic beverages for beverage purposes by the drink at retail in the city shall be liable for a tax thereon at the rate of three percent of the sale price or charge for such beverages. Such tax shall be paid by the purchaser to the licensee making such sales, as provided in this section. The licensee shall remit the tax to the city administrator on or before the tenth day of the succeeding month, to be delinquent if remitted thereafter, with a summary of the licensee's gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink and the amount of taxes collected by him from his purchasers, on such form as may be required by the city administrator. When received by the city administrator, it shall be a credit against the tax imposed under this article on the licensee. Every licensee making sales of such beverages shall be liable for a tax thereon at the rate of three percent of such gross sales or gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink or the amount of taxes collected by him from his purchasers, as provided in this section, whichever is greater.
- (b) Gross sales shall include all credit sales to the extent permitted by the laws of the state, and shall be reported and the taxes collected thereon remitted to the city administrator to the same extent as required of cash sales. The fact that the licensee may receive payment from such credit sales in a later reporting period shall not relieve or excuse the licensee's responsibility for collecting and remitting the tax as provided under this section.
- (c) The tax so levied is, and shall be, in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.
- (d) The taxes imposed in this section are upon the purchaser and shall be collected by the licensee from the purchaser. Therefore, the licensee shall collect the tax imposed under this section from the purchaser and shall pay the tax over to the city as provided in this section.
- (e) The licensee shall, as far as practicable, add the amount of the tax imposed under this section to the sale price or charge, which shall be a debt from the purchaser to the licensee until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail, or refuse to collect the tax provided for in this section upon any, every and all retail sales made by him or his agents or employees of alcoholic beverages which are subject to the tax imposed under this section shall be liable for and pay the tax himself.

-
- (f) A licensee shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any of the tax.
 - (g) If any licensee liable for any tax levied under this section shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment with 15 days after the date of selling or quitting the business.
 - (h) In reporting and paying the amount of tax due under this section, each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A. Art. 1, Ch. 8, T. 48 (O.C.G.A. § 48-8-1 et seq.), provided that the tax due is not delinquent at time of payment.
 - (i) The tax imposed under this section shall, for each month, become delinquent on the 15th day of each succeeding month. The city administrator is empowered and it shall be his duty, when any tax becomes delinquent under this section, to pursue any remedy or right allowed by law for the enforcement of the collection and payment of taxes lawfully levied by the city as may be allowed under the laws of the state and the ordinances of the city.
 - (j) Any default or delinquency of the tax levied under this section shall constitute cause for suspension or revocation of alcoholic beverage licenses.
 - (k) When the governing authority determines that a licensee has been chronically delinquent or chronically in default under this section, the governing authority, when acting upon the application of such licensee for renewal of his license may, in the exercise of its discretion, deny such application upon the grounds of such chronic delinquency.
 - (l) Any licensee who fails to pay the tax imposed in this section to the city, or fails to pay any amount of such tax required to be collected and paid to the city within the time required, shall pay a penalty of ten percent of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof at a rate of one percent per month from the 15th day of the month following the monthly period for which the amount or any portion thereof should have been returned, until date of payment.

(Ord. No. 656, § 7.2, 11-23-1998)

State law reference(s)—Local taxation of distilled spirits by the drink, O.C.G.A. § 3-4-130 et seq.

Secs. 6-174—6-189. Reserved.

***ARTICLE V. TEMPORARY AUTHORIZATION FOR VENDORS AND PERMITTING
SALE, POURING AND PUBLIC CONSUMPTION OF MALT BEVERAGES AND WINE
AT SPECIAL EVENTS***

Sec. 6-190. Purpose, applicability, definitions.

- (a) The purpose of this article is to establish regulations and controls for the sale, distribution and/or public consumption of malt beverages and wine at the special events that are separately organized, approved and permitted pursuant to chapter 90, Traffic, article V.
- (b) This article shall apply exclusively to the sale, distribution and public consumption at such special events and at no times shall the sale, distribution or consumption of distilled spirits in public be permitted in violation of section 6-8 of this chapter and section 66-102 of chapter 66, article IV. These provisions shall be suspended with regard to malt beverages and wine during special events when authorized by the city, and limited only in those areas designated by the mayor and council.

(Supp. No. 8)

Created: 2021-04-14 13:14:26 [EST]

(Ord. No. 935, § 3, 8-25-2014)

Sec. 6-191. Permits required.

It shall be unlawful for any event organizer, group, organization, association, club or other entity conducting a special event in accordance with the provisions of chapter 90 of this Code to allow the sale, distribution or public consumption of malt beverages or wine without a separate permit to allow vendors of malt beverages and wine as provided in this chapter.

(Ord. No. 935, § 3, 8-25-2014)

Sec. 6-192. Sale of malt beverage and/or wine for consumption in public during special event in designated areas; requirement of event organizer to apply for temporary permit in addition to event permit; permitted sale by vendors designated by event organizer.

Areas where malt beverages and/or wine may be sold and consumed in open public shall be permitted only within the delineated boundaries of the chapter 90 special event with food service included and subject to the following conditions:

- (1) *Requirement of block closing.* The sale and/or public consumption of malt beverages and/or wine shall not be permitted at any special event which, due to the size of such event, does not require the closing of at least one city face block;
- (2) *Application by event organizer to allow vendors to sell and pour at special event.* Whenever any special event shall include the sale and/or public consumption of malt beverages and/or wine, the event organizer of such event, shall submit a special application not less than 45 days prior to the date of the event that shall be subject to the review provisions of section 90-193 of chapter 90, article V;
- (3) *Seats and food service details in application.* The application shall include the number of seats proposed for such area(s). The application also shall contain a description of the method and structures that will be used to secure and separate such area(s) from other public areas as required in subsection (6) and details for the mandatory provision of food service in said area;
- (4) *Fee for event organizer.* The fee for a permit by the event organizer to authorize vendors to dispense and/or consume malt beverage and/or wine at a special event shall be determined by the city, and shall be paid in addition to and remitted at the same time to the city clerk as any other fees required, including but not limited to all local licensing fees;
- (5) *Designated areas within city were authorized.* The sale, pouring and public consumption of any malt beverage or wine in public during a special event shall be limited exclusively to five specific locations located within the downtown development area as designated by the mayor and council, and these areas are:
 - a. BB&T Park;
 - b. The depot parking lot;
 - c. The municipal parking lot located between Park Avenue and the railroad tracks;
 - d. The municipal "green space" located on South Wall Street across from city hall; and
 - e. Controlled festival zone of Court Street from Wall Street to King Street and Park Avenue from Oothcalooga Street to Harlen Street.

(Supp. No. 8)

Created: 2021-04-14 13:14:26 [EST]

The actual area within any of these five prescribed locations to be employed by the event organizer's request shall be specifically designated by the applicant, including any required street closings, and shall be subject to final approval by the governing authority for each individual application. The applicant must provide either a written description or a marked areal image of the requested geographical area to be employed for the sale and consumption of any and all malt beverages and wine for the particular event.

- (6) *Requirement to limit access to vendors and consumption area.* Any location within one of the five areas designated by subsection (5) where malt beverages and/or wine is permitted by the city, with the required food service, shall be designated on all sides by means of the prominent signage required by subsection (9) of this section and fencing or other suitable barrier that shall serve to limit access placed around the perimeter of the event area to a single location for entry and exit. At said single point of entrance and exit the appropriate signage required by subsection (9) of this section must be present and clearly visible in addition to that signage required for the fencing or other suitable barrier.
- (7) *Vendors must first be otherwise permitted for sale or pouring.* The sale of malt beverage and/or wine in these areas during a special event shall be restricted to a vendor having a valid business license and valid alcoholic beverage license to sell retail, or pour malt beverages and/or wine by the drink. The name of such vendor licensee(s) and the vendor's current license number, as such appear on the license, shall be required as a part of the application for a special event permit;
- (8) *Additional security for only designated areas with sale and consumption of alcoholic beverages.* The event organizer of the special event shall provide, at his/her own expense, at least one off duty, uniformed City of Calhoun police department officer, approved by the chief of police, or his designee, at the vendor area approved for the consumption of malt beverages and/or wine, and this shall be in excess of those needed for the special event in general;
- (9) *Required signage in designated vendor areas.* Every area where malt beverages and/or wine is consumed shall be conspicuously posted at the single point of entrance/exit with signage stating the following: "The possession of alcoholic beverages beyond this point is prohibited. Removal of any malt beverage or wine by any attendee from this area shall be subject to law enforcement action and possible criminal penalties." The letters of such signs shall not be less than three inches in height and one-half inch in width and shall be in black letters on a contrasting light background;
- (10) *Alcoholic beverages to be purchased and consumed only in designated areas.* It shall be unlawful for patrons of any special event to bring into or take outside the designated area(s) any alcoholic beverage, or to furnish any alcoholic beverage to any person outside the designated area where malt beverage and/or wine is permitted;
- (11) *Additional application and permit required for every vendor approved or designated by event organizer.* Any vendor allowed by the event organizer to sell malt beverages and/or wine for public consumption during a special event shall be required to present their valid alcoholic beverage sales license issued by the city or another governmental entity, as well as the State of Georgia and apply for a single use special event permit from the city; and
- (12) *Applicability of other provisions generally applicable to sale and pouring of malt beverages or wine.* Notwithstanding the provisions of this section, any person selling or pouring malt beverage and/or wine in accordance with this section shall be required to comply with all other applicable laws and ordinances pertaining to the sale, possession and consumption of alcoholic beverages.
- (13) *Identification and verification of age for consumption of malt beverages or wine in designated areas; visible continuing identification of verified attendees by wristband.* All permitted vendors and/or event operators shall establish a centralized location for the official verification of identity and age for the consumption of any attendee in the designated areas. Once identity and age have been verified by the appropriate documentation, attendees shall be required to be visibly identifiable by the wearing of

required wristbands demonstrating that they are authorized to purchase or possess malt beverages or wine within the designated areas. A fee as set by the mayor and city council may be charged for such wristband. The transfer of wristband from one attendee to another attendee is strictly prohibited and if a violation occurs, the wristband will be forfeited. It is further strictly for bidden for any attendee without the required and visible wrist band to either consume or otherwise possess a malt beverage or wine in the designated area. It shall be the sole and exclusive responsibility of the event organizer or designated vendor to regularly canvas the permitted area to ensure that only those individuals bearing the required wristband are consuming or in possession of any malt beverage or wine. Displaying such a wristband does not relieve alcoholic beverage establishments of responsibility for determining if a attendee has attained the age of 21 years before dispensing alcohol to that attendee.

(Ord. No. 935, § 3, 8-25-2014; Ord. No. 992 , § 1, 3-11-2019)

Secs. 6-193—6-199. Reserved.

ARTICLE VI. LICENSING, ESTABLISHMENT, AND OPERATION OF MICROBREWERIES AND POURING FOR ONSITE AND OFFSITE CONSUMPTION

Sec. 6-200. Purpose, applicability.

- (a) The purpose of this article is to implement regulations and controls for the establishment, licensing, and operation for a particular classification of smaller businesses in the manufacture of malted beverages in conformity with the provisions of Senate Bill 85, enacted as Act 178 and effective September 1, 2017.
- (b) The purpose of this article is also to implement regulations and controls for the establishment, licensing and operation for smaller businesses in the manufacture of malted beverages to make package sales, sale by the pour their products for consumption on the premises, and finally the sale by pouring of their product into an approved class of containers for consumption by the ultimate consumer off of their premises in conformity with the provisions of Senate Bill 85, enacted as Act 178 and effective September 1, 2017.
- (c) Notwithstanding the provisions contained in this article, any individual, sole proprietorship, limited liability company, or corporation authorized to manufacture malt beverages and the pouring of same for consumption on or off the premises by the ultimate consumer as authorized by Senate Bill 85, enacted as Act 178 and effective September 1, 2017 and locally authorized by this article shall be required to comply with all other applicable state laws and local ordinances pertaining to the sale, possession and consumption of alcoholic beverages, including all requirements of this chapter.

(Ord. No. 987 , 9-24-2018)

Sec. 6-201. Microbrewery and taproom license required separately.

- (a) It shall be unlawful for any person to establish and operate a microbrewery within the corporate limits of the city without having the appropriate license for such operation, or to carry on such activity in violation of the terms of such license or state and local regulations. A licensee under this article shall also obtain separately the required licensing for any sales by pouring to the ultimate consumer contained herein.
- (b) All microbreweries and taprooms shall be limited to locations within the Downtown Calhoun Historic Business District with the specific geographical description being established with particularity in section 60-53 of this Code.

(Supp. No. 8)

Created: 2021-04-14 13:14:26 [EST]

(Ord. No. 987 , 9-24-2018)

Sec. 6-202. General regulations.

- (a) A brewer operating a microbrewery or taproom may sell malt beverages on all days and at all times that sales of malt beverages are lawful within the municipality in accordance with section 6-92 and the other applicable provisions of this chapter and state law.
- (b) The building or proposed building to house a microbrewery and taproom licensee shall meet all requirements of the building inspector, the fire marshal, the traffic engineer, and the planning and zoning coordinator and shall comply with other ordinances of the city for zoning, storage, parking buffers and other issues.
- (c) All operations by a microbrewery shall be conducted within an enclosed building. Production space for malted beverages shall not exceed 10,000 square feet, which shall not include space employed for a taproom licensed operation.
- (d) Samples of craft beers from tap may be made available, but shall not exceed one and one-half ounces nor shall any one individual be offered more than three samples within a calendar day.
- (e) No "free tasting" of malt beverages shall be permitted.
- (f) The state regulations relating to the sale and distribution of malted beverages, as revised, and all regulations promulgated by the state revenue department or other applicable agency, are hereby incorporated into and made a part of this chapter as if fully set out in this article.
- (g) Each microbrewery and taproom 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) or points of sale or distribution of any malt beverage, including but not limited to, loading areas, points for package sales and storage, and any point of sale by pouring.
 - (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.
- (h) Each microbrewery and taproom shall post at least two copies of its complete price list, or in lieu thereof place a price on each package for sale.

(Ord. No. 987 , 9-24-2018; Ord. No. 997 , § 3, 9-23-2019)

Sec. 6-203. Microbrewery license.

- (a) *The operation of a microbrewery is authorized only for establishments licensed Class I pursuant to article I—In General, section 6-1—Definitions.*
- (b) The application process for a Class I license shall be the same as required by and set forth in all provisions of article II—License of this chapter, and as may be further modified by the provisions of this particular article.
- (c) A Class I microbrewery license may be obtained only by establishments engaged in the manufacturing and brewing of malt beverages in accordance with the provisions applicable provisions of state law. As established by O.C.G.A. § 3-5-24.1, production shall be limited to not more than 3,000 barrels of malt beverages per year produced at the licensed premises, or not more than 250 barrels per month.
- (d) A licensee obtaining a Class I microbrewery license cannot hold any other license contained within this Chapter for the sale of distilled spirits, wine, and fortified wine in any manner.

Created: 2021-04-14 13:14:26 [EST]

(Supp. No. 8)

-
- (e) It shall be unlawful for a microbrewery licensee or any employee thereof to be on duty at the licensed premises in an intoxicated condition. "Intoxication" shall be defined as when a licensee's or employee's alcohol concentration is 0.08 grams or more at any time while on duty. For purposes of this section, "on duty" shall mean being paid any salary, wage, or remuneration of any kind for services rendered during the time he or she is on the premises; on the licensed premises for the benefit of or at the direction of the licensee or its management (other than as a customer, patron, or guest); engaging in the sale, directly or indirectly, of any food or beverage; or taking a break during periods of any on-duty employment.
 - (f) A Class I microbrewery licensee or quality control employee thereof shall be permitted to taste the malted beverages being produced at the licensed premises for quality control or education purposes only. Such tastings shall not exceed four ounces in volume per hour and either ounces in volume total within a calendar day.
 - (g) No food may be purchased at an establishment in possession of Class I microbrewery license.
 - (h) A Class I microbrewery licensee shall be authorized to provide educational or promotional tours.
 - (i) The Class I licensed microbrewery may elect to provide nonalcoholic beverages at no charge to customers or tour-attendees, either directly or indirectly.
 - (j) No person who is a participant in an educational or promotional tour may bring alcoholic beverages obtained off the premises of the licensed microbrewery to said microbrewery under any circumstances unless they are a quality control employee.
 - (k) Souvenirs may be offered for sale by a Class I licensed microbrewery. However, the Class I licenses microbrewery shall disclose, in writing by posted signs, or distributed notices given to the tour participant(s), that there are no requirements to purchase any souvenir to participate in the tour.

(Ord. No. 987 , 9-24-2018)

Sec. 6-204. Participation in the three-tier system for distribution and sale of malt and package sales permitted by microbrewery.

- (a) In addition to the manufacturing or brewing of malt beverages, a Class I microbrewery licensee is permitted to engage in the retail sale of malt beverages manufactured on the licensed premises for off premises consumption in brewery-sealed containers and not to exceed more than 5.2 gallons.
- (b) A Class I microbrewery licensee is permitted to sell and deliver malted beverages produced on the licensed premises to other wholesalers, distributors, or other participants within the established "three tier" system already in place in the State of Georgia, in addition to other transactions authorized by O.C.G.A. § 3-5-24.1.

(Ord. No. 987 , 9-24-2018; Ord. No. 997 , § 4, 9-23-2019)

Sec. 6-205. Taprooms for microbrewery product sales to the ultimate consumer by pouring for on premise or off premise consumption.

- (a) A Class I microbrewery licensee operation may obtain an additional Class I-1 pursuant to article I—In General, section 6-1—Definitions. This is a specialized malt beverage pouring license for the sale of products produced by the Class I microbrewery licensee by pouring sales upon demand for consumption on the premises, or for containers approved to allow for consumption off of the premises.
- (b) A licensed Class I-1 tasting room facility shall be a dedicated space that is directly contained within, attached or contiguous to a Class I microbrewery licensee operation and the required space shall be no less than 500 square feet.

(Supp. No. 8)

Created: 2021-04-14 13:14:26 [EST]

-
- (c) A licensed Class I-1 tasting room facility shall be specially permitted to sell their own produced malt beverages by pouring from a tap connected to either a keg container or directly to the microbrewery equipment subject to the following limitations:
- (1) The total annual sales of the onsite produced malt beverages for consumption on the premises by the ultimate consumer, or for consumption off of the premises by pouring into an approved container described herein, shall not exceed 70 percent of the total annual sales of the Class I microbrewery licensee operation; and
 - (2) Any such malt beverage sales for this specially designated pouring license for consumption by a single individual either on or off the premises shall not exceed a maximum of 288 ounces of malt beverages per ultimate consumer per day.
- (d) A licensed Class I-1 tasting room facility shall be specially permitted to sell their own produced malt beverages by pouring from a tap connected to either a keg container or directly to the microbrewery equipment by pouring for consumption by the ultimate consumer on the premises as follows:
- (1) By beer tasting flights; or
 - (2) By a single container not to exceed a single pour into an open container exceeding 20 fluid ounces.
- (e) A licensed Class I-1 tasting room facility shall be specially permitted to sell their own produced malt beverages by pouring from a tap connected to either a keg container or directly to the microbrewery equipment by pouring for consumption by the ultimate consumer on the premises as follows:
- (1) Into a sanitary, pre-approved growler container that is to be sealed at the time of sale and the consumption of same shall be prohibited on the premises or in the tasting room;
 - (2) Into a crowler made available for sale separately by the microbrewery taproom and the consumption of same shall be prohibited on the premises or in the tasting room; and
 - (3) The amount sold by pouring for consumption by the ultimate consumer off the premises shall not exceed a maximum of 288 ounces of malt beverages per ultimate consumer per day, and this amount shall be further limited by any amounts of malt beverage produced by the microbrewery by the same individual on the premises in the taproom facility during a 24-hour period.
- (f) No food may be purchased at an establishment in possession of a Class I-1 tasting room license.
(Ord. No. 987 , 9-24-2018; Ord. No. 997 , § 5, 9-23-2019)

Sec. 6-206. Brew pub.

At this time the operation of a brew pub where malt beverages are produced on the same premises as the operation of an establishment including retail sale of prepared meals shall be prohibited.

(Ord. No. 987 , 9-24-2018)