

## Chapter 5 ALCOHOLIC BEVERAGES<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 5-1. 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:

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

*Alcoholic beverage caterer* means any retail dealer licensed to sell alcohol and who provides alcohol at special events or special events facilities.

*Art gallery* means a retail establishment primarily engaged in, and which derives at least 70 percent of its total annual gross sales from, the sale or display of art books, paintings, sculptures, or other works of art; but specifically excluding libraries, book stores, theaters, and establishments where the display of works of art is incidental to its primary use.

*Art studio* means a retail establishment primarily engaged in providing instruction in painting, sculpture, drawing, photography, craft work, fiber art, or other visual or graphic art techniques, and which derives at least 70 percent of its total annual gross sales from the sale of such services and art products related to such services; but specifically excluding body art studios and tattoo parlors.

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

*Brew pub* means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in section 4-188. In calculating the total annual gross food and beverage sales for any such establishment for the purpose of determining whether the establishment constitutes an eating establishment as defined herein, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to section 4-188(2)d, or to the public for consumption off the premises in accordance with section 4-188(2)a and (2)d, (3) and (4), shall not be used.

*Cigar shop* means a retail establishment that derives not less than 70 percent of its total annual gross sales from the sale of cigars and cigar-related products for consumption on or off the premises, and that does not sell, or permit the use of, (i) vape products such as electronic smoking devices, component parts or e-liquids, or (ii) hookah products such as "hookahs", glass pipes or bongs.

*Craft beer* shall be defined for purposes of this section as a malt beverage produced at a brewery whose annual production is 6,000,000 barrels of beer or less (approximately three percent of U.S. annual sales). Craft beer production is attributed to the rules of alternating proprietorships and the total beverage alcohol volume and flavor is derived from traditional or innovative brewing ingredients and their fermentation.

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

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<sup>1</sup>State law reference(s)—Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; authority to adopt rules and regulations relating to manufacture, sale and distribution of distilled spirits, O.C.G.A. § 3-4-49.

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*Eating establishment* means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

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

*Fortified wine* means any alcoholic beverage containing more than 24 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.

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

*Liter* means a metric measurement currently used by the United States.

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

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

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

*Premises* means the definite closed or partitioned-in locality, whether a room, shop, building, restaurant or club, wherein activities permitted by this chapter are conducted.

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

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter.
- (2) Has at least 75 regular dues-paying members; and
- (3) Owns, hires or leases a building space within a building for the reasonable use of its members with:
  - a. A suitable kitchen and dining room space and equipment.
  - b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and
  - c. 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.

*Retailer or retail dealer*, except as to distilled spirits, means any person who sells alcoholic beverages, either in unbroken packages or for consumption on the premises, at retail only to consumers and not for resale. With respect to distilled spirits, the term "retailer" or "retail dealer" means any person who sells distilled spirits in unbroken packages at retail only to consumers and not for resale.

*Supermarket* means a retail market which:

- (1) Does not sell or offer for sale any of the following: distilled spirits, tobacco products, lottery tickets or related games of chance.
- (2) Maintains at all times that it is open an inventory of saleable food products including meats, dairy, vegetables, fruits, dry goods and beverages.

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- (3) Has an interior floor space and storage areas of at least 15,000 square feet, of which more than 50 percent of such interior floor area is devoted to the display for sale of food products.
  - (4) Sells prepared food.
  - (5) Has a full service kitchen consisting of at least a four-compartment pot sink, a stove or grill permanently installed, and a refrigerator; and
  - (6) Employs not less than 15 employees who work at least 35 hours per week on the premises.

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

*Wine* means any alcoholic beverage containing not more than 24 percent alcohol by volume made from fruits, berries or grapes, either by 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. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of the term "wine" contained in this section.

*Wine bar* means a type of eating establishment with a floor area not exceeding 2,000 gross square feet, which serves food and only beer, wine and non-alcoholic beverages, and where the sale of food consumed on the premises constitutes at least 40 percent of gross sales of the establishment.

State law reference(s)—Definitions, O.C.G.A. §§ 3-1-2, 3-4-1.

#### **Sec. 5-2. Sale subject to conditions; license constitutes privilege.**

- (a) Alcoholic beverages may be sold in the city under a license granted by the city council upon the terms and conditions hereafter provided.
- (b) All licenses shall be a mere grant or privilege to carry on the business during the terms of the license subject to all terms and conditions imposed by the city ordinances and state law.
- (c) All licenses hereunder shall have printed on the front these words: "LICENSE NON-TRANSFERABLE, SUBJECT TO BE REVOKED IF ABUSED."

State law reference(s)—Dealing in alcoholic beverages declared a privilege, O.C.G.A. § 3-3-1; discretion and due process; authority of city as to licensing, O.C.G.A. § 3-3-2.

#### **Sec. 5-3. Sale or possession for purpose of sale without license or beyond boundaries of premises covered by license.**

No person shall sell or possess for the purpose of sale any alcoholic beverage unless such person has a license from the city to sell or possess for sale alcoholic beverages or sell or make deliveries beyond the boundaries of the premises covered by the license, unless permitted by state law or local ordinance.

#### **Sec. 5-4. Display of license at place of business.**

The city license shall always be kept plainly exposed to view at the place of business of the licensee.

State law reference(s)—Display of license, O.C.G.A. § 3-3-3.

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#### **Sec. 5-5. Separate application and separate license for each location of sale.**

A separate application shall be made for each location and a separate license shall be obtained.

#### **Sec. 5-6. License applications.**

- (a) All persons, as owners, desiring to engage in activities permitted by this chapter, shall make written application to the council for the appropriate license on forms prescribed by the city clerk, and filed with the city clerk. All applications shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$500.00 to defray investigative and administrative costs. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded, but the \$500.00 investigative fee shall be retained.
- (b) The application shall include, but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and residence addresses of the partners; if a corporation, the names and addresses of the officers, the name and address of the agent for service of process, the name and address of the manager, and the names and addresses of all shareholders holding more than ten percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment. If the manager changes, the applicant must furnish the city clerk with the name and address of the new manager and other information as requested within ten days of such change. The applicant shall also disclose whether the applicant (its partners, if a partnership; its officers, manager, and shareholders having more than ten percent of any class of corporate stock, if a corporation) has been convicted of any felony, misdemeanor, or a violation of any municipal ordinance.
- (c) All applications shall be sworn to by the applicants before a notary public or other officer authorized to administer oaths.
- (d) The city clerk or its designee shall review the application to determine compliance with city regulations and laws and to investigate the character and reputation of the applicant. If the city clerk or her designee determines that the application appears to meet the requirements of applicable law, the city clerk shall schedule and conduct a public hearing as provided in subsection (f) of this section.
- (e) As a prerequisite to the issuance of any license, the applicant shall furnish a complete set of fingerprints to be forwarded to the state bureau of investigation and to the Federal Bureau of Investigation, as specified in O.C.G.A. § 3-3-2(c).
- (f) The city clerk shall prepare and cause to be published a notice of each pending application, which notice shall include the date the application will be considered by the council, the location or street number of the premises where the applicant proposes to conduct activities permitted by this chapter, and the name of the applicant, and if a partnership, the name of the partners, and if a corporation, the names of the president, secretary and treasurer of such corporation. The applicant shall pay the publication costs. The notice shall be published in a newspaper of general circulation within the city, and shall appear once a week for two weeks immediately preceding consideration of the application by the council. Each applicant for a license for consumption on the premises of alcoholic beverages shall, at such applicant's expense, post on the premises where the activities permitted by such license are to be conducted, continuously for a period of not less than ten days prior to consideration of the application by the council, a notice of the pending application, meeting the following minimum specifications: this notice shall be painted or printed in black letters three inches or more in height, against a white background, on a wooden or metal sign, and having a surface of not less than 12 square feet, and shall be placed with the base of the sign not more than three feet from the ground on the most conspicuous part of the premises, facing the most frequently traveled road, street or highway abutting same, and not more than ten feet therefrom. The sign shall state clearly the nature and purpose of the application, the date and hour and place of the city council hearing, and the name of the person making the application. After conducting the public hearing, the city council determines that the application meets

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the requirements of this chapter, the city clerk shall place the application on the agenda of the next available city council meeting. The license shall be issued following approval of the City Council.

- (g) The city shall have the authority to prescribe forms for new or renewal applications. All applicants shall furnish data, information and records as required by the city and shall ensure compliance with the provisions of this chapter. Failure to furnish such data shall automatically serve to dismiss the application with prejudice.
- (h) Any untrue or misleading information contained in, or material statement omitted from, an original, renewal or transfer application for a license shall be cause for the denial or revocation thereof.
- (i) In all instances in which an application is denied under the provisions of this chapter, the applicant may not re-apply for a license for at least one year from the final date of such denial.
- (j) Each applicant shall certify that the applicant has read this chapter, and if a license is granted, each licensee shall maintain a copy of this chapter on the premises and shall require each of the licensee's employees to be familiar with this chapter.

#### **Sec. 5-7. Inspection of licensed establishments by the police development.**

Sworn officers of the city police department/ Code Enforcement officer shall have the authority to inspect establishments licensed under the alcoholic beverage ordinances of the city during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other city officer to conduct inspections authorized by other provisions of law.

#### **Sec. 5-8. Audits.**

The city shall have the authority to conduct an audit of the books and records of any licensee to ensure the licensee's compliance with the provisions of this chapter. In such event, the city shall notify the licensee of the date, time and place of the audit.

#### **Sec. 5-9. Licensing qualifications.**

- (a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (b) No retailer or consumption on premises license will be granted to any person who is not a resident of a county or municipality within the state where the sale of distilled spirits is authorized.
- (c) (1) If the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers, managers and majority stockholders. Notwithstanding the foregoing, the provisions of subsections (a) and (b) of this section shall be waived for a corporation, if the following shall be established:
  - a. All majority stockholders of the corporation shall meet all the provisions of this section other than those provided in subsections (a) and (b) of this section; and
  - b. The corporation:
    - 1. Is qualified and registered to do business within the state;
    - 2. Has and continuously maintains in the county a registered agent who is a resident of the county, and upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee may be served;
    - 3. Consents to being subject to the jurisdiction and venue of the courts in this county. The licensee shall file written proof of compliance with the foregoing, as well as its agent's written consent to serve as agent and its consent to be subject to the jurisdiction and

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venue of the courts in this county with the city clerk in such form as the city clerk may prescribe; and

c. The corporation must meet one of the following criteria:

1. The corporation must have a net worth of not less than \$5,000,000.00 as determined on the basis of the corporation's most recent audited financial statement, prepared within 12 months of the date upon which the applicant applies for a license hereunder;
2. The corporation owns real property within the city in which it holds an equity value of not less than \$1,000,000.00 and the city shall be the sole determinant of such equity value; or
3. The corporation must have obtained a surety bond issued by a surety company authorized to do business in this state or have established a joint trust account with a licensed and insured bank or savings institution located in this state for the purpose of indemnifying the city from damages it may suffer as a result of a violation of this chapter or any obligation arising therefrom. The amount of the bond or trust account shall be an amount not less than \$75,000.00. Should the corporation obtain a surety bond, it shall be in favor of the city and the city may bring an action under the bond to recover damages suffered. Should the corporation choose to set up a trust account, it shall be set up jointly in the name of the corporation and the city, and shall require the authorization of both the corporation and the city before any funds may be withdrawn therefrom.

(2) If the licensee shall be a corporation, the license shall be issued jointly to the corporation and to the majority stockholders, if such stockholders are individuals; provided, however, that if stock in the corporation is traded on any of the national stock exchanges, the license shall be issued jointly to the corporation and its agent registered under the provisions of this section. Where the majority stockholder is not an individual, then the license shall be issued jointly to the corporation and its agent registered under the provisions of this section. In the case of a partnership, the license will be issued to one of the partners.

- (d) No license for the sale of alcoholic beverages shall be granted to any person who, within five years prior to the filing of the application for such license, has been convicted under any federal, state or local law, of any misdemeanor involving moral turpitude, or of any felony. For the purposes of this section, a plea of nolo contendere shall constitute a conviction.
- (e) No license for the sale of alcoholic beverages shall be granted to, or held by, any full-time employee of the city of Grantville occupying the position of either city administrator or assistant city administrator, any employee of the Grantville Police Department, the City Clerk's office, and any Elected Official of the City of Grantville.
- (f) No license for the sale of alcoholic beverages shall be granted to any person who has had any city license revoked within two years prior to the filing of the application.
- (g) The city clerk may decline to issue a license when any person having any interest in the operation or control of such establishment does not meet the same character requirements as herein set forth for the licensee.
- (h) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee may be served. This person must be a resident of the county. The licensee shall file the name of such agent, along with the written consent of such agent, with the city clerk in such form may prescribe.
- (i) In determining whether or not any license shall be granted, in addition to the other provisions of this chapter, the following shall be considered in the public interest and welfare:
- (1) If the applicant holds or has previously held a license to sell alcoholic beverages, whether or not such applicant has violated any law, regulation or ordinance relating to such license or the business conducted pursuant to such license; and

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- (2) Whether the applicant has previously had a license to sell alcoholic beverages suspended or revoked.

**Sec. 5-10. Compliance and fee payment prior to license issuance; term of license; proration of fees; no refund.**

- (a) Before a license shall be granted, the applicant shall comply with all city rules and regulations pertaining to the sale of alcoholic beverages, and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the city council and kept on file in the office of the city clerk.
- (b) All licenses shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be prorated based on the number of months remaining in the calendar year. A partial month shall be counted as a full month.
- (c) License fees are not refundable.

**Sec. 5-11. Nonprofit civic organization's temporary permit.**

Any bona fide nonprofit civic organization may be issued a temporary permit authorizing the organization to sell alcoholic beverages for consumption on the premises or to sell wine at retail for off-premises consumption, or both, for a period not to exceed three days, subject to all laws and ordinances regulating the time for selling such beverages. The temporary permit shall be valid for only the place specified in the permit and no more than two permits may be issued to the applicant organization in any one calendar year. The organization must make application to the city clerk and pay the fee that may be established from time to time by the city council. As used in this section, the term "bona fide nonprofit civic organization" means an entity which is exempt from federal income tax pursuant to the provisions of 26 U.S.C. § 501(c), 501(d) or 501(e).

**Sec. 5-12. Excise tax—Malt beverages.**

- (a) There is hereby levied and imposed upon the sale of malt beverages within the city, a specific excise tax as follows:
- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons, and a proportionate tax at the same rate on all fractional parts of 15½ gallons.
- (2) Where malt beverages are sold in bottles, cans, or other containers except barrel or bulk containers, a tax of \$0.05 per 12 ounces, and a proportionate tax at the same rate on all fractional parts of 12 ounces.
- (b) The excise taxes provided for in this section shall be imposed upon and shall be paid by the licensed wholesale dealer in malt beverages. Each wholesale dealer selling malt beverages within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold during the month within the city. Each such wholesale dealer shall remit to the city by the tenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this section.
- (c) Wholesale dealers failing to remit excises taxes due and payable to the city as outlined in subsection (b) of this section shall be charged a ten percent penalty, and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

State law reference(s)—Local excise tax on malt beverages required, O.C.G.A. § 3-5-80.

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**Sec. 5-13. Same—Wine.**

- (a) There is hereby levied and imposed upon the sale of wine within the city a specific excise tax in the amount of \$0.22 per liter, and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) The taxes imposed by this section shall not be levied with respect to:
  - (1) Wine sold to and used by established and recognized churches and synagogues for use in sacramental services only;
  - (2) Any sale of wine which is exempt from taxation by the state under the Constitution of the United States;
  - (3) Wine sold to persons outside the state for resale or consumption outside the state; or
  - (4) Wine which contains less than one-half of one percent alcohol.
- (c) The excise taxes provided for in this section shall be imposed upon and shall be paid by the licensed wholesale dealer of wine. Each wholesale dealer selling wine within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of wine, by size and type of container, sold during the month within the city. Each such wholesale dealer shall remit to the city by the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.
- (d) Wholesale dealers failing to remit excise taxes due and payable to the city as outlined in subsection (c) of this section shall be charged a ten percent penalty, and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

(Code 1989, § 3-13; Ord. No. 104, § 35, 2-14-1967; Ord. No. 573, 9-6-2005)

State law reference(s)—Local excise tax on wine, O.C.G.A. § 3-6-60.

**Sec. 5-14. Same—Distilled spirits sold by the package.**

- (a) There is hereby levied and imposed a specific excise tax on the sale of distilled spirits by the package within the city in the amount of \$0.22 per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) The excise taxes provided for in this section shall be imposed upon and shall be paid by the licensed wholesale dealer of distilled spirits. Each wholesale dealer selling distilled spirits within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of distilled spirits, by size and type of container, sold during the month within the city. Each such wholesale dealer shall remit to the city by the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.
- (c) Wholesale dealers failing to remit excise taxes due and payable to the city as outlined in subsection (b) of this section shall be charged a ten percent penalty, and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

State law reference(s)—Local excise tax on the sale of distilled spirits by the package, O.C.G.A. § 3-4-80.

**Sec. 5-15. Same—Distilled spirits sold by the drink.**

- (a) There may be levied and imposed a specific excise tax on the sale of distilled spirits in the amount of three percent of the charge to the public for the beverages.
- (b) The excise tax imposed in subsection (a) of this section shall not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage.



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- (c) The excise taxes provided for in this section shall be imposed upon and shall be paid by the retailer or retail dealer of distilled spirits sold by the drink. Each retailer or retail dealer selling distilled spirits by the drink within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of distilled spirits sold, by the drink, during the month. Each such retail dealer shall remit to the city by the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.
  - (d) Retailers or retail dealers collecting the tax authorized by this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, only if the amount due was not delinquent at the time of payment.
  - (e) Retail dealers failing to remit excise taxes due and payable to the city as outlined in subsections (c) and (d) of this section shall be charged a ten percent penalty, and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

(Code 1989, § 3-15; Ord. No. 573, 9-6-2005)

State law reference(s)—Local excise tax on distilled spirits sold in private clubs, O.C.G.A. § 3-4-130.

#### **Sec. 5-16. Same—Distilled spirits in private clubs.**

- (a) The excise taxes imposed in sections 4-12, 4-13 and 4-14 are applicable to sales of malt beverages, wine, and distilled spirits to private clubs located within the corporate limits of the city. Those taxes are imposed upon and shall be paid by the licensed wholesale dealers in malt beverages, wine and distilled spirits, respectively.
- (b) The three percent excise tax imposed in section 4-15 on the sale of distilled spirits by the drink is applicable to private clubs located within the corporate limits of the city. Those taxes shall be paid by the licensed private club selling mixed drinks.
- (c) Each private club selling distilled spirits by the drink within the city shall file a report with the city by the tenth day of each month showing for the preceding calendar month the exact quantities of distilled spirits, sold by the drink, during the month. Each such private club shall remit to the city by the tenth day of the month next succeeding the calendar month in which such sales were made the amount of excise tax due in accordance with this section.
- (d) Private clubs collecting the tax authorized by this section shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be three percent of the amount due, only if the amount due was not delinquent at the time of payment.
- (e) Private clubs failing to remit excise taxes due and payable to the city as outlined in subsections (b), (c) and (d) of this section shall be charged a ten percent penalty, and interest shall accrue at the rate of one percent per month (12 percent per annum) until all fees are collected by the city.

(Code 1989, § 3-16; Ord. No. 573, 9-6-2005)

State law reference(s)—Local excise tax on private club distilled spirits sales required, O.C.G.A. § 3-7-60.

#### **Sec. 5-17. Distance requirements.**

- (a) No person, retailer, or retail package store may sell or offer to sell alcoholic beverages:
  - (1) Within 100 feet of any private residence, unless such residence is itself in a commercial district;
  - (2) Within 100 feet of any public library or branch thereof;

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- (3) Within 100 feet of the property line of any church, shrine, [or] chapel used exclusively for religious services, and any school grounds or college campus;
  - (4) Within 100 feet of that portion of a public park which is habitually used for recreational purposes;
  - (5) Within 100 feet of a regular stop as designated by the county board of education where a school bus for the transportation of school children in the public schools of the county shall take on or discharge school children; or
  - (6) Within 1,000 feet of any other retail package store.
- (b) For premises that are located or proposed to be located in the central business district (as defined in section 1.4.2 of the Unified Development Code), distance shall be measured from such residence, library, property line, park or school bus stop by the straight line distance to the nearest public sidewalk, street or highway, then along such sidewalk, street or highway by the nearest route to the front door of the premises from which alcoholic beverages are to be sold. For premises that are located or proposed to be located in all other areas of the city, distance shall be measured from such residence, library, property line, park or school bus stop by the straight line distance to the point of the premises nearest to such residence, library, property line, park or school bus stop. Every license application shall include a scale drawing of the location of the proposed premises, showing the distance of the uses described in this section and a certificate of a registered land surveyor or professional engineer that the location complies with these distance requirements.
- (c) The distance requirements of this section pertaining to colleges are intended to apply to the main or primary campus or grounds of a college. For various reasons, a college may occasionally lease subordinate space away from its main campus or grounds to conduct its activities (a subordinate facility). For the purposes of determining compliance with the distance requirements of this section, a subordinate facility shall not be considered a college if all of the following conditions are met:
- (1) The college is occupying the subordinate facility as a tenant under a lease agreement;
  - (2) The amount of square footage leased to the college at the subordinate facility is less than 20 percent of the cumulative square footage of the buildings occupied by the college at its primary facility;
  - (3) The subordinate facility is located in a commercially-zoned district; and
  - (4) The subordinate facility is not adjacent or contiguous to the primary facility of the college.
- Notwithstanding the foregoing, no license for the sale of alcoholic beverages shall be granted with respect to an establishment that is located in the same building as a subordinate facility or within 50 feet of a subordinate facility.
- (d) The city council, after notice and a public hearing, may grant a variance to the minimum distance requirements.
- (1) a. The establishment is designed to be an integral part of planned mixed use development;
- b. The establishment is located within a shopping center with an aggregate leasable area of 50,000 square feet or more.
  - c. The primary entrance of the establishment is not directly visible along the line of measurement and is physically separated from the residence.
  - d. There are other licensed establishments of a similar nature in the immediate vicinity.
  - e. The residence is not a single-family detached residence.
  - f. The establishment is a contributing historical building as defined by the historic preservation ordinance, and the property is zoned to allow for a use that is suitable for an alcohol license such as a restaurant and/or gourmet food store.
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- (2) a. There are practical or economic difficulties in carrying out the strict letter of the distance requirements.
- b. The request is not based primarily on the desire to reduce the cost of developing the site.
  - c. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site, and will not substantially interfere with or injure the rights of others whose property would be affected by the variance.
  - d. The proposed variance will not be detrimental to the public health, safety or welfare, result in additional expense, or the creation of nuisances, or conflict with other applicable law.
- (e) The city council, after notice and a public hearing, may grant a variance to the minimum distance requirements between a school grounds or college campus and an eating establishment (as the term "eating establishment" is used in section 4-47) seeking an on-premises consumption license, provided that all of the conditions set forth below exist:
- (1) The location for which a license to sell alcoholic beverages for on-premises consumption is being sought has previously been operated as an eating establishment licensed by both the city and the state for the sale of alcoholic beverages for on-premises consumption within the five years immediately preceding the application for the new license.
  - (2) The primary entrance to the eating establishment is physically separated, either by a street, a fence, shrubbery, a parking lot, another building, or some other form of physical barrier, from the school grounds or college campus which is in close proximity to the eating establishment.
  - (3) There are practical or economic difficulties in carrying out the strict letter of the distance requirements, including the fact that the proposed premises from which alcoholic beverages for on-premises consumption would be sold already contains a commercial kitchen.
  - (4) The request is not based primarily on the desire to reduce the cost of developing the site.
  - (5) The proposed variance will not substantially diminish the property value in, nor alter the essential character of, the area surrounding the site, and will not substantially interfere with or injure the rights of others whose property would be affected by the variance.
  - (6) The proposed variance will not be detrimental to the public health, safety or welfare, result in additional expense, or the creation of nuisances, or conflict with other applicable law.
  - (7) The proposed variance will have no material effect on the use of the property on which the school grounds or college campus is located as either a school grounds or college campus.
- (f) To the extent not otherwise prohibited by O.C.G.A. § 3-3-21 or other state law, the operator of a premises shall not be ineligible to receive, maintain, or renew a license due solely to the premises' noncompliance with the distance requirements set forth in section 4-17(a) if:
- (1) A duly licensed licensee engaged in the sale or offer for sale of alcoholic beverages on the premises prior to the establishment of any use or activity described in section 4-17(a) that would otherwise make the premises ineligible for a license; and
  - (2) After establishment of any use or activity described in section 4-17(a), the sale or offer for sale of alcoholic beverages on the premises did not cease for a period of six months or more. Notwithstanding the foregoing, nothing contained in this subsection or elsewhere in this chapter shall be construed or interpreted to affect the status of a license under this chapter 4 as a mere grant or privilege to carry on the business during the terms of the license subject to all terms and conditions imposed by the city ordinances and state law.

State law reference(s)—Sales near churches, etc., O.C.G.A. § 3-3-21.

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**Sec. 5-18. Condition of premises.**

- (a) All licensed premises shall be kept clean and shall be in full compliance with all ordinances and regulations of the city, county and state.
- (b) The county health department shall have the authority to inspect regularly the licensed premises to determine whether the licensed premises is in compliance with all city, county and state health rules and regulations, and report any violation to the city clerk.
- (c) The police department shall have the authority to inspect regularly the licensed premises to determine whether the licensed premises is in compliance with all city, county and state fire regulations, and report any violations to the city clerk.
- (d) The city clerk or her designee shall have the authority to inspect regularly the licensed premises to determine whether the licensed premises is in compliance with all technical codes of the city.
- (e) The code enforcement officer shall have the authority to inspect periodically the licensed premises to determine if the licensed premises is in compliance with all provisions of this chapter and report any violation to the city clerk.

**Sec. 5-19. Renewal of license.**

All licenses granted hereunder shall expire on December 31 of each year. A licensee who desires to renew his license shall file a renewal application accompanied by the requisite license fee with the city upon forms prescribed by the city on or before November 15 of each year without penalty, and not later than December 15. Applications for renewal filed after November 15 and on or before December 15 shall be subject to a penalty of ten percent of the license fee. No renewal license shall be granted on applications filed after December 15, but such applications shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been issued. Failure of a licensee to comply with any section of this Code shall subject the licensee to non-renewal of the license.

**Sec. 5-20. Transfer of license.**

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided herein.
- (b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death, or until expiration of the license, or until approval of a new licensee, whichever shall first occur, provided that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the city clerk.
- (c) In the event that a license is surrendered, or a licensee severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined to be the date of severance, provided that no such sale shall be authorized until such time as a new application for a license is made, such application indicating that no change of ownership has occurred, except as excepted herein. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- (d) Nothing in this section, however, shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's stock holdings to a total of ten percent or more of any class of stock.

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- (e) Should a transfer of location be approved, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
  - (f) Except as provided above, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued hereunder automatically, without the necessity of any hearing.
  - (g) Violation of this section shall result in revocation of the license being used and a fine as provided in section 1-8. No license will be issued to the old or the new owner in the city for one year from the date of the violation.

#### **Sec. 5-21. Prohibited sales.**

- (a) Except as otherwise authorized by law, no licensee shall sell or permit to be sold alcoholic beverages to any person under 21 years of age.
- (b) No licensee shall permit on the licensed premises the sale, barter, exchange, giving, providing or furnishing of alcoholic beverages to any person who is in a state of noticeable intoxication.
- (c) No licensee shall permit the sale of alcoholic beverages on Sunday, except as otherwise provided in this chapter.
- (d) No licensee authorized to sell alcoholic beverages by the package shall sell or permit to be sold any single beer, wine cooler or similar alcoholic beverage that is customarily packaged for sale as part of a four-pack, six-pack, 12-pack, or similar package, unless such single beer, wine cooler or similar alcoholic beverage is displayed for sale in an enclosed case, cabinet or other structure located not closer than 20 feet from the front door of the premises and not closer than 20 feet from any cash register in the premises. The intent of this subsection is to prohibit sales of single beers, wine coolers or similar alcoholic beverages from open, cooled containers such as ice-filled buckets, tubs, or barrels and to prohibit such sales from other containers located within 20 feet of the front door and cash registers of the premises.

State law reference(s)—Local authorization as to Sunday sales, O.C.G.A. § 3-3-7.

#### **Sec. 5-22. Under-age persons on licensed premises.**

- (a) No licensee shall permit any person under 21 years of age to be in, frequent or loiter about the licensed premises unless such person is accompanied by a parent, legal guardian or custodian; provided, however, that such person shall be permitted in eating establishments or private clubs as defined herein without being accompanied by a parent, legal guardian or custodian, and provided further, that this section shall not apply to persons who are employees under the terms of this chapter.
- (b) No licensee shall allow or require a person in such person's employment under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverages.
- (c) No licensee shall employ any person under the age of 21 years to work as an entertainer in any licensed establishment, unless such person has obtained written, notarized permission from such person's parents or legal guardian, nor shall any licensee allow any such person to work without such proof of permission.
- (d) In the event a supermarket, convenience store, brewery or drugstore employs persons under 21 years of age who will or may sell or handle alcoholic beverages which are sold for consumption off the premises, the following regulation is hereby imposed: All employees under 21 years of age shall request proper age identification from any person attempting to purchase alcoholic beverages and appearing to be 25 years of age or less.
- (e) In addition to the above, the following regulations shall be imposed and shall apply to all persons becoming employed by such a supermarket, convenience store, brewery or drugstore:
  - (1) For the first six months of employment, an employee under 21 years of age shall be on probationary status. During probationary status, the employee shall be trained and supervised periodically with

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respect to the procedure for requesting proper age identification and declining to sell alcoholic beverages to those under 21 years of age failing to produce proper identification.

- (2) During an employee's probationary status period, the employee's supervisor shall periodically monitor and review the employee's request of proper age identification and decision to sell or not to sell alcoholic beverages to various customers. Should an employee, during his probationary status period, be found to sell or attempt to sell alcoholic beverages to any person under 21 years of age, the supermarket, convenience store, brewery or drugstore employing such employee shall be required to terminate the employee.
- (f) In addition to the above requirements, all supermarkets, convenience stores, breweries and drugstores selling alcoholic beverages of any kind shall post a notice no smaller in size than eight inches by ten inches in a conspicuous place on the premises, which provides as follows: "Pursuant to local ordinance, employees are required to request proper age identification before selling alcoholic beverages."

State law reference(s)—Furnishing, etc., to minors, O.C.G.A. § 3-3-23; persons under 18 years of age not allowed or required to serve, sell, or take orders for alcoholic beverages, O.C.G.A. § 3-3-24.

### **Sec. 5-23. Advertising.**

- (a) Except as otherwise authorized in this section, no outdoor advertising or signs promoting the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any licensed premises, or on the windows or elsewhere in the premises that may be viewed from the outside. The posting of signage identifying the name of the licensed premises, which may include "beer," "wine," or similar terms, shall not constitute a violation of this section.
- (b) Lighted signs advertising beer and wine may be placed on the furthest back wall of a licensed premises.

State law reference(s)—Advertisement of prices, O.C.G.A. § 3-4-26.

### **Sec. 5-24. Required signs; posted information.**

- (a) In addition to other postings required herein or by law, all licensees shall post in a prominent location on licensed premises, in a manner whereby it may be easily viewed by patrons, an approved sign setting forth or summarizing the laws of the city and the state in regard to the sale of alcoholic beverages to underage, intoxicated or pregnant persons. Each such sign shall be of a size and configuration approved by the city clerk, and shall include either the language of the applicable Code sections or summaries approved by the city clerk. The department of community development is authorized to design and have printed approved signs, which shall be made available to licensees at a price to be established by the city clerk.
- (b) All licensees shall display in prominent places or on their menus, their current prices of alcoholic beverages, by the drink. Any price change must remain valid for seven consecutive calendar days. The licensee shall furnish to any customer who so desires an itemized bill of charges, which shall not exceed the established price list.
- (c) All licensees shall indicate plainly the price of all alcoholic beverages exposed for sale by tags or labels on the bottles or containers or on the shelf immediately below the space in which the containers are placed.

### **Sec. 5-25. Contents of bottles.**

Except during the initial bottling by the manufacturer, it shall be unlawful for any licensee to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

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**Sec. 5-26. Furnishing to, purchase of, or possession by person under 21 years of age of alcoholic beverages.**

The provisions of O.C.G.A. § 3-30-23, as amended from time to time, shall govern with respect to underage sales and possession of alcoholic beverages.

**Sec. 5-27. Retailer to purchase from licensed wholesaler only.**

No retailer shall purchase alcoholic beverages from any person not a wholesaler licensed by both the state and city under this chapter. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed by both the state and city under this chapter. Retail and wholesale dealers licensed under the provisions of this chapter shall be required to demonstrate compliance with this section to the city upon written receipt of a request for information.

**Sec. 5-28. Revocation, suspension or other penalty.**

- (a) The city clerk shall be authorized to suspend or revoke an alcoholic beverage license or impose other penalties upon the licensee under the conditions set forth in this section. However, no revocation, suspension or other penalty shall be imposed without first providing a licensee the notice, hearing and appeal rights as more specifically provided in section 4-29.
- (b) Sufficient grounds for the suspension or revocation of a license or the imposition of other penalties include, but are not limited to, the following:
  - (1) A licensee has failed to open for business within six months after approval of the license; provided, however, prior to the expiration of such period, the city clerk may extend the time in which a licensee is required to open for business by up to six months, upon the timely receipt of a written request from a licensee for such an extension.
  - (2) After opening for business, a licensee has ceased to operate the business for a period of three consecutive months.
  - (3) A licensee's state license or permit for the sale of alcoholic beverages has been revoked.
  - (4) A licensee, or such licensee's employee or agent, has sold alcoholic beverages during a period of suspension.
  - (5) A licensee gave false or misleading information in the original application or renewal process.
  - (6) A licensee has failed to pay any fee, license fee, fine or other amount of money due to the city under this chapter or any other licensing ordinance of the city.
  - (7) A licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be under the age of 21 years.
  - (8) A licensee, or such licensee's employee or agent, has served or sold any alcoholic beverage to any person that the licensee or the licensee's employee or agent knew or should have known to be in a state of intoxication.
  - (9) A licensee has failed to maintain any and all of the general qualifications applicable to the initial issuance of a license as set forth in section 4-9.
  - (10) A licensee has violated any other law, ordinance or regulation governing the operation of establishment license to sell alcoholic beverages or which is reasonably related to the operation of such establishments.

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- (11) A licensee, or such licensee's employee or agent, has violated any other provision of this alcoholic beverage chapter.
- (c) Subject to the notice, hearing and appeal rights of a licensee as provided in section 4-29, the city clerk is authorized, but not required, to revoke the license of any licensee found to be in violation of this chapter. In lieu of revocation, the clerk is also authorized to suspend the license of a licensee violating any provision of this chapter. In the event that the clerk elects to suspend a license, such license shall be suspended for three days for the first violation and 30 days for a second violation occurring within any consecutive 12-month period. For a third violation occurring within any consecutive 12-month period, the license shall be revoked. In lieu of revocation or suspension, the city clerk is also authorized, but not required, to accept a voluntary offer of a civil monetary penalty from the licensee, not to exceed \$1,000.00 per violation. No licensee or any other applicant may apply for a license for the same premises during any period of suspension or revocation. In determining the severity of any sanction imposed under this section, the city clerk may take into consideration any documented evidence that the licensee has, on prior occasions, undertaken proactive efforts to promote compliance with the provisions of this chapter, including the provisions of this chapter prohibiting the sale or serving of alcohol to minors. Documented evidence of such activities shall include, but shall not be limited to, written evidence that the licensee has promptly reported violations or attempted violations of this chapter.

#### **Sec. 5-29. Hearing procedures; appeal.**

- (a) Prior to imposing any sanction authorized by section 4-28, the city clerk shall provide written notice to the licensee specifying the licensee's alleged violations of this chapter and the date, time and place of the hearing to be held before the city clerk to determine if the violations have occurred. The date of the hearing shall be not less than five nor more than 30 days after the date of the written notice. At the request of the city clerk, the city council may appoint a hearing examiner to perform the duties of the city clerk under section 4-28 and this section. Hearings shall be conducted under rules issued by the city clerk, which shall be consistent with rules applied in administrative proceedings, and shall ensure that each party may present evidence, cross-examine witnesses and be represented by legal counsel. All testimony shall be sworn. The city shall have the responsibility to present evidence sufficient to carry the burden of proof by a preponderance of the evidence. Following the hearing, the city clerk shall prepare a written order to include findings, conclusions and sanctions (if any). A copy of the order shall be forwarded by certified mail to the licensee the same date it is filed in the office of the city clerk, with additional copies furnished to the city manager.
- (b) The order issued by the clerk in accordance with the procedures outlined above shall be stayed for a period of ten days after the issuance of the order. During this ten-day period, the licensee shall have the right to file an appeal to the city council. If the licensee files a timely appeal, the city clerk's order shall be stayed until the appeal is heard or withdrawn. If the licensee does not file a timely appeal, the city clerk's order shall be final.
- (c) The notice of appeal to the city council shall be in writing and accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The grounds for the appeal shall be limited to issues that were addressed in the hearing. Upon receipt of a notice of appeal, the city clerk shall submit the entire record of the case to the city council and may also submit a memorandum in response to the memorandum filed by the licensee. The clerk shall place the appeal on the agenda of the next regular city council meeting occurring not less than ten nor more than 30 days after receipt of the appeal, unless the appellant stipulates to another date. The appellant shall have the right to be represented by legal counsel. At the hearing, the city council will receive oral arguments on the written memoranda and the evidence in the record. The right to offer oral argument may be waived. No additional evidence or arguments shall be permitted at the council meeting, and the council shall base its decision on the memoranda, oral arguments (if any) and other evidence in the record. Following the appeal hearing, the council may sustain, overrule or modify the order of the city clerk. In lieu of suspension or revocation, the city council may impose a fine upon any licensee, not to exceed \$1,000.00 for each violation occurring on the



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licensed premises. The city council shall also have the option to refer the matter to the clerk for a de novo hearing, or for the taking of additional evidence on specific points, and in either of such cases, the city clerk shall proceed as provided in this chapter. If the city council does not refer the matter back to the clerk, the decision of the mayor and council shall be final, and the appellant shall have the right to seek a writ of certiorari to the superior court of the county within 30 days of the final action of the mayor and city council. The final action of the city council shall be reduced to a written order signed by the mayor. The original of the mayor's order shall be filed in the record of the case, and a copy of the order shall be included in the minutes of the city council meeting. It shall be the responsibility of the clerk to provide a copy of the order to the appellant.

#### **Sec. 5-30. Complimentary service.**

Complimentary service is the gratis provision of malt beverages or wine to patrons, and is permitted in accordance with this section. Complimentary service of malt beverages shall be limited to individual pours of no greater than 12 fluid ounces per person. Complimentary service of wine shall be limited to individual pours of no greater than six fluid ounces per person. Holders of a CS permit may, in lieu of complimentary pours, elect to allow patrons to bring in the establishment one bottle of wine, but the pour shall not exceed six ounces per person. The following shall be ineligible to receive a CS permit:

- (1) Holders of other city alcoholic beverage licenses; or
- (2) Establishments, as designated by the community development director, with advice and assistance from staff and council, as providing a use or service that is not compatible with complimentary service of alcohol (i.e., gas stations, convenience stores).

The list of prohibited establishments may be revised from time to time and shall be on file for review in the clerk's office and the office of community development. The city shall develop a CS application form and a CS permit, which may include additional criteria, and an annual permit, which may be renewed on an annual basis. The permit fee is \$300.00 per year, subject to revision from time to time by resolution.

Editor's note(s)—Ord. No. 809 , § 1, adopted Sept. 21, 2020, set out provisions intended for use as art. XIX, § 4-453. For purposes of classification, and at the editor's discretion, these provisions have been included as art. I, § 4-30.

#### **Sec. 5-31. Reserved.**

Editor's note(s)—Ord. No. 856 , § 2, adopted May 1, 2023, repealed § 4-31, which pertained to delivery, and derived from Ord. No. 810 , § 1, adopted Sept. 21, 2020.

#### **Secs. 5-32—4-46. Reserved.**

### ***ARTICLE II. ON-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES***

#### **Sec. 5-47. Locations where prohibited.**

- (a) No alcoholic beverages may be sold by the drink for consumption on the premises where sold except in:
  - (1) Eating establishments regularly serving prepared food, with a full-service kitchen consisting of a four-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and the city fire marshal, prepared to serve food every hour they are open.

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- (2) Supermarkets or wine bars, where these establishments are permitted to seat 45 or more persons pursuant to applicable building, fire and safety codes in effect for the city.
  - (3) Cigar shops.
  - (4) Art galleries or art studios.
  - (5) Hotels, motels or high-rise office and apartment buildings.

When located in hotels, motels and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure. Unless otherwise expressly exempted in this chapter from this requirement, establishments not located in hotels or motels shall derive a minimum of 50 percent of their total annual gross food and beverage sales from the sale of prepared meals or food (except that wine bars and dog parks shall derive a minimum of 40 percent). Hotels and motels containing such establishments shall derive a minimum of 50 percent of their total annual gross income from the sales of prepared meals or food and from the rental of rooms for overnight lodging. For the purposes of this chapter, the term "hotel" or the term "motel" means an establishment that contains not less than 35 separate rooms for overnight lodging.

#### **Sec. 5-48. Hours of sale.**

Alcoholic beverages shall not be sold for consumption on the premises except:

- (1) Monday through Saturday, between the hours of 9:00 a.m. and 2:00 a.m. of the following day; and
- (2) On Sunday from 11:00 a.m. until 2:00 a.m. on Monday in any licensed establishment which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, or which derives a minimum of 50 percent of its total annual gross income from the rental of rooms for overnight lodging.

Notwithstanding the provisions of sections 4-401 and 4-452, permitting outside consumption of alcohol within the downtown district and certain mixed-use developments, such sales and outside consumption are strictly prohibited on Sunday from 11:00 a.m. to 12:30 p.m.

#### **Sec. 5-49. Consumption sales only.**

- (a) Except as may be otherwise expressly provided in this chapter, establishments holding a license to sell alcoholic beverages for consumption on the premises shall not hold a license for the sale of alcoholic beverages by the package.
- (b) The foregoing prohibition, however, shall not apply with respect to the following:
  - (1) Supermarkets and brew pubs, as defined in section 4-1; provided, however, no such license shall include or authorize the sale of distilled spirits by the package.
  - (2) Eating establishments, as defined in section 4-1, may sell wine and/or beer by the package for off-premises consumption, provided that the sale of wine and/or beer for off-premises consumption is an ancillary function of the eating establishment. Notwithstanding the foregoing, the sales of wine and/or beer by the package for off-premises consumption shall not be used in calculating the total annual gross food and beverage sales for the establishment for the purpose of determining whether the establishment constitutes an eating establishment as set forth in section 4-1, however, all sales of wine and/or beer sold for off premises consumption shall be notated on the monthly alcohol compliance form; and
  - (3) Distilleries and breweries, as defined in article XVII and article XIX, respectively.
- (c) For the purposes of this chapter, any supermarket, brew pub, or eating establishment that wishes to sell alcoholic beverages by the package for off-premises consumption shall submit an application for said license,

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as the off-premises consumption license is not automatically granted with the approval of an on-premise consumption license.

- (d) Any brew pub or eating establishment with a license to sell wine and/or beer by the package for off-premises consumption may not sell beer or wine by the package at any date or time when the sale of package beer or wine for carryout purposes is prohibited by ordinance or state law.
- (e) Any brew pub or eating establishment seeking a license to sell wine and/or beer by the package for off-premises consumption must meet the distance requirements to grounds or buildings as required for beer or wine package off-premises consumption retail locations.
- (f) For the purposes of this chapter, where a person holds a license to sell alcoholic beverages by the package, including distilled spirits, at one establishment, and a license to sell alcoholic beverages for consumption on the premises at a contiguous establishment, and the licensed premises of each establishment are physically separate from the other, with the only interconnectivity between the establishments (if any) being an inside connecting service door or passageway, such establishments shall be considered separate and distinct establishments, provided that:
  - (1) Each establishment operates under a trade name different from the other;
  - (2) All business transactions are kept separate;
  - (3) Each establishment must operate in compliance with all other provisions of this chapter and all other laws and regulations applicable to such business;
  - (4) Each establishment has a separate entrance for the public and the establishments share no common entrance;
  - (5) The inside connecting service door or passageway (if any) must be located behind the bar or service counter of each establishment or otherwise so situated or maintained as to be reasonably accessible only to the licensee or employees of the establishments, and only the licensee and employees of the establishments may use such door or passageway; and
  - (6) All other conditions required by state regulations applicable to such contiguous operations are met.

#### **Sec. 5-50. Regulations as to employees; permit.**

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

- (1) An employee shall meet the same character requirements as set forth in the general requirements for the licensee, except for the residency requirements.
- (2) No person shall be employed by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the department of community development and a permit issued indicating that such person is eligible for this employment. The permit issued to a person under this section shall be either of the following:
  - a. Alcoholic beverage permit, which shall be issued only to a person 18 years of age or older and who sells, serves or dispenses alcoholic beverages.
  - b. Non-alcoholic beverage permit, which shall be issued to a person whose employment includes, but is not limited to, host, hostess, doorman and bouncer.
- (3) No permit shall be issued until such time as a signed application has been filed with the city clerk and a search of the criminal record of the applicant completed. Such application shall include, but shall not be limited to, the name, date of birth and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or

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inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

- (4) The city clerk shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this article, the city clerk shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the city clerk shall notify the employer that this person is not eligible for employment.
- (5) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the city clerk the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers.
- (6) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the city clerk or the city clerk.
- (7) This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook or dishwasher.
- (8) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (9) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the city department of community development.
- (10) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of any officer of the city department community development.
- (11) Unless waived or modified by the city clerk, the provisions of this section relative to employees shall also apply to any of the licensee's volunteers or contractors engaged in the service of alcohol.

State law reference(s)—Age of employees, O.C.G.A. § 3-3-23; persons under 18 years of age not allowed or required to serve, sell, or take orders for alcoholic beverages, O.C.G.A. § 3-3-24.

#### **Sec. 5-51. Open area, sidewalk, deck and patio sales.**

The consumption and/or sale of alcoholic beverages may be allowed in open areas, sidewalks, decks, patios or similar unenclosed spaces on or about the premises of an establishment licensed to sell alcohol for consumption on the premises if written application is made to and approved by the city clerk, or his designee, under such conditions as the director may deem appropriate for the protection of public health, safety and welfare, including, but not limited to, maximum capacity, ingress and egress.

#### **Sec. 5-52. Happy hour promotions prohibited.**

- (a) No licensee, or employee or agent of a licensee, shall engage in any of the following practices in connection with the sale or other disposition of alcoholic beverages for consumption on the premises:
  - (1) The giving away of any alcoholic beverage in conjunction with the sale of any other alcoholic beverage;
  - (2) The sale of two or more alcoholic beverages for a single price, including the sale of all such beverages a customer can or desires to drink at a single price;
  - (3) Selling, offering to sell or delivering to any person any alcoholic beverage at a price less than one-half the price customarily charged for such alcoholic beverage, provided, nothing contained herein shall be construed to prohibit reducing the price of a drink by up to one-half the price customarily charged;
  - (4) Requiring or allowing the purchase of a second or subsequent alcoholic beverage at the same time another alcoholic beverage is purchased or before the first such beverage has been consumed, by any one person;

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- (5) Increasing the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage.

It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour."

- (b) As used in this section, the phrase "customarily charged" means the price regularly charged for such alcoholic beverage during the same calendar week.

#### **Sec. 5-53. Brown-bagging or BYOB prohibited; exceptions.**

- (a) It is prohibited for any person to bring his own alcoholic beverage (brown-bagging) into any retail establishment, without regard to whether such establishment is licensed to sell alcoholic beverages, for consumption on such premises.
- (b) Exceptions. The foregoing prohibition in subsection (a) of this section is subject to the following specific exceptions:
- (1) *Furnishing of wine by a patron of a restaurant.* Any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to bring into the restaurant one unopened bottle of wine for consumption on the premises. In order for this provision to apply, the restaurant must establish a policy for permitting same and must charge a minimum corkage fee of \$10.00 per bottle. Nothing in this section shall be deemed to require a restaurant to establish such a policy. Any wine not consumed at a restaurant shall be disposed of at the premises and not carried out in an open container, unless the restaurant is able to reseal and repackage the opened bottle of wine in accordance with section 4-54.
  - (2) *Patrons participating in cooking classes.* This section shall not prohibit any person who is participating in a cooking class offered by a retail establishment from bringing one unopened bottle of wine into the retail establishment to consume with the meal prepared as part of such class, provided:
    - a. The retail establishment has a policy permitting a patron participating in a cooking class to bring an unopened bottle of wine into the retail establishment for consumption on the premises by the patron;
    - b. The retail establishment does not charge a corking or other fee for same;
    - c. The price of a cooking class offered by the retail establishment does not vary based on whether class participants will be permitted to bring wine into the retail establishment for consumption on the premises;
    - d. No employee of the retail establishment under the age of 18 years shall be working in the establishment during the times such classes are offered; and
    - e. The retail establishment has an established closing time of no later than 10:00 p.m. Any opened bottle of wine not consumed at the retail establishment during the cooking class shall be disposed of at the premises and not carried out in an open container. All other applicable state and city laws, regulations and ordinances which address the use and serving of alcoholic beverages shall apply to this subsection.
- (c) For the purposes of this section, the term "retail establishment" shall not include a private hotel room or similar guest room or a private club.

#### **Sec. 5-54. Removal of wine from restaurant by patron.**

Notwithstanding any other contrary provision of the ordinance from which this section derives, any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to remove one

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unsealed bottle of wine per patron for consumption off the premises, if the patron has purchased a meal and consumed a portion of the bottle of wine with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine or corkage fee and meal shall be provided by the licensee and attached to the container. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

State law reference(s)—Removal of wine from restaurant by patron, O.C.G.A. § 3-6-4.

#### **Sec. 5-55. Cigar shop exception.**

A cigar shop may obtain a license for the sale of alcoholic beverages for on-premises consumption, provided that it derives no more than ten percent of its total annual gross revenues from the sale of alcoholic beverages. For the purposes of this section only, annual gross revenues shall mean revenues from the sale of alcohol and the in-store sale of cigars. Such licensee shall meet the requirement of sections 4-47 through 4-50 except for providing a full-service kitchen and serving food.

#### **Secs. 5-56—4-81. Reserved.**

### ***ARTICLE III. PRIVATE CLUBS<sup>2</sup>***

#### **Sec. 5-82. Exception for art galleries and art studios.**

An art gallery or art studio may obtain a license for the sale of alcoholic beverages for consumption on the premises without meeting the requirement that the establishment provides a full-service kitchen serving prepared foods or derives a minimum of 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food, provided that no more than ten percent of the establishment's total annual gross sales are derived from the sale of alcoholic beverages.

#### **Sec. 5-83. Conditions to selling.**

- (a) Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the city governing the sale of such beverages (except as expressly exempted therein) and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the city.
- (b) Community service organizations which are chartered by Congress as patriotic, mutual-help, or war-time veterans' organizations shall be specifically exempted from section 4-16. Compliance with all other regulations of this chapter is required for such organizations.

#### **Sec. 5-84. Private clubs exempt from percentage sales of food requirements.**

Private clubs shall not be required to derive a certain percentage of annual gross receipts from the sale of prepared food.

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<sup>2</sup>State law reference(s)—Sale of distilled spirits by private clubs, O.C.G.A. § 3-7-1 et seq.

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**Sec. 5-85. Hours of sale.**

Alcoholic beverages shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 2:00 a.m., Monday through Saturday, and on Sunday from 12:30 p.m. to 2:00 a.m.

**Sec. 5-86. Regulations as to employees.**

The employee regulations set forth in section 4-50 pertaining to establishments holding a license for consumption on the premises shall also apply to private clubs licensed for consumption on the premises.

**Secs. 5-87—4-115. Reserved.**

***ARTICLE IV. PACKAGE LIQUOR<sup>3</sup>***

**Sec. 5-116. Types of establishments where retail sale permitted.**

- (a) No distilled spirits by the package shall be sold at retail except in:
- (1) Retail establishments devoted exclusively to the retail sale of alcoholic beverages by the package;
  - (2) Retail establishments in which space has been set aside devoted exclusively to the retail sale of distilled spirits by the package, with ingress and egress provided directly to and only to the exterior of the building in which the facility is located and not to any other enclosed part of the building in which the facility is located, except as provided in subsection (a)(3) of this section; or
  - (3) In hotels, motels and high-rise office buildings where every public entrance to this use shall be from a lobby, hallway or other interior portion of the primary use structure.
- (b) Nothing in this section shall prohibit the retail sale within these establishments of liquid commodities and mixes normally used in the preparation and serving of distilled spirits.

**Sec. 5-117. Coin-operated or amusement machines prohibited; exception.**

No retail dealer in liquors shall permit on such person's premises any slot machines of any kind or character or any coin-operated machines or any machine operated for amusement purposes. However, cigarette vending machines may be permitted.

**Sec. 5-118. Hours of sale.**

Retail package licensees licensed to sell packaged distilled spirits may engage in the package sale of distilled spirits only between the hours of 9:00 a.m. and 11:45 p.m., Monday through Saturday, and only between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. These hours are to be determined by the standard of time in effect at the time of the sale.

**Sec. 5-119. Regulations as to employees.**

The following regulations as to employees shall apply to all establishments holding a license for package liquor:

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<sup>3</sup>State law reference(s)—Distilled spirits, O.C.G.A. § 3-4-40 et seq.

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- (1) An employee shall meet the same character requirements as set forth in the general requirements for the licensee, except for the residency requirements.
  - (2) No person shall be employed by an establishment holding a license hereunder until this person has been fingerprinted or cleared by the department of community development and has been issued a permit by the department of community development indicating that the person is eligible for this employment.
  - (3) No permit shall be issued until such time as a signed application has been filed with the city clerk, and a search of the criminal record of the applicant completed. Such application shall include, but shall not be limited to, the name, date of birth and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
  - (4) The city clerk shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this chapter or other applicable law, the city clerk shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the city clerk shall notify the employer that this person is not eligible for employment.
  - (5) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the city clerk the name of the establishment and the license number and a list of all employees, with their home addresses and home telephone numbers.
  - (6) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the city clerk or the city clerk.
  - (7) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
  - (8) In the event that any permit holder leaves the employ of a licensed establishment, the licensee shall immediately surrender the permit to the city clerk.
  - (9) All permits issued hereunder remain the property of the city, and shall be produced for inspection upon the demand of any officer of the department community development.

**Secs. 5-120—4-136. Reserved.**

## ***ARTICLE V. PACKAGE BEER, MALT BEVERAGES AND WINE***

### **Sec. 5-137. Type of retail establishment.**

No package beer, malt beverage or wine shall be sold at retail except in the following types of retail establishments, subject to such establishments holding a license to sell beer, malt beverages or wine (as applicable) by the package:

- (1) Package retailers who sell distilled spirits;
- (2) Establishments maintaining 80 percent of the floor space and storage area in a manner which is devoted principally to the retail sale of other products and located in zoning districts in which these establishments are permitted as a conforming use or in districts where existing establishments exist as a nonconforming use;
- (3) Supermarkets, as defined in section 4-1;



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- (4) Brew pubs or eating establishments licensed to sell alcoholic beverages for consumption on the premises which sell wine and/or beer by the package for off-premises consumption in accordance with the provisions set forth in subsection 4-49(b); provided, however, package sales shall be limited to wine and beer only. Brew pubs or eating establishments seeking to sell wine or beer by the package must obtain a separate license to do so and must meet the distance requirements for each license.

**Sec. 5-138. Hours of sale.**

Retail package licensees licensed to sell packaged malt beverages, beer and wine may engage in the packaged sale of malt beverages, beer and wine only between the hours of 9:00 a.m. and 11:45 p.m., Monday through Saturday, and only between the hours of 12:30 p.m. and 11:30 p.m. on Sunday. These hours are to be determined by the standard of time in effect at the time of the sale.

**Sec. 5-139. Use of tags or labels to indicate prices.**

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

**Sec. 5-140. Regulations as to coin-operated or amusement machines, and regulations as to employees.**

The provisions applicable to coin-operated or amusement machines applicable to retail establishments devoted to the retail sale of distilled spirits (section 4-117) and regulations as to employees applicable to retail package licenses licensed to sell packaged distilled spirits (section 4-119) are also applicable to retail establishments licensed to sell beer, malt beverages and wine.

**Sec. 5-141. Growlers.**

- (a) The sale of growlers in compliance with this article is authorized for those certain types of establishments designated in section 4-137(1), (3) and (4), which are licensed to sell malt beverages, but not distilled spirits, by the package. The filling of growlers with malt beverage drawn from a tap on a barrel, cask, tank, or keg on the premises shall not constitute the breaking of a package as contemplated by O.C.G.A. § 3-3-26 or other provisions of this chapter. The term "growler" means a container made of a material customary to the industry provided that the container is capable of being sealed with a tamper-proof cap, top or other seal for the purpose of complying with open container laws, and further provided that the container does not exceed 68 ounces and is filled by a licensee or employee of the licensed establishment with malt beverage drawn from a barrel, cask, tank, or keg. Growlers may only be filled from barrels, casks, tanks, or kegs procured by the licensee from a person who is licensed or authorized to do business as a wholesaler under this chapter. Notwithstanding any other provision of this chapter to the contrary, in the case of a brew pub holding a license to sell malt beverages by the package, growlers may be filled from barrels, casks, tanks, or kegs of malt beverages manufactured on the licensed premises, subject to the barrel production limitation prescribed in section 4-188. Only professionally sanitized and sealed growlers may be filled and made available for retail sale. Each growler must be securely sealed and removed from the premises in its original sealed condition. Except as authorized in accordance with an ancillary tasting permit as hereinafter provided, consumption on the premises is strictly prohibited; however, this prohibition shall not apply with respect to sales pursuant to a license for consumption on the premises, provided that no filled growlers may be consumed on the premises.
- (b) The holder of a package malt beverage license, with or without a package wine license, but in no event with a package distilled spirits license, shall be eligible for an ancillary growler malt beverage tasting license to provide samples of growler malt beverages offered for sale to customers under the conditions set forth in this section. Growler malt beverage sampling shall be on limited occasions when a customer requests a

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sample of a growler malt beverage offered for sale within the premises, or in conjunction with growler malt beverage education classes and sampling designed to promote growler and malt beverage appreciation and education. Growler malt beverage tasting for customers shall only be conducted at a counter area constituting no more than ten percent of the entire floor area of the premises. Growler malt beverage sampling for customers shall be limited to no more than one time per day per customer for a period not to exceed two consecutive hours. Samples shall not exceed four ounces, and no customer shall consume more than 16 ounces in any two-hour period. Only the licensee or an employee shall open and handle unpackaged malt beverages, and samples shall only be poured by the licensee and/or an employee. No open growler container shall be removed from the licensed premises. Not more than two times per week for a period not to exceed two consecutive hours, the holder of an ancillary growler malt beverage tasting license may conduct educational classes and sampling for class participants. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted. Growler malt beverage sampling and tasting is only permitted within the designated interior portion of the premises. The annual fee for an annual growler malt beverage tasting license shall be \$50.00, and may be revised, by resolution of the mayor and council, from time to time.

- (c) The holder of a package malt beverage license, with or without a package wine license, but in no event with a package distilled spirit license, who is authorized to sell growlers and whose premises are located in the downtown district shall, in conjunction with city-sponsored special events within the downtown district, be authorized to sell malt beverages in 16-ounce plastic containers in the same manner as consumption on the premises licensees in the downtown district, except that such sales shall only take place outside the premises in a tent directly adjacent to the premises. The exact location and set-up of the tent shall be subject to the review of the city clerk, or his designee, for public safety compliance.

**Secs. 5-142—5-165. Reserved.**

## ***ARTICLE VI. WHOLESALER***

### **Sec. 5-166. Special provisions applicable to wholesale license.**

- (a) No person who has any direct financial interest in a license for the retail sale of distilled spirits shall be allowed to have any interest or ownership in any wholesale distilled spirit license.
- (b) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any distilled spirits to any person other than a retailer licensed under this chapter.
- (c) No alcoholic beverage shall be delivered to any retail sales outlet in the city except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

(Code 1989, § 3-80; Ord. No. 218-A, § 1.044, 9-22-1986)

### **Sec. 5-167. Hours of sale.**

Wholesalers shall not engage in the sale of alcoholic beverages except between 8:00 a.m. and 11:45 p.m., Monday through Saturday.

**Secs. 5-168—5-187. Reserved.**

## ***ARTICLE VII. BREW PUBS***

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**Sec. 5-188. Exception for brew pubs.**

A limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages established under state law shall exist for owners and operators of brew pubs, subject to the following terms and conditions:

- (1) No individual or person shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the city council pursuant to the procedures set forth in article I of this chapter, and each brew pub licensee shall comply with all other applicable state and local license requirements.
- (2) A brew pub license authorizes the holder of such license to:
  - a. Manufacture on the licensed premises not more than 10,000 barrels of malt beverage in a calendar year solely for retail sale.
  - b. Operate an eating establishment that shall be the sole retail outlet for such malt beverages.
  - c. Operate an eating establishment that may offer for sale for consumption on the premises any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, including wine, distilled spirits, and malt beverages, provided that such alcoholic beverages are purchased from a licensed wholesaler; and, provided further, that in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages from licensed wholesalers; and
  - d. Notwithstanding any other provision of this section, sell up to a maximum of 5,000 barrels annually of such malt beverage to licensed wholesale dealers. Under no circumstances shall such malt beverages be sold by a brew pub licensee to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.
- (3) Possession of a brew pub license shall not prevent the holder of such license from obtaining a license for the sale of alcoholic beverages by the package, excluding distilled spirits, for the same premises;
- (4) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises; and
- (5) A brew pub licensee shall:
  - a. Pay all state and local license fees and excise taxes applicable to individuals or persons licensed as manufacturers, retailers, and, where applicable, wholesalers under this title; and
  - b. Measure malt beverages manufactured on the premises and otherwise comply with applicable rules and regulations respecting excise and enforcement tax determination of such malt beverages as required by state and local law.

**Secs. 5-189—5-214. Reserved.**

***ARTICLE VIII. SPECIALTY GIFT SHOPS***

**Sec. 5-215. Exception for specialty gift shops.**

- (a) For all purposes of this section, the term "specialty gift shop" shall be defined as any retail gift shop that derives not more than 15 percent of its gross sales from the sale of packaged gift baskets or similar items containing unbroken containers of wine or beer.

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- (b) Notwithstanding any other provision of this chapter to the contrary, a limited exception to the provisions of sections 4-6 and 4-137 shall exist for the owners of specialty gift shops, provided that the owner shall first obtain a specialty gift shop alcohol permit as hereinafter provided, and the only sale of alcohol by the owner is through the sale of gift items as specified in subsection (a) of this section and not for consumption on the premises.
  - (c) All persons desiring to engage in activities permitted by this section shall make written application to the city clerk for a specialty gift shop alcohol permit on forms prescribed by the city clerk, and filed with the city clerk. All applications shall be accompanied by a certified check for \$150.00. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee (without interest) shall be refunded. The application shall include the name and address of the applicant, the address of the business location, and the name and address of the manager. If the manager changes, the applicant must furnish the city clerk with the name and address of the new manager and the information as requested within ten days of such change. The applicant must meet the character requirements of this chapter. All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
  - (d) The city clerk shall prepare and cause to be published a notice of each pending application, which notice shall include the date the application will be considered by the clerk, the location or street number of the premises where the applicant proposes to conduct activities permitted by this section and the name of the applicant. The applicant shall pay the publication costs. The notice shall be published in a newspaper of general circulation within the city and shall appear once a week for two weeks immediately preceding consideration of the application by the clerk.
  - (e) If the clerk grants the applicant a specialty gift shop alcohol permit, it shall be valid for one year from the date of issuance. The city clerk shall have authority to prescribe forms for new or renewal applications. All applicants shall furnish data, information or records as required by the city clerk to ensure compliance with the provisions of this chapter. Failure to furnish such data shall automatically serve to dismiss the application with prejudice.
  - (f) Any untrue or misleading information contained in, or material statement omitted from, an original or renewal application for a specialty gift shop alcohol permit shall be cause for the denial or revocation thereof.
  - (g) In all instances in which an application is denied under the provisions of this section, the applicant may not re-apply for a new license for at least one year from any final date of such denial.
  - (h) Each applicant shall certify that the applicant has read this section, and if a specialty gift shop alcohol permit is granted, each licensee shall maintain a copy of this section on the premises and shall require each of the licensee's employees to be familiar with this section. Notwithstanding any other provision of this chapter, all of the applicant's employees must be at least 18 years of age to sell any gift item containing alcohol.
  - (i) Except as set forth in this section, a holder of a specialty gift shop alcohol permit must comply with all other provisions set forth in this chapter.

**Secs. 5-216—5-238. Reserved.**

## ***ARTICLE IX. LICENSED ALCOHOLIC BEVERAGE CATERERS<sup>4</sup>***

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<sup>4</sup>State law reference(s)—Sales off premises for catered functions, O.C.G.A. § 3-11-1 et seq.

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### **Sec. 5-239. Licensed alcoholic beverage caterers.**

- (a) License requirements; resident caterers.
  - (1) Any caterer who possesses a valid city license to sell or otherwise dispense malt beverages, wine or distilled spirits by the drink for consumption on the premises within the city may apply for an off-premises license that permits sales of the same off premises at authorized catered events or functions.
  - (2) Any caterer who possesses a valid city license to sell malt beverages, wine or distilled spirits by the package for consumption off the premises within the city may apply for an off-premises license that permits sales of the same class of alcoholic beverages by the drink off premises at authorized catered events or functions.
  - (3) Each off-premises catering license authorized herein shall be valid through December 31 of the year for which it is issued. The fee for each license shall be set by resolution of the city council, and this fee shall remain in effect until modified or amended by subsequent resolution.
  - (4) In order to distribute or sell malt beverages, wine or distilled spirits at an authorized catered function, a licensed alcoholic beverage caterer shall file an application for an off-premises event permit with the city clerk at no additional fee. The application shall include the name of the caterer, the date, address and time of the event, the caterer's license number and any other information the city deems necessary to review a request for such permit.
  - (5) It shall be unlawful for any person to engage in, carry on or conduct the sale or distribution of alcoholic beverages off premises and in connection with the catered event or function without first having obtained a license and event permit as provided herein.
- (b) Permit requirements, nonresident caterers.
  - (1) A nonresident alcoholic beverage caterer shall submit an application for an off-premises event permit to the city clerk or his designee. The fee for each such permit shall be \$50.00, as authorized by O.C.G.A. § 3-11-3 (or such fee as may be authorized by any future amendment or revision thereto).
  - (2) An application for an off-premises event permit shall include the name of the caterer, the licensed alcoholic beverage caterer's state and local license number and expiration date, the date, address, time, and name of the event and the quantity and type of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function.
  - (3) The original off-premises permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function.
  - (4) It shall be unlawful for a licensed alcoholic beverage caterer to distribute, sell, or otherwise dispense alcoholic beverages off premises except as authorized by the off-premises event permit.
- (c) A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or otherwise dispense only malt beverages at the authorized catered event or function.
- (d) Sunday sales. An alcoholic beverage caterer wishing to cater an event or function on a Sunday must possess a valid Sunday sales license and comply with the requirements of state law with respect to the service of alcoholic beverages on Sunday.
- (e) Excise taxes are imposed upon the sale of alcoholic beverages by resident caterers as provided in this chapter. Excise taxes are imposed upon the total of individual alcoholic beverages served by a nonresident caterer in the amount set forth in this chapter, and shall be paid within 30 days after the conclusion of the catered event or function.

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**Secs. 5-240—5-256. Reserved.**

***ARTICLE X. PUBLICLY OWNED FACILITIES<sup>5</sup>***

**Sec. 5-257. Exception for publicly owned facilities.**

- (a) Notwithstanding any other provision of this chapter to the contrary, a limited exception to sections 4-6 and 4-47, shall exist for that person or entity possessing a public facilities permit, as hereinafter defined.
- (b) For all purposes of this section, the term "public facilities" means:
  - (1) An historic structure owned by the city and operated as a welcome center by a local historical society or similar nonprofit organization; or
  - (2) Property and/or facilities owned by the city and operated by the city as an equestrian center.
- (c) Any person or entity desiring to engage in activities permitted by this section shall make written application to the city clerk for the appropriate public facilities permit on forms prescribed by the city clerk and filed with the city clerk. All applications shall be accompanied by a public facilities permit fee of \$50.00. If the application is denied, or if the applicant withdraws the application prior to its approval, the license fee, without interest, shall be refunded. The application shall include but shall not be limited to the name and address of the applicant, the date, address and times of the proposed event and the location of the public facility. All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths.
- (d) If such public facilities permit is granted by the city clerk, it shall be good only for the specified event at the specified address and times set forth in the application, not to exceed five days for an equestrian center and one day for a welcome center.
- (e) A public facilities permit for an equestrian center shall only permit the permit holder to serve (not sell) alcoholic beverages in a hospitality tent or similar structure previously approved by the city clerk, and the alcoholic beverages may only be consumed on the premises of such hospitality tent or similar structure.
- (f) A public facilities permit for a welcome center shall only permit the holder to serve (not sell) alcoholic beverages within the premises of the welcome center, and the alcoholic beverages may only be consumed on the premises of the welcome center.
- (g) A public facilities permit shall only be issued to a caterer licensed under the provisions of this chapter, or to an individual who meets the character requirements of this chapter; provided, however, that no more than two permits per calendar year shall be issued to an individual who is not a licensed caterer.
- (h) The city clerk shall have authority to prescribe forms for applications. Failure to furnish any requested data shall automatically serve to dismiss the application with prejudice.
- (i) Any untrue or misleading information contained in, or material statement omitted from, an original or renewal application for a public facilities permit shall be cause for the denial or revocation thereof.
- (j) Except as set forth above in this section, a public facilities permit holder must comply with all the provisions set forth in this chapter.

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<sup>5</sup>State law reference(s)—Sale of alcoholic beverages at publicly-owned facilities, O.C.G.A. § 3-8-1 et seq.

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**Secs. 5-258—5-277. Reserved.**

## ***ARTICLE XI. ANNEXED AREAS***

### **Sec. 5-278. Annexed areas.**

Any person, establishment, partnership, corporation or other entity which holds a license from the county for the sale, manufacture, package or distribution of alcoholic beverages and which is located in an area annexed by the city, shall have 30 days from the effective date of the annexation to apply for the appropriate licenses and permits under this chapter. The applicant shall pay all applicable fees and costs for the equivalent license to the city. The applicant, however, shall be entitled to a credit for any license fee paid to the county in the year of annexation.

**Secs. 5-279—5-304. Reserved.**

## ***ARTICLE XII. SPECIAL EVENTS<sup>6</sup>***

### **Sec. 5-305. Special temporary outside events.**

- (a) Establishments duly licensed by the city to sell alcoholic beverages for consumption on the premises must submit an application and site plan to the city clerk or her designee to engage in outside special events. A special event temporary permit shall authorize the retail consumption licensee to sell alcoholic beverages for consumption on the premises for a period not to exceed the hours otherwise specified in this chapter. The applicant must meet the following requirements:
  - (1) The licensed establishment must have an existing license for the sale of alcoholic beverages for consumption on the premises. The entrances and exits to the event must be through controlled entry points which allow for easy monitoring of patrons entering and leaving the event.
  - (2) A site plan must be submitted to and approved by the city clerk as well as the city fire marshal for approval. If the site plan provides for an area to accommodate more than 25 persons, a crowd control and security plan must be submitted to the city clerk for approval. The community development department and city fire marshal must approve any temporary structures.
  - (3) A signed and notarized letter from the property owner must be submitted to the city clerk authorizing the use of the property for the event.
  - (4) The outside event shall not exceed two days.
  - (5) All outside events for an individual licensed establishment will be restricted to two events per year.
  - (6) A non-refundable fee of \$150.00 per event must be paid at the time of filing of the application.
  - (7) The completed application must be submitted to the city clerk no less than 20 days prior to the scheduled event.
- (b) Nothing in this section shall be construed to waive or appeal any other requirements ordained under this Code.

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<sup>6</sup>State law reference(s)—Special events use permit, O.C.G.A. § 3-14-1 et seq.

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- (c) The licensee or the licensee's employee shall supervise all aspects of the special event pertaining to the handling and storage of alcoholic beverages and the distribution of alcoholic beverages to consumers. The licensee shall be responsible for compliance with all aspects of this article and state law, and liable for infractions thereof.

**Secs. 5-306—5-328. Reserved.**

### ***ARTICLE XIII. PUBLIC ENTERTAINMENT FACILITY***

#### **Sec. 5-329. Consumption on premises license for public entertainment facilities.**

A license to sell alcoholic beverages for consumption on the premises may be issued to the owner and/or operator of a public entertainment facility with a seating capacity in excess of 5,000 persons, including stadiums, arenas, coliseums, amphitheaters and auditoriums ("public entertainment facility"). Except as provided in this section, all applicants and license holders for public entertainment facilities shall meet all licensing qualifications established pursuant to this article and must comply with all state statutes governing the sale of alcoholic beverages and all sections of this article and other city ordinances governing sales. Public entertainment facilities shall be required to comply with the percentage sales requirements applicable to consumption on the premises licensees under this article, but in determining such compliance, the revenue from the sale of tickets shall be combined with the revenue derived from the sale of prepared meals or food. In addition, food must be served during any period that alcoholic beverages are served. Alcoholic beverages may be sold during the hours authorized for other consumption on the premises licensees holding licenses pursuant to this article, except that Sunday sales shall be limited to the hours of 12:30 p.m. to 11:30 p.m.

**Secs. 5-330—5-346. Reserved.**

### ***ARTICLE XIV. ANCILLARY WINE TASTING LICENSE***

#### **Sec. 5-347. Conditions of license issuance.**

The holder of a package wine and/or craft beer license, with licensed premises having a minimum of 200 square feet of floor space dedicated to the display of wine and/or craft beer offered for sale, shall be eligible for an ancillary wine and/or craft beer tasting license to sell or provide samples or tastings of wine and/or craft beer offered for sale by the package to customers for consumption on the premises under the following conditions:

- (1) The licensee shall maintain on the premises and offer for sale by the package at least 25 different brands of wine and/or craft beer.
- (2) Wine and/or craft beer sampling and tasting for customers shall only be conducted at a counter area constituting no more than 20 percent of the entire floor area of the premises.
- (3) Wine and/or craft beer samples shall not exceed two ounces, and no customer shall consume more than a total of 16 ounces in any calendar day.
- (4) Wine and/or craft beer bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (5) No open containers of wine and/or craft beer shall be removed from the licensed premises.
- (6) Wine and/or craft beer sampling and tasting is only permitted within the owned or leased portion of the premises.



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- (7) Wine and/or craft beer sampling and tasting is only permitted during the hours the licensed premises are authorized to provide package sales of alcoholic beverages.
  - (8) Wine and/or craft beer license sampling and tasting shall not be permitted prior to the city's approval of a package license holder's application for an ancillary wine tasting license and the package license holder's payment of the subject license fee. The annual fee for an ancillary wine tasting license shall be \$250.00, which fee may be revised from time to time by resolution of the mayor and council.

**Secs. 5-348—5-367. Reserved.**

## **ARTICLE XV. MISCELLANEOUS OFFENSES**

### **Sec. 5-368. Alcohol consumption near package stores.**

- (a) *Generally.* It shall be unlawful for any person to open or to consume all or any part of any type of alcoholic beverage within 100 feet of any retail store where alcoholic beverages are sold in package form or within the boundary lines of the property on which such retail store is located, whichever constitutes the greater distance.
- (b) *Enforcement.* The police department shall be responsible for the enforcement of this section.

**Secs. 5-370—5-396. Reserved.**

## **ARTICLE XVI. SPECIAL PROVISIONS AND EXCEPTIONS WITHIN DOWNTOWN DISTRICT**

### **Sec. 5-397. General.**

The provisions of this article are intended to set forth certain exceptions and provisions applicable only to licensees whose establishments are located within the downtown district (as hereinafter defined) holding licenses to sell alcoholic beverages for consumption on the premises. Except as specifically set forth in this article, all such licensees remain subject to all other provisions of the city's alcoholic beverage chapter.

### **Sec. 5-398. Minimum distance requirements within downtown district.**

The minimum distance requirements for on-premises consumption establishments in the downtown district shall be 50 feet from all of the establishments and locations designated in section 4-17(a), and measured in accordance with the provisions set forth in section 4-17(b). To distance requirements, the downtown district shall not be deemed to include establishments not physically located within the district.

### **Sec. 5-399. Waiver procedure and standards.**

An establishment that desires to locate within the downtown district and cannot meet the distance requirements specified above may file an application for a waiver or reduction of the minimum distance requirements with the city council. The city council, after notice and a public hearing, may grant a waiver or reduction to the minimum distance requirements if it determines that the proposed variance will not substantially diminish the property value, nor alter the essential character of the area surrounding the site, and will not substantially interfere with or injure the rights of others whose property would be affected by the variance. The city council may also impose any conditions which it finds to be necessary to protect the best interest of the

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surrounding property of the city. Conditions may include, but not be limited to, the hours of operation, parking and landscaping requirements and, with respect to residentially zoned areas, whether the establishment is physically separated or well buffered from adjacent residentially zoned areas. A location that has been granted a waiver or reduction of distance by the city council shall not be required to obtain a new waiver or reduction of distance as a result in change of tenancy, ownership or management, unless a change in use occurs for a time period of 12 months or more.

#### **Sec. 5-400. Definition of downtown district.**

For the purpose of this article only, the downtown district is defined as follows: the area of the city bounded on the north by the northern right-of-way of Church Street, then traveling southward along the western right-of-way of Canton/Roswell Street to the intersection with Old Milton Parkway, then traveling along the northern right-of-way of Old Milton Parkway eastward to the intersection with State Route 9/Main Street, then traveling northward along the eastern boundary of State Route 9/Main Street to the southern right-of-way of Marietta Street, then by a line drawn to the east to the intersection of Haynes Bridge Road and Thompson Street, then northward along the western right-of-way of Haynes Bridge Road to the intersection of Academy Street, then proceeding westward along the southern right-of-way of Academy Street to the intersection of State Route 9/Main Street, there to travel northward along the western right-of-way of State Route 9/Main Street to the intersection with Church Street. For the purposes of this definition, any licensed establishment, the property of which abuts the described boundaries, shall be considered to be located within the district.

#### **Sec. 5-401. Outside consumption of alcoholic beverages permitted.**

- (a) *One drink on-street limit.* Any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a paper or plastic cup, or other container other than a can, bottle, or glass, for removal from the premises; provided, however, that no establishment shall dispense to any person more than one such alcoholic beverage at a time for removal from the premises, and no person shall remove at one time more than one such alcoholic beverage from the licensed premises.
- (b) *Size limited to a maximum of 16 ounces.* No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed 16 fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the defined area any open alcoholic beverage container which exceeds 16 fluid ounces in size. Nothing set forth in this subsection shall be construed to permit the possession of open alcoholic beverages in any public place within the downtown district except as otherwise expressly authorized under this section.
- (c) *Drinking from can, bottle, or glass prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.
- (d) *Purchase from licensed premises within downtown district.* Alcoholic beverages consumed pursuant to this provision must be purchased from a licensed premises within the downtown district.
- (e) *Consumption limited to certain areas in downtown district.* No alcoholic beverage purchased pursuant to this provision may be consumed outside of the downtown district, upon any sidewalk adjacent to a church, school or park (unless specifically authorized by the city in conjunction with a city event or other event authorized by the city) or upon any private property without the express written consent of the property owners.
- (f) *Consumption limited to lawful hours of operation.* No alcoholic beverage purchased pursuant to this provision shall be consumed except within the authorized hours of sale of the establishment where purchased.
- (g) *Festivals; special events.* Unless otherwise specified by this article or the terms of a special event permit issued by the city, the provisions of this article shall also apply to special events and festivals.

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- (h) *Public parks and squares in the downtown district.* Beer and wine, but not distilled spirits, may be consumed in public parks and squares located in the downtown district, including on the sidewalks adjacent thereto, but only when same is specifically authorized by the city in conjunction with a city event or under a special event permit issued by the city. Further, beer or wine consumed pursuant to the foregoing provision must be purchased from an alcoholic beverage licensee holding a permit to sell beer or wine at the subject city or special event. Except as otherwise expressly authorized pursuant to the foregoing provisions of this subsection, no person shall possess any open alcoholic beverage container in a public park or square located within the downtown district.

**Sec. 5-402. Alcohol/food sales ratio.**

A licensed establishment located within the downtown district shall derive a minimum of 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

**Sec. 5-403. No abrogation of other laws.**

The provisions of this article shall not be deemed to abrogate or otherwise impact any state law or local ordinance pertaining to public drunkenness, disorderly conduct, driving with an open container or under the influence of alcohol, or similar laws.

**Sec. 5-404. Licensed establishments with food trucks/mobile food vendors.**

A licensed establishment within the downtown district may utilize one or more food trucks/mobile vendor trucks to satisfy the requirement of a full-service kitchen (article II, section 4-47) and alcohol/food sales ratio (article II, section 4-47 and article XVI, section 4-402) under the terms of this section. The food trucks/mobile food vendors must be:

- (1) Licensed under chapter 10, article X.
- (2) Located on the same private property premises as the licensed establishment.
- (3) Generally incorporated into the operation of the licensed establishment; and
- (4) Available, open and prepared to serve food every hour that alcoholic beverages are offered for sale from any portion of the premises.

**Secs. 5-405—5-421. Reserved.**

**ARTICLE XVII. BREWERIES<sup>7</sup>**

**Sec. 5-422. Definitions.**

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

*Brewer* means a manufacturer of malt beverages.

*Brewery* means a place where malt beverages are manufactured or brewed.

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<sup>7</sup>State law reference(s)—Dealing in malt beverages at wholesale and retail prohibited without a license from local governing authority, O.C.G.A. § 3-5-40.

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State law reference(s)—Definitions, O.C.G.A. § 3-5-1.

**Sec. 5-423. Brewer license authorized.**

Brewers' licenses are authorized in the city; provided, however, that no individual shall be permitted to own or operate a brewery without first obtaining a proper brewer's license from the city in the manner provided in this chapter, and each holder of a brewer's license shall comply with the provisions of this chapter and all applicable state statutes, including rules and regulations promulgated by the department of revenue.

**Sec. 5-424. License fee.**

The license fee for a brewer shall be \$500.00 annually. The license fee may be amended from time to time by resolution adopted by the mayor and city council.

**Sec. 5-425. Exceptions for breweries.**

- (a) As a limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of malt beverages established under state law, a brewer's license authorizes the holder of such license to sell directly to the public on its licensed premises up to 3,000 barrels of malt beverage manufactured on such licensed premises per year for:
  - (1) Consumption on the premises; and
  - (2) Consumption off the premises (sales by the package), provided that such sales by the package shall not exceed a maximum of 288 ounces per consumer, per day.
- (b) Such retail sales are permitted on the days and at the times that the retail sale of malt beverages for consumption on the premises or by the package, as applicable, is authorized for other retailer licensees under this chapter. Under no circumstances shall such malt beverages be sold by a licensed brewer to a licensed retailer or retail consumption dealer for the purpose of resale. Any brewer engaging in the retail sales of malt beverages pursuant to this section shall remit all state and local excise taxes to the proper tax collecting authority. For the purposes of this article, the term "barrel" means 31 gallons of malt beverage.

Editor's note(s)—The effective date of this provision is September 1, 2017.

**Secs. 5-426—5-448. Reserved.**

**ARTICLE XVIII. SPECIAL PROVISIONS AND EXCEPTIONS WITHIN CERTAIN MIXED  
USE DEVELOPMENTS**

**Sec. 5-449. General.**

The provisions of this article are intended to set forth certain exceptions and provisions applicable only to licensees whose establishments are located within certain large mixed use development districts, as hereinafter defined, holding licenses to sell alcoholic beverages for consumption on the premises. Except as specifically set forth in this article, all such licensees remain subject to all other provisions of the city's alcoholic beverage chapter.

**Sec. 5-450. Definition of mixed-use development district.**

For the purposes of this article only, the term "mixed use development district" is defined as follows: A property which is zoned MU (Mixed Use) or DT-MU (Downtown Mixed-Use) and is minimum ten acres.

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**Sec. 5-451. Minimum distance requirements within mixed use districts.**

The minimum distance requirements for on-premises consumption establishments in a mixed-use district are waived.

**Sec. 5-452. Outside consumption of alcoholic beverages permitted.**

- (a) The provisions of section 4-401 regarding outside consumption of alcoholic beverages in the downtown district are authorized within mixed use development districts and the same privileges and conditions shall apply in each.
- (b) In the event that a mixed-use development is managed by an on-site management company, such management company may conduct outside special events within common/open areas of the development, provided that the company utilizes a licensed caterer for such events and meets the requirements of section 4-305, except for the limitation on the number of events.

**Secs. 5-453, 5-454. Reserved.**

**ARTICLE XIX. DISTILLERIES**

**Sec. 5-455. Definitions.**

As used in this article:

*Distiller* means a manufacturer of distilled spirits.

*Distillery* means a facility where distilled spirits are manufactured (distilled, rectified or blended).

**Sec. 5-456. Distiller's license authorized.**

The manufacturing of distilled spirits in the city is authorized pursuant to the issuance of a distiller's license by the city council; provided, however, that no person shall be permitted to own or operate a distillery or otherwise manufacture distilled spirits in the city without first obtaining a proper distiller's license from the city council pursuant to the procedures set forth in article I of this chapter, and each holder of a distiller's license shall comply with the provisions of this chapter and all other applicable state and local statutes, ordinances, resolutions and regulations, including, but not limited to, rules and regulations promulgated by the department of revenue.

**Sec. 5-457. Application; license fee.**

Application for a distiller's license shall be made in the manner and in accordance with the procedures set forth in article I of this chapter. The annual fee for a distiller's license shall be \$500.00, which fee may be revised from time to time by resolution of the mayor and council.

**Sec. 5-458. Unlawful to manufacture distilled spirits without license.**

It shall be unlawful for any person to manufacture distilled spirits within the city except under a valid distiller's license granted by the city council as set forth in this article. Distilled spirits may only be manufactured on the licensed premises of a distillery.

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#### Sec. 5-459. Exception for distilleries.

As a limited exception to the provisions of this chapter which implement and enforce the three-tier system for the manufacture, distribution and sale of distilled spirits established under state law, a distiller's license authorizes the holder of such license to sell directly to the public on its licensed premises up to 500 barrels of distilled spirits manufactured on such licensed premises per year for:

- (1) Consumption on the premises; and
- (2) Consumption off the premises (sales by the package), provided that such sales by the package shall not exceed a maximum of 2,250 milliliters of distilled spirits per consumer per day.

Such retail sales are permitted on the days and at the times that the retail sale of distilled spirits for consumption on the premises or by the package, as applicable, is authorized for other licensees under this chapter. Under no circumstances shall such distilled spirits be sold by a licensed distiller to a licensed retailer or retail consumption dealer for the purpose of resale. Any distiller engaging in the retail sales of distilled spirits pursuant to this section shall remit all state and local sales, use, and excise taxes to the proper tax collecting authority. For the purposes of this article, "barrel" means 53 gallons of distilled spirits.

FIRST READING: 1/27/2025  
SECOND READING: 2/24/2025 Adopted

  
Mayor



