

TOWN OF GAY, GEORGIA

TITLE 10

ALCOHOL AND BEVERAGE ORDINANCE

State Law reference- 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; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under 21 years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

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## CHAPTER 1 - IN GENERAL

### Sec. 10-1-1. - Definitions.

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

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

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

*Applicant* means an individual applying for any license authorized by this article.

*Application* means a form supplied by the city for the purpose of applying for any license authorized by this article.

*Brewpub* means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in Code Section 3-5-36. As used in this paragraph, the term "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; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to subparagraph (D) of paragraph (2) of Code Section 3-5-36, or to the public for consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph (2) and paragraph (4) of Code Section 3-5-36, shall not be used. Amended and approved 01/23/2023

*Business* means a private commercial entity, a special event for profit or a nonprofit special event.

*Catered function* means a sporting, cultural, business or private unique activity, including festivals, celebrations, games, weddings, parties or other gatherings at which alcoholic beverages are served by a licensee holding a license from the city for the retail sale of malt beverages or wine or distilled spirits by the drink for on-premises consumption.

*Church* means a permanent building and grounds where persons regularly assemble for religious worship.

*Closely held corporation* means a corporation not traded or listed on any stock exchange and which has fewer than 25 shareholders.

*Convicted or conviction* means conviction, plea of nolo contendere, first offender, or plea of guilty.

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

*Distillery* means a physical facility in which distilled spirits are manufactured subject to the barrel production limitation prescribed in O.C.G.A. § 3-4-1.

*Eating establishment* means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full-service kitchen. A full-service kitchen will consist of a three-compartment pot sink, a stove or grill, permanently installed, and a refrigerator all of which must be approved by the health and fire departments. An eating establishment will be prepared to serve food every hour it is open and will derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of alcoholic beverages. An indoor entertainment hall is specifically excluded from this definition of an eating establishment.

*Family* means any person related to a licensee within the first degree of consanguinity or affinity as determined by state law, and any persons residing in the same household as the licensee.

*Farm Brewery* means a facility for brewing and bottling of beer that produces less than 15,000 kegs/barrels per year and grows agricultural product necessary for the making of the beverage.

*Farm winery* means a winery which makes at least 40 percent of its annual production from agricultural produce grown in the state where the winery is located and is further defined in O.C.G.A. § 3-6-21.1.

*Food caterer* means any person who prepares food for consumption off-premises.

*Fortified wine* means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added; this shall include, but is not limited to, brandy. The term "fortified wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

*General manager* means the chief officer and agent for licensee at the licensed premises, whose business and management responsibilities are performed predominantly at the licensed premises, who serves as the highest ranking supervisor at the licensed premises and who has supervisory authority over employees of licensee responsible for the selling, servicing, dispensing or taking orders for alcoholic beverages at the licensed premises, and who has authority to act for licensee in matters within the scope of licensee's ordinary business.

*Growler* means a container no less than 32 ounces that is used to hold wine or malt beverages that is dispensed by a licensed server from a tap and sealed airtight before being sold to the customer for off premises consumption.

*Individual* means a natural person.

*Interest in license* means an interest held by an owner or co-owner of a license or a business holding a license; by a partner of a general or limited partnership which owns or co-owns a license or a business holding a license; a stockholder of five percent or more shares in any closely held corporation which owns or co-owns a license; a stockholder of 50 percent or more shares in any corporation whether closely held or not which owns or co-owns a license; an owner, co-owner, lessor, sublessor, partner in a partnership, stockholder of five percent or more stock of a closely held corporation, or stockholder of 50 percent or more of any corporation owning or leasing any real estate upon which is located a retail or wholesale dealer; or anyone sharing in the income or corpus of any trust or estate having such an interest; or a person having subscriptions, options, and/or warranty for purchase of five percent or more of a closely held corporation's stock or 50 percent or more of any corporation's stock.

*License* means authorization granted by the city to operate as a retail alcohol dealer, a retail consumption dealer, or a wholesale dealer of alcoholic beverages. There shall be 14 types of licenses, as listed in [Sec. 10-2-1\(b\)](#).

*License department* means the city administration as designated by the mayor or his designee.

*Licensed alcohol beverage caterer* means any retail alcohol dealer who is a food caterer and has been licensed pursuant to article II of this chapter.

*Licensed premises* means a building or segregated part of a building, or the defined boundaries of a special event or catered function in which a valid and current license to sell retail malt beverages and/or wine and/or distilled beverages for on-premises consumption has been issued by the city and shall include any premises which are required by law to be so licensed.

*Licensee* means a person holding a license or having an interest in a license.

*Limited pour* means, as to malt beverages, two servings not to exceed 16 ounces per serving to the same customer within a 24-hour period, and as to wine, two five-ounce servings to the same customer within a 24-hour period.

*Malt beverage* means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer and strong beer, but not including sake (rice wine).

*Microbrewery* means a manufacturer of malt beverages producing fewer than 15,000 barrels annually. Microbreweries may make sales for on-premises consumption and off-premises consumption of product produced on the licensed premises in accordance with O.C.G.A. 3-5-24.1.

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

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

*Premises* means the definite closed or partitioned-in locality, whether a room or shop with a building, a whole building or the boundaries of the venue for special event or catered function approved by the city.

*Private residence* means any house, dwelling, condominium, duplex, boardinghouse or rooming house, apartment building, within or without the limits of the city, or any property, within or without the limits of the city, zoned for residential use.

*Responsible licensee.* To qualify as a responsible licensee, the licensee must:

- (1) Provide a course of instruction for its servers of alcohol that must include subjects dealing with alcoholic beverages as follows:
  - a. The importance of not selling or serving alcoholic beverages to underage customers or visibly intoxicated persons.
  - b. Classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle.

- c. Effects of alcohol when taken with commonly used prescription and nonprescription drugs.
  - d. Guidelines for recognizing underage customers or visibly intoxicated persons.
  - e. Guidelines for checking and verifying age identification, and for recognizing false or altered identification.
  - f. Guidelines for refusing sales of alcoholic beverages to underage customers and visibly intoxicated persons.
  - g. State laws and regulations regarding the sale and service of alcoholic beverages for consumption on- or off-premises, as applicable.
  - h. City ordinances and regulations regarding the sale and service of alcoholic beverages for consumption on- or off-premises, as applicable.
  - i. Methods for reporting to law enforcement authorities' customers and employees who use or distribute illegal drugs at the licensed premises.
- (2) Provide an alcohol server management course for managers of establishments that sell or serve alcoholic beverages where licensee is not the manager. The course must include subjects on alcoholic beverages as follows:
- a. State laws and regulations and city ordinances and regulations governing the service of alcoholic beverages and the operation of establishments serving alcoholic beverages.
  - b. Development of standard operating procedures for dealing with under-aged customers and visibly intoxicated persons.
  - c. Development of standard operating procedures for reporting to law enforcement customers and employees who use or distribute illegal drugs at the licensed premises.
  - d. Methods of assisting employees in dealing with underaged customers and visibly intoxicated persons, and in maintaining records that relate to such incidents.
  - e. Development of standard operating procedures for recognizing underage customers and visibly intoxicated persons.
  - f. Development of guidelines for checking and verifying age identification, and for recognizing false or altered identification.
  - g. Instructions on complying with city qualifications for a responsible licensee, and for administration of a server instruction course.
- (3) Require each nonmanagerial employee who is employed to serve alcoholic beverages to complete the employee training course specified in subsection (1) of this definition within 30 days after commencing employment. The licensee must provide for the supervision of such an employee in the service of alcoholic beverages until the employee has received such training.
- (4) Require each managerial employee to complete the managerial training course specified in subsection (2) of this definition within 15 days after commencing employment.
- (5) Require all employees to attend one meeting every four months that must include the dissemination of information covering the applicable subjects specified in this definition and an explanation of the licensee's policies and procedures relating to those subjects.
- (6) Establish a written policy under which any employee who engages in the illegal use of controlled substances on the licensed premises will be immediately dismissed from employment and require each employee to acknowledge the policy in writing.
- (7) Maintain employment records of the applications, acknowledgements, and training of its employees required by this definition and records of the licensee's enforcement of the policies requiring dismissal specified in subsection (6) of this definition.
- (8) Post signs on the vendor's premises informing customers of the licensee's policy against serving alcoholic beverages to under-aged persons and informing customers that the purchase of alcoholic beverages by an under-aged person or the illegal use of or trafficking in controlled substances will result in ejection from the premises and prosecution.

*Retail alcohol dealer* means a retail store open to the public and meeting the generally accepted characteristics of a grocery store, convenience store or drug store containing a pharmacy dispensing prescription drugs. A retail alcohol dealer must carry an inventory of goods displayed for sale to the public of which at least 55 percent shall be groceries, and must at all times maintain at least \$10,000.00, wholesale value, of grocery inventory. For purposes of this definition, the term "groceries" must include the following household items: medicines and related supplies; household cleaning supplies; health, beauty, and bath supplies; household paper products;

household pet food and supplies; and nonalcoholic food products for home preparation, and does not include alcoholic beverages, gasoline, diesel fuel, motor oil, grease or other petroleum products used for the maintenance or operation of motor vehicles. A retail alcohol dealer must dedicate at least 2,000 square feet of the licensed premises to the display for sale of its grocery inventory. If a licensed premises is a part of a larger premises selling inventory other than groceries, the portion of the larger premises constituting the licensed premises acting as a retail alcohol dealer must comply with all grocery inventory requirements and shall constitute at least 25 percent of the total retail square footage of the larger premises.

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

*Retail dealer* means any person who sells alcoholic beverages at retail only to consumers and not for resale.

*Retail sale for off-premises consumption* refers to the selling of alcoholic beverages for consumption elsewhere and not on the site of sale; however, shall not prohibit wine or malt beverage sampling as permitted by this chapter.

*Retail sale for on-premises consumption* refers to the selling of alcoholic beverages for consumption at the site of the sale.

*Special event* means a sporting, cultural, business or other type of unique activity including festivals, celebrations, games or other gatherings, occurring for a limited or fixed duration and presented to a live audience, that impacts the city by involving the use of, or having impact on, the city's public property, infrastructure, services or resources. It usually occurs on public property but sometimes can occur on private property and have an impact upon city property, other private property or private rights, or city services, infrastructure or other resources. The venue for a special event must be approved by the city.

*Special event for profit* means a for profit special event by an entity which is not currently licensed pursuant to this chapter, but which has obtained an alcohol license for a special event from the state department of revenue.

*Special event nonprofit* means a nonprofit civic organization which is not currently licensed pursuant to this chapter, but has been issued a temporary license by the state department of revenue to sell alcoholic beverages for consumption on the premises or to sell wine or malt beverages (including at auction) at retail for off-premises consumption, or both.

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

*Wine* means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added, including, but not limited to, sparkling wine, champagne, combinations of such beverages, vermouth, special natural wine, rectified wine 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.

*Wine bar* means a fully licensed restaurant, with a floor area not exceeding 2,000 square feet, which sells alcoholic beverages, not including distilled spirits, with a primary focus on wine or malt sales by the glass.

*Wine/malt beverage tasting event* means a special event where wine and malt beverage sampling can occur, typically when a customer requests a sample offered for sale within the premises, or in conjunction with education classes and sampling designed to promote wine and malt beverage appreciation and education, or as a nonprofit fundraiser.

*Wine tasting room* means an outlet, authorized by the state, for the promotion of a Georgia farm winery's wine by providing samples of such wine to the public and providing for retail wine sales in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee.

- (b) Words and terms not explicitly defined in these regulations or in state law shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

## Sec. 10-1-2. - Adoption of state and federal laws.

All laws of the state and the United States, including the rules and regulations of any agency thereof, applicable to licensee and pertaining to the sale of alcoholic beverages are hereby adopted, and shall be complied with by licensee, unless otherwise stated. The failure to comply therewith shall be a violation of this chapter and grounds for denial of a license or revocation thereof.

### Sec. 10-1-3. - Penalty for violation.

Any violation of any requirement of this chapter shall subject the offender to up to the maximum fine and/or the maximum term of imprisonment as set forth in [Sec. 1-1-5](#). Notwithstanding any criminal prosecution, which may result from a violation of this chapter, any licensee employing any officer, agent or employee who fails to comply with the provisions of this chapter while acting on behalf of the licensee, shall be subject to the administrative penalties and remedies of this chapter.

### Sec. 10-1-4. - Drinking in public.

- (a) It shall be unlawful for any person to drink or consume any wine, malt beverage, distilled spirit, or another alcoholic beverage:
  - (1) On any public street, alley, sidewalk, right-of-way, or other city property, unless within the boundaries of a special event or catered function at which an alcoholic license has been issued by the city/town;
  - (2) On any private property in the city where such consumption may be observed by the public, unless in or immediately adjacent to a private structure with the authorization of the owner thereof, or unless within the boundaries of a special event or catered function at which an alcoholic license has been issued by the city;
  - (3) Place of business or commercial establishment in the city which does not maintain a current license to sell and serve alcoholic beverages for consumption on-premises; or
  - (4) Outside a structure licensed as a retail consumption dealer, unless consumption is within a designated and segregated outside eating area upon the licensed premises where all patrons are seated at tables, and immediate adjacent to the licensed structure. Designated and segregated shall mean an area, not within a parking or driveway area, enclosed by a fence or other structure, which shall be at least three feet in height.
- (b) The offense shall be complete whether said consumption of alcoholic beverages shall be in an automobile or another vehicle.
- (c) The possession of any alcoholic beverages, the container of which has been opened or removed from its original carton or package, at such public place or place of business as described at subsection (a) of this section, shall be prima facie evidence of the violation of this section.

### Sec. 10-1-5. - Emergency suspension of sale.

In an emergency situation, when it is determined that the public safety and welfare so require, the mayor or his/her designee may temporarily suspend the sale of alcoholic beverages for a period not exceeding five days.

Secs. 10-1-6 through 10-1-28. Reserved.

## CHAPTER 2 – LICENSE

### Sec. 10-2-1. - Required.

- (a) Any person desiring to operate in the city as a retail dealer of alcoholic beverages shall apply for and obtain a license from the city prior to commencing operations.
- (b) Licenses granted by the city include:
  - (1) Retail sale of malt beverages for on-premises consumption;
  - (2) Retail sale of wine for on-premises consumption;
  - (3) Retail sale of malt beverages for off-premises consumption;

- (4) Retail sale of wine for off-premises consumptions;
  - (5) Retail sale of distilled spirits for on-premises consumption;
  - (6) Wholesale dealers of malt beverages;
  - (7) Wholesale dealers of wine;
  - (8) Wholesale dealers of distilled spirits;
  - (9) Ancillary wine tasting;
  - (10) Ancillary growler malt beverage tastings;
  - (11) Manufacture of malt beverages (microbrewery);
  - (12) Manufacturer of distilled spirits;
  - (13) Farm winery
  - (14) Farm Brewery
  - (15) Brewpub
  - (16) Special event;
  - (17) Catered function; and
  - (18) Limited pour of wine or malt beverages or both as to certain business establishments.
- (c) No licensee may hold both a license for on-premises consumption of alcoholic beverages and a license for off-premises consumption of alcoholic beverages at the same location or for a single licensed location, except that a licensee may hold additional licenses issued pursuant to article VI of this chapter.

#### Sec. 10-2-2. - License department.

- (a) The Town Council shall review all applications for an alcoholic beverage license for compliance with these regulations. All applicants shall furnish upon request all data, information and records necessary for a complete background investigation.
- (b) The Town Council shall also have authority to prescribe such forms as it deems necessary for the proper administration of these regulations.

#### Sec. 10-2-3. - Applicant.

The applicant shall be the owner of the proposed business, if the business is solely owned, or a general partner, if a partnership. If a proposed licensee is a corporation, the applicant may be the president, a vice-president, or secretary of the corporation or the corporation's general manager at the particular business location. If a special event, the person responsible for organizing, conducting and supervising the event shall be the applicant. Otherwise, no other individual may qualify as an applicant.

#### Sec. 10-2-4. - Application contents and investigation.

- (a) Background investigations shall be made on the applicant and any other person who may have an interest in a license should a license be granted to the applicant, and applicants must remit the fees established by the city for such investigations.
- (b) The application shall list the following and, if issued, the licensee shall immediately inform the city in writing of any changes in the following information. The applicant shall state the following information under oath on the application:
  - (1) Name and address of the business operation;
  - (2) The owner, if the business is solely owned;
  - (3) Name and address of each applicant and each person who would have an interest in the



license as defined in [Sec. 10-1-1](#). In the case of a corporation, this list would include only those stockholders owning five percent or more of a closely held corporation's stock or a person having subscriptions, options, and/or warrants for purchase of a closely held corporation's stock that, when fully executed, would give that person five percent or more of the corporation's stock. In the case of a corporation that is not closely held, this list would include only stockholders owning 50 percent or more of a corporation's stock, or a person having subscriptions, options, and/or warrants for purchase of a corporation's (that is not closely held) stock that, when fully executed, would give that person 50 percent or more of the corporation's stock. In the case of a partnership, each general and limited partner would be included. In the case of a limited liability company, all members are entitled to five percent or more of the limited liability company's gross income. If a nonprofit, the list will include the nonprofit's board of directors, or board of trustees or board of advisors;

- (4) The general manager of the particular business location;
- (5) Description of the business operation, location, and facilities;
- (6) Recognizing the planned and actual mixed use and higher density development within the city's downtown district as contrasted to the more segregated uses and districts and lower density of the remainder of the city:
  - a. Within the downtown district (as defined by the city's comprehensive plan; hereinafter "downtown district"), no person may knowingly or intentionally sell or offer to sell any alcoholic beverages in violation of O.C.G.A. § 3-3-21, sales of alcoholic beverages near churches, school buildings, or other sites;
  - b. Within the city outside of the downtown district (as defined by the city's comprehensive plan; hereinafter "comprehensive plan"), no person may knowingly or intentionally sell or offer to sell any alcoholic beverages in violation of O.C.G.A. § 3-3-21, sales of alcoholic beverages near churches, school buildings, or other sites;
  - c. For the purposes of this section, the term "route of travel" shall mean any means of ground travel on a paved or otherwise improved surface for public vehicular, bicycle or pedestrian traffic. For the purposes of measuring a route of travel hereunder, no major or collector street, as defined in this Code, shall be crossed except at the nearest city, county or state approved pedestrian crosswalk or at the nearest intersection. For purposes of this section, distances shall be measured as follows:
    1. To a school, school building, educational building, school grounds, or college campus as follows:
      - (i) From the main public entrance of the structure from which beverage alcohol is sold or offered for sale;
      - (ii) In a straight line to the nearest public route of travel;
      - (iii) Along such public route of travel by the nearest route;
      - (iv) To the nearest portion of the grounds of the school building, educational building, school grounds, or college campus;
    2. To a residence as follows:
      - (i) From the main public entrance of the structure from which beverage alcohol is sold or offered for sale;
      - (ii) In a straight line to the nearest public route of travel;
      - (iii) Along such public route of travel by the nearest route;
      - (iv) To the nearest portion of the record lot upon which the residence is situated;
    3. To a church facility:
      - (i) From the main public entrance of the structure from which beverage alcohol is sold or offered for sale;
      - (ii) In a straight line to the nearest public route of travel;
      - (iii) Along such public route of travel by the nearest route;
      - (iv) To the nearest portion of the record lot upon which the church facility is situated;
    4. To all other protected activities not enumerated in subsections [10-2-4 \(b\)\(6\)c.1](#), [10-2-4 \(b\)\(6\)c.2](#) or [10-2-4 \(b\)\(6\)c.3](#) of this section, as follows:
      - (i) From the main public entrance of the structure from which beverage alcohol is



lease on the licensed premises, or, as to a special event or catered function, the licensee shall have written permission from the owner of the location to hold the special event or catered function. In case of a special event or catered function, a written lease, license or other permission from the owner of the premises is required.

- (e) In the case of a corporation, the applicant for the license shall be an officer of the corporation or a general manager. However, all of the officers and directors must meet the licensing requirements herein, other than residency. Only the applying officer or general manager must meet the residency requirements. The license shall be issued to the corporation.
- (f) The applicant (individual in case of proprietorship, applying officer or general manager in case of corporation, and one of the partners in case of partnership) shall be responsible for the management and operation of the business for which the license is granted.
- (g) The applicant shall make a sworn statement of the qualifications to the above and shall place same on file with the city before any license is issued.
- (h) If the applicant is a partnership, all members of the partnership must approve of this application but only one member must meet the requirements for residency. However, all members of the partnership must meet the other qualifications, and the license shall be issued to all the partners in the name of the partnership.
- (i) No person shall be granted a license to engage in the sale of alcoholic beverages at retail unless it shall appear to the satisfaction of the city council that such person is of good moral character.
- (j) An application shall not be granted or action pursuant to [Sec. 10-2-13](#) shall be taken against a licensee should the mayor or his designee find any of the following:
  - (1) The application fails to comply with the requirements of this chapter and of state law applicable to licensee as to the sale of alcoholic beverages.
  - (2) The applicant and/or licensee fails to meet the qualifications and/or requirements of this chapter and of state law applicable to licensee as to the sale of alcoholic beverages.
  - (3) The applicant and/or licensee has ever had his license to sell alcoholic beverage suspended two or more times during the past five years or revoked by any state or political subdivision hereof.
  - (4) The applicant and/or licensee has ever had his business license of a business selling alcoholic beverages suspended two or more times during the past five years or revoked by any state or political subdivision hereof.
  - (5) The applicant and/or licensee has ever had his business license, for any business, suspended two or more times during the past five years, or revoked by the city or county.
  - (6) As to a special event, the applicant or licensee fails to obtain or maintain in good standing authorization from the state department of revenue pursuant to O.C.G.A. §§ 3-9-3 and 3-9-4 or 3-11-12 and 3-11-3, as applicable.
- (k) No applicant and/or licensee may apply for a license to sale malt beverages or wine off-premises for catered functions, unless the applicant and/or licensee qualifies as a licensed alcohol beverage caterer as defined in [Sec. 10-1-1](#).

#### Sec. 10-2-6. - Application, approval and issuance of license.

All applications for license under this chapter shall be subject to the requirements of this chapter, the city's other ordinances and state law applicable to licensee and to the sale of alcoholic beverages. The applications shall be presented to the city's license department for approval, and if approved, the licenses shall be issued by the city upon payment of all required fees.

#### Sec. 10-2-7. - Misleading, omitted or obsolete information.

- (a) Any untrue or misleading information contained in or material omission left out of an original or renewal application for an alcoholic beverage license shall be cause sufficient for the denial thereof.
- (b) Any information provided in the current application, which changes or otherwise becomes obsolete, shall be reported to the license department immediately, but in no case more than 30 days from the change or obsolescence.
- (c) When any license is issued on the basis of an application containing misleading or untrue information or omitted or unreported changed material, such circumstances shall be cause for suspension or revocation of the license pursuant to [Sec. 10-2-13](#).

- (d) Any misstatement or concealment of fact in the application shall make the applicant liable to prosecution for false swearing under the law of the state and shall constitute a violation of this chapter and may be prosecuted as an offense against the city punishable as provided by the Charter.

Sec. 10-2-8. - Regulations regarding employees.

- (a) It shall be unlawful in any licensed premises to employ any person in any capacity whatsoever, including performers, entertainers and musicians, who has been convicted within the past five years, by this or any other state or by the United States or any other country, of any felony or crime involving moral turpitude, or of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics or sex offenses.
- (b) No licensee shall employ, in any capacity to sell, serve, deliver, dispense or take orders for alcoholic beverages, any person who has pled guilty to or has been convicted of a violation of the provisions of this chapter, or any similar provisions from any other jurisdiction, or state law or convicted of any offense relating to the manufacture sale, or misuse of alcoholic beverages, within the preceding two years.
- (c) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages.
- (d) No licensee shall employ, in any capacity to sell, serve, deliver, dispense, or take orders for alcoholic beverages, any person who has been convicted more than once of a violation of the provisions of this chapter, or any similar provisions from any other jurisdiction, or to a violation of any offense relating to the manufacture or sale of alcoholic beverages.

Sec. 10-2-9. - Decisions affecting license status.

- (a) All decisions of the city's license department or the mayor approving, denying, suspending, or revoking the permits or license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant. No license for on premises consumption may be issued until the public comments are taken pursuant to [Sec. 10-2-19](#).
- (b) Upon written application submitted within ten days of receipt of the written decision, with receipt being the physical delivery or three days after the postmark date, any applicant aggrieved by the decision of the city's license department regarding a permit or license shall be afforded an informal hearing before the mayor with an opportunity to present evidence.
- (c) Prior to the construction, renovation, or completion of a licensed premises, the city's license department may allow a license to be issued only if plans for the premises comply with applicable provisions of this chapter pertaining to location, and with any zoning ordinance conditions imposed by the city. However, no sales of alcoholic beverages shall be allowed upon the premises until they are completed according to the plans submitted, certificate of occupancy issued, and unless all other provisions of this chapter and of the zoning ordinance conditions have been met, if applicable.
- (d) All holders of licenses under this article must, within six months after issuance, open the establishment referred to in the license; otherwise, if the license holder fails to open the licensed establishment or to receive a time extension from the city council within the six-month period, the license shall be cancelled, and all fees forfeited. Any license holder who, after commencement of an operation, ceases to operate the business for a three-month period automatically forfeits his license, and the license shall be automatically cancelled.

State Law reference-s- Similar provisions, O.C.G.A. § 3-3-2(b).

Sec. 10-2-10. - Calendar year term.

- (a) All licenses shall issue for the calendar year period, or the remainder thereof. No license shall issue for less than the remainder of the current calendar year or extend from one calendar year to the next. License fees for the remainder of a calendar year shall be prorated by the mayor or designee.
- (b) All licensees desiring to renew their licenses for each new or successive year shall make application therefor, with all accompanying documents, and fees on or before December 1 of each year without penalty. Renewal applications filed after December 1 and on or before December 31 shall be subject to a penalty of ten percent of the license fee. License fees may be billed on an annual or semiannual basis as approved by the mayor

or designee. No licensee shall be permitted to sell, serve, dispense, deliver or take orders for alcoholic beverages after December 31 of each year without a valid license.

- (c) Regardless of subsections (a) and (b) of this section, the license for a special event or catered function shall be limited to the time allotted, and approval by the city, for the special event or catered function.

#### Sec. 10-2-11. - Renewal of license.

- (a) The renewal of an existing license on or before December 31 of each year shall be dependent upon proof that the licensee meets all requirements upon which the original application for license was granted and all requirements of current ordinances. If the requirements are not met, renewal of the license shall not be granted.
- (b) Licensees must provide at the time of application for renewal of license an affidavit substantiating their compliance with the residency requirements set forth herein.
- (c) Regardless of subsections (a) and (b) of this section, the license for a special event or catered function may only be renewed for a special event or catered function rescheduled due to inclement weather and conducted within 30 days of the original date.

#### Sec. 10-2-12. - Licenses not transferable; one license per location.

Licenses granted pursuant to this chapter are not transferable to another location. The same licensed premises may not be licensed for both on-premises and off-premises consumption.

#### Sec. 10-2-13. - Revocation or suspension of license.

- (a) All licenses herein shall be a mere grant or privilege to carry on such business during the term of the license subject to all the terms and conditions imposed by the Charter and related laws of the state and of the United States, and applicable provisions of this chapter and other ordinances of the city relating to such businesses.
- (b) If any licensee should be engaged in unlawful activities, or acts which would constitute violations of state or federal laws or city or county ordinances, and where such unlawful activities are such as to directly or indirectly affect the licensee's qualification to conduct the licensed business or be involved in the conduct of such business, and where the licensee is doing business within the city, the license may be revoked or suspended in the manner provided herein.
- (c) Where it is reported to the city's code enforcement officer that a licensee is engaged in such unlawful activities, a preliminary investigation shall be conducted by the code enforcement officer or his designee in order to determine whether there is a basis for the reports. If the code enforcement officer's preliminary investigation reveals that there may be a basis for revocation or suspension of the license, the licensee will be notified of the code enforcement officer's recommended action and notified of the licensee's right to appear before the mayor on a date certain and show cause why the code enforcement officer's recommendation should not be implemented.
- (d) The code enforcement officer may recommend:
  - (1) A finding that the evidence does not authorize action by the mayor;
  - (2) That a warning be issued to the licensee, for which there shall be no appeal to the mayor;
  - (3) Levy a fine not to exceed \$1,000.00;
  - (4) Suspension of the license and probate of any part or all of suspension;
  - (5) Suspension of the license for a stated number of days;
  - (6) Suspension of the license pending a hearing by the mayor;
  - (7) Revocation of the license; or
  - (8) Any combination of the above actions.
- (e) Within ten days from the date of delivery of the code enforcement officer's recommendation to the licensee, the licensee may request a hearing before the mayor prior to it taking action on the code enforcement officer's recommendation, except for recommendations in subsections (d)(1) and (d)(2) of this section, to which there

shall be no appeal. Any decision of the code enforcement officer to suspend pending a hearing by the mayor shall automatically be scheduled for a hearing before the mayor no later than 30 days from the date of the suspension. The mayor shall schedule a hearing and notify the licensee of the time and date of the hearing. If the licensee fails to request a hearing within the allotted ten days, the mayor shall act upon the code enforcement officer's recommendation without a hearing or input from the licensee.

- (f) At the conclusion of the hearing, the mayor is authorized to:
- (1) Find in favor of the licensee;
  - (2) Issue a warning to the licensee;
  - (3) Levy a fine not to exceed \$1,000.00;
  - (4) Suspend the license for a stated period of time;
  - (5) Suspend the license and probate suspension;
  - (6) Revoke the license and probate any portion or all of the revocation;
  - (7) Revoke the license;
  - (8) Take any other appropriate action regarding licensee; or
  - (9) Take any combination of the above actions.
- (g) With regard to violations of this chapter, or violations of state law regulating the sale of alcoholic beverages, committed by any licensee employed server (excluding general managers and persons with an interest in license), while acting within the licensee's employment, upon reasonable proof acceptable to the mayor that the licensee at the time of the violation and at the time of the hearing before the mayor was and is a responsible licensee, and the licensee actively encourages and requires compliance with policies, guidelines, and education required of a responsible licensee, the mayor shall:
- (1) For the first violation within two years, issue a warning and may levy a fine against the licensee;
  - (2) For a second violation within two years, suspend the licensee's license (and probate any portion of this suspension), and levy a fine against the licensee;
  - (3) For the third violation within two years, revoke the licensee's license (and probate any portion of the revocation).
- (h) Failure to pay fines assessed hereunder constitutes a violation of this chapter and shall be grounds for the suspension or revocation of the licensee's license. All fines assessed under this section shall be due as follows:
- (1) If a licensee does not appeal the recommendation of the code enforcement officer, then the fine assessed by the mayor shall be due and payable on the date that the mayor takes action on the code enforcement officer's recommendation. If the licensee does not pay such fine within three days of the assessment of the fine by the mayor, then such failure shall constitute a new violation of this chapter, and each day that said fine remains unpaid shall constitute a separate and distinct violation of this chapter; or
  - (2) If a licensee appeals the recommendation of the code enforcement officer, then the fine assessed by the mayor shall be due and payable on the date that the mayor takes action of the code enforcement officer's recommendation, provided, however, the mayor shall not take any action on the code enforcement officer's recommendation prior to conducting a hearing as required by subsection (e) of this section. If the licensee does not pay such fine within three days of the assessment of the fine by the mayor, then such failure shall constitute a new violation of this chapter, and each day that said fine remains unpaid shall constitute a separate and distinct violation of this chapter.

State Law reference- Similar provisions, O.C.G.A. § 3-3-1.

Sec. 10-2-14. - Automatic revocation.

Whenever the state shall revoke any permit or license to sell alcoholic beverages of a city licensee, the city license to deal in such products, issued pursuant to this chapter, shall thereupon be automatically revoked without any action by the mayor and council or any other city officer being necessary.

Sec. 10-2-15. - New license issued after revocation or denial.

When a license has been revoked or an application denied, no application for a new license from the licensee or applicant involved shall be received for a period of 24 months from when the revocation or denial becomes final or non-appealable.

Sec. 10-2-16. - Refunds.

In the event a license issued hereunder is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application, license or employee fees previously remitted.

Sec. 10-2-17. - Illegal acts of licensee and others.

- (a) No holder of a license authorizing the sale of alcoholic beverages in the city, nor any agent or employee of the licensee, shall do any of the following upon the licensed premises:
  - (1) It shall be unlawful for any person to knowingly, directly or through another person, dispense, serve, or sell, cause to be dispensed, served, or sold, or permit any person in such person's employ to dispense, serve, or sell any alcoholic beverages to any person under the age of 21 years.
  - (2) Knowingly dispense, serve or sell alcoholic beverages to any person while such person is in an observable intoxicated condition.
  - (3) Dispense, serve or sell alcoholic beverages upon the licensed premises on any day or at any time when such sale or consumption is prohibited by law.
  - (4) Permit the consumption of alcoholic beverages on the licensed premises unless the license authorizes on-premises consumption.
  - (5) Violate sections [10-3-2\(b\)](#) or [10-2-3](#).
  - (6) Violation of any requirement of prohibition of any provision of this chapter regulating the operation of a licensed business.
- (b) It shall be unlawful for any person to sell, or possess for the purpose of sale, any alcoholic beverages where such person does not have a license from the city to sell or possess for sale such beverages.
- (c) Alcoholic beverages sold at retail within the city shall be received at or delivered to the premises of the retail licensee by no other means than by a conveyance owned and operated by a wholesale dealer with a license from the state.
- (d) No licensee, including wholesale dealers, licensed for sale of off-premises consumption of alcoholic beverages, shall knowingly allow or permit the consumption of any alcoholic beverages on the licensed premises.
- (e) No licensee, including wholesale dealers, licensed for sale of off-premises consumption of alcoholic beverages, shall knowingly allow or permit the breaking of any package or packages containing alcoholic beverages on the licensed premises or permit the drinking of the contents of such package or packages on the licensed premises.
- (f) It shall be unlawful for a licensee, its employees or agents, to dispense, serve, deliver, transfer or sell alcoholic beverages to any person at a location other than the licensed premises.
- (g) No retailer licensee shall purchase alcoholic beverages from any other person other than a wholesaler licensed by the state. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter.
- (h) A licensee shall not sell, serve, or dispense alcoholic beverages by a "drive thru" or "car hop" or "drive-in window" method, or otherwise directly to a customer while the customer is located within an automobile, truck, motorcycle, or other vehicle.
- (i) A retail consumption dealer shall comply, and shall cause its patrons to comply, with the requirements of Sec. [10-1-4\(a\)\(4\)](#) when allowing consumption of alcoholic beverages outside the licensed structure, which consumption may only be upon the licensed premises.

Sec. 10-2-18. - Additional requirements for license for sale of alcoholic beverages for off-premises consumption.

This section shall not apply to wine auctions conducted at a special event licensed by the city or microbreweries or manufacturers of distilled spirits or farm wineries.

- (1) Sales under a license for sale for off-premises consumption of malt beverages and/or wine may be made only in a retail alcohol dealer as defined in [Sec. 10-1-1](#), which maintain an inventory of food for human consumption at wholesale cost of at least \$10,000.00. No sales by-the-package or by-the-drink of distilled spirits, excluding fortified and kosher wines by-the-package, may be made in any retail alcohol dealer.
- (2) Exceptions for wine tasting rooms and growler sales: Wine tasting rooms, as defined in [Sec. 10-1-1](#), and also businesses whose primary retail purpose is to offer growlers for sale shall not be required to maintain the conditions set forth for food/grocery inventory, however, neither shall be permitted to sell vehicular fuel on the same premises.
- (3) Hours of operation of retail licensee for the sale of malt beverages and/or wines for off-premises consumption may be any time, except during the hours from 11 :59 p.m. on each and every Saturday until 12:30 p.m. the following Sunday and from 11 :30 p.m. on Sunday until 12:01 a.m. the following Monday, and except as otherwise provided in this chapter.
- (4) The sale of alcoholic beverages shall be lawful during the polling hours of any election day; excepting, however, that it shall be unlawful to sell alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

Sec. 10-2-19. -Additional requirements for license to sell alcoholic beverages.

- (a) *Notice of application for license.* The applicant shall cause a notice of application to sell alcoholic beverages for consumption on the premises to be posted in a conspicuous manner at the main public entrance to the building or structure where it is proposed that customers be able to order and consume alcoholic beverages by the drink at the site of business designated on the application for a period of two weeks prior to the deadline for submitting public comments. Said notice shall be no less than 24 inches by 24 inches in size with letters no less than two inches in height. For purposes hereof, where a proposed site is being developed, the main public entrance cannot be posted pursuant hereto until such time as the permanent main entrance to the building is constructed at such location on the site as is shown on the site plan approved by the city. The mayor or his designee shall likewise cause to be published in a newspaper of general circulation that has been approved for such purposes, or in the legal organ of the county, an advertisement that reads as follows:

"Application has been made by undersigned requesting the issuance of a License to sell alcoholic beverages at retail for on-premises consumption at the following location: \_\_\_\_\_

The application will be considered by the mayor of the Town of Gay, Georgia. Public comments must be delivered to city hall addressed to "mayor" no later than five o'clock p.m. local time on the

\_\_\_ / \_\_\_ / \_\_\_ day of \_\_\_\_\_, 20\_\_.

Signed: \_\_\_ Applicant"

- (b) *Additional qualifications for on-premises consumption licenses.*

- (1) A license to sell alcoholic beverages for on-premises consumption may only be issued for the following type of businesses:
  - a. Restaurants (not including wine bars), cafes, or dining facilities serving the general public which derive no less than 60 percent of their gross sales from the sale of on-site prepared foods. The licensee's premises must be furnished with tables and chairs sufficient to provide table seating for no less than 40 persons and meet all prescribed safety standards set forth in city and state regulations and ordinances.
  - b. Wine bars serving the general public which derive no less than 20 percent of gross sales from the sale of on-site prepared foods. Of the total sales of all alcoholic beverages, the percentage of wine sales shall be no less than 75 percent. The licensee's premises must meet all prescribed safety standards set forth in city and state regulations and ordinances.



- c. Bowling centers, billiard centers, or golf clubs, serving the general public, which provide recreational activities consisting predominantly of bowling, billiard, or golf, and which derive no more than 25 percent of their gross sales from sale of malt beverages and wine, only. Businesses described in subsection (b)(1)b of this section may not be licensed to serve distilled spirits. The licensee must comply with the following requirements and ordinances:
  - 1. The licensee's premises must be furnished with a separate and segregated area dedicated exclusively to the selling, serving and consumption of on-site prepared food and wine and/or malt beverages for on-site consumption, which area must be furnished with tables and chairs sufficient to provide table seating for no less than 40 persons.
  - 2. Not serve distilled spirits.
  - 3. Comply with all prescribed safety standards set forth in city ordinances and state laws and regulations.
- d. Hotels, inns, and convention centers in hotels; said establishments will be granted licenses only for restaurants, cafes, or dining facilities within their immediate premises, and must derive no less than 60 percent of their gross sales from the sale of on-site prepared foods. Such on-site establishments must be furnished with tables and chairs sufficient to provide table seating for no less than 40 persons and meet all prescribed safety standards set forth in city and state regulations and ordinances. In-room bars stocked with alcoholic beverages and room service of alcoholic beverages is not allowed.
- e. No distilled spirits may be sold by the drink for consumption on the premises where sold except in eating establishments regularly serving prepared food, with a fully-staffed and equipped full-service kitchen prepared to serve food for every hour they are open. 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.
- f. Growler stores.
- g. Special events.
- h. Catered functions.
- i. Farm Brewery
- j. Micro-Brewery
- k. Brew Pub
- l. Wine tasting room of a farm winery.
- m. Limited pour of wine or malt beverage or both.
  - 1. A business establishment which provides as its primary business one of the approved activities as listed in subsection (b)(1) of this section may, if properly licensed hereunder, provide limited pours (as defined in [Sec. 10-1-1](#)) to its patrons within its place of business of wine, malt beverage or both, as licensed.
  - 2. Approved activities shall be any of the following:
    - (i) Formal or wedding apparel;
    - (ii) Fashionable clothing boutique;
    - (iii) Fine jewelry made of gold, platinum, including diamonds and other precious stones;
    - (iv) Beauty products and hairstyling;
    - (v) Original and limited-edition art, artifacts, and instructional classes;
    - (vi) Photography studio;
    - (vii) Massage or massage therapy by a state licensed masseuse or massage therapist;
    - (viii) Hospitality services within an independent-living, senior housing development.
  - 3. The business establishment may not charge for the wine or malt beverages.
    - (i) Any wine not consumed at a business establishment, as described in this section, shall be disposed of at the premises and not carried out by a patron of the business.
    - (ii) Any malt beverage opened and not consumed at a business establishment,

shall be disposed of at the premises and not carried out by a patron of the business.

(iii) All applicable state laws and city ordinances which address the use and serving of alcoholic beverages shall apply to this section, unless otherwise specifically provided hereinabove.

(iv) For purposes of this section, the term "business establishment" shall not include a private hotel room or other similar guest room or a private club.

(v) A business establishment, as described in this section, shall have an established closing time no later than 10:00 p.m.

(vi) Eighty percent of the business establishment's annual gross revenues shall be derived from one of the approved activities.

- (2) The city shall have the right to inspect those records and books of the licensee which are necessary to determine compliance with the regulations set out herein.
- (3) As used herein, the term "bowling centers" means a commercial building equipped with at least 20 American Bowling Congress (ABC)-sanctioned, tournament-size bowling lanes at which, for a fee, members of the public participate in the game of bowling.
- (4) As used herein, the term "billiard centers" means a commercial building equipped with at least 12 Billiards Congress of America (BCA) sanctioned tournament-size pool tables at which, for a fee, members of the public participate in the game of pool.
- (5) As used herein, the term "golf club" means a building associated with and contiguous to a Professional Golfers Association-sanctioned regulation golf course with at least 18 Professional Golfers Association-sanctioned regulation holes, at which members of the general public pay to participate in the game of golf, and in which a golf pro shop is located.

(c) *Serving hours.* Licensees shall serve alcoholic beverages for on-premises consumption only during the following hours:

- (1) Monday: 8:00 a.m. to 11:59 p.m. Tuesday.
- (2) Tuesday: 8:00 a.m. to 11:59 p.m. Wednesday.
- (3) Wednesday: 8:00 a.m. to 11:59 p.m. Thursday.
- (4) Thursday: 8:00 a.m. to 11:59 p.m. Friday.
- (5) Friday: 8:00 a.m. to 11:59 p.m. Saturday.
- (6) Saturday: 8:00 a.m. to 11:59 p.m. Sunday.
- (7) Sunday: 10:00 a.m. to 11:59 p.m. Monday.

Serving hours can be extended with council approval for special events.

(d) *"Happy hour" promotions.* It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour." No licensee under this chapter, 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 the permanent reduction of the price of a drink or drinks 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 such beverage is purchased or before the first beverage has been consumed by any one person;
- (5) Increasing the volume of alcoholic beverage contained in a drink without proportionately increasing the price customarily charged for such beverage;
- (6) Selling, offering to sell, or delivering to any person, any alcoholic beverage made with more than three ounces of distilled spirits.

- (e) *License fees.* License fees shall be prorated for the number of months remaining in a year when the application is made in any month other than January. There shall be no license fee charged a vendor for alcoholic beverage service at a city-sponsored event. License fees for the following license types shall be in an amount as established by the city council from time to time:
- (1) Sale of malt beverages and/or wines for on-premises or off-premises consumption;
  - (2) Sale of distilled spirits for on-premises and off-premises consumption;
  - (3) A catered function shall have a license fee per event in addition to on-premises license;
  - (4) A special event shall have a license fee per event not to exceed 3 days without city council approval in addition to the on-premises license;
  - (5) Limited pour licenses shall be per year for malt beverages or wine at regularly scheduled events, each event not to exceed 3 days without city council approval.

All other license fees shall be in an amount as established by the city council from time to time.

#### Sec. 10-2-20. - Requirements for wine tasting events and growler beer tasting events.

(a) *Wine sampling.*

- (1) Wine sampling shall be on limited occasions when a customer requests a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education.
- (2) Wine sampling for customers shall not exceed two ounces per sample, and no customer shall be served or consume more than eight ounces of wine sampling at the licensee within any 24- hour period. In addition, each customer shall be limited to two limited pours of wine within any 24-hour period.
- (3) Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee.
- (4) No open containers of wine shall be removed from the licensed premises.
- (5) The holder of an ancillary wine tasting license may conduct educational classes and sampling for classes. All conditions of sampling set forth in this section shall apply to such classes, except for the limitation on floor areas where the classes can be conducted.
- (6) Samples of wine can be given free of charge or for a fee.
- (7) Wine sampling and tasting is only permitted within the licensed premises.
- (8) No sales of vehicular fuel shall be permitted on the same premises.

- (b) *Nonprofit wine/malt beverage tasting event.* A person without a retail wine or malt beverage license shall apply for a special event permit before conducting a tasting event for a nonprofit civic organization and shall provide evidence of compliance with the requirements set forth in O.C.G.A. §§ 3-9-3 and 3-9-4.

- (c) *Ancillary growler malt beverage tasting license.* Within the Main Street historic district, the holder of a license for retail sale of malt beverages for off-premises consumption, with or without a retail wine license, whose primary retail purpose is to offer growlers for sale, 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 following conditions:

- (1) Growler malt beverage sampling shall be on limited occasions when a customer requests a 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 malt beverage appreciation and education.
- (2) Growler malt beverage sampling for customers shall not exceed four ounces per sample, and no customer shall consume more than 16 ounces of malt beverage sampling at the licensee within any 24-hour period. In addition, each customer shall be limited to two limited pours of malt beverages within any 24-hour period. Total consumption of limited pour and sampling shall not exceed 32 ounces per customer within any 24-hour period.
- (3) Only the licensee or an employee shall open, handle, and serve, and samples shall only be poured by the licensee and/or an employee.
- (4) No open growler containers shall be removed from the licensed premises.

- (5) 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.
- (6) Samples of malt beverages can be given free of charge or for a fee.
- (7) Growler malt beverage sampling and tasting is only permitted within the licensed premises.
- (8) No sales of vehicular fuel shall be permitted on the same premises.

Sec. 10-2-21. -Authority to manufacture or sell distilled spirits; license required.

Distilled spirits may be manufactured or sold in the incorporated area of the city only under a license granted by the city council upon the terms and conditions provided in this article.

State Law reference-s- Local permit or license required for wholesale or retail sales of alcoholic beverages, O.C.G.A. § 3-3-2(a).

Sec. 10-2-22. - License fee; excise tax in addition to retail license fee; records; wholesalers' performance bond.

- (a) The applicant for a license as a wholesale dealer, retail dealer or manufacturer of distilled spirits shall comply with all rules and regulations adopted by the city council regulating the sale of distilled spirits, and each applicant shall pay a license fee in an amount as established by the city council from time to time.
- (b) In addition to the license fees in subsection (a) of this section, there is hereby imposed an excise tax upon all distilled spirits purchased by persons holding licenses for retail sales of distilled spirits at a rate as established by the city council from time to time.
- (c) The excise tax shall be collected by all wholesale dealers selling distilled spirits to persons holding retail licenses and shall be paid by the wholesale dealers to the city clerk by the tenth of each month, based upon the units of distilled spirits sold during the previous month. Any such excise tax not paid in full by the tenth day of each month shall bear interest at the rate of one percent per month or fraction thereof, and a penalty of ten percent of such unpaid tax shall be added and attached to the total amount of the tax. The wholesale dealers shall keep true and correct records of all sales and shipments. The monthly remittance shall be accompanied by a sworn statement showing the type, volume and price of distilled spirits sold to each retail licensee.
- (d) Wholesalers shall post a performance bond with the city clerk equal to 1½ times the estimated highest monthly payment made in a calendar year of the excise tax based on sales collected by wholesalers from the retailers to secure the payment for the tax imposed in this section. The bond provided for in this section shall be secured by cash, which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the city mayor.
- (e) The city clerk may audit each wholesale dealer licensed to do business in the city for the purposes of determining compliance with applicable provisions of this chapter.

State Law reference-e- Levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. § 3-4-80.

Sec. 10-2-23. - Regulations for sales by manufacturer of distilled spirits.

- (a) A limited exception to the provisions of this chapter providing for the distribution and sale of distilled spirits shall exist to the extent that the license to manufacture distilled spirits in this city shall include the right to sell up to 500 barrels of distilled spirits per year produced at the distiller's licensed premises to individuals who are on such premises for:
  - (1) Consumption on the premises; and
  - (2) Consumption off the premises, provided that such sales for consumption off the premises shall not exceed a maximum of 2,250 milliliters of distilled spirits per consumer per day.
- (b) A distiller may sell distilled spirits pursuant to subsection (a) of this section on all days and at all times that sales of distilled spirits by retailers and retail consumption dealers are lawful within the city, including, but not limited to, Sundays.

- (c) A distiller shall not sell any distilled spirits for consumption off the premises pursuant to subsection (a) of this section at a price less than the price at which a person licensed to sell distilled spirits by the package is permitted to sell distilled spirits pursuant to O.C.G.A. § 3-4-26(b).
- (d) Any distiller engaging in sales of distilled spirits pursuant to subsection (a) of this section shall remit all state and local sales, use, and excise taxes to the proper tax collecting authority.
- (e) The commissioner of the department of revenue shall promulgate and enforce such rules and regulations as he may deem reasonable and necessary to effectuate the provisions of this section.
- (f) Upon a violation by a distiller of any provision of this chapter or any rule or regulation promulgated thereunder, the commissioner of the department of revenue shall have the power to place conditions or limitations on such distiller's license and to modify or amend such conditions or limitations.

Sec. 10-2-24. - Sale without license; separate application and separate license required for each location.

Distilled spirits shall not be distributed, sold, or possessed for the purposes of sale without a license granted by the city council. A separate application must be made, and a separate license to sell distilled spirits must be obtained, for each location where the same is sold at retail.

Sec. 10-2-25. - Wholesale delivery of alcoholic beverages.

- (a) Alcoholic beverages in unbroken packages may be sold at wholesale to retailers and persons lawfully engaged in selling retail alcoholic malt beverages. Upon request of the city, wholesale deliverers of alcoholic beverages shall present evidence to show licensing by the state.
- (b) Wholesale delivery of alcoholic beverages shall be subject to those taxes set out in article IV of this chapter.
- (c) Distilled spirits may not be sold to retailers other than those set forth in this chapter.
- (d) Any person possessing or having an interest in a license for wholesale delivery of alcoholic beverages shall not be permitted to be licensed for or to have an interest in a license for retail sale of alcoholic beverages within the city.

Sec. 10-2-26 through Sec. 10-2-28 Reserved

## CHAPTER 3 - SALES TO UNDERAGE PERSONS

Sec. 10-3-1. - 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:

*Underage person* means any person under the age of 21 years.

Sec. 10-3-2. - Sales to minors; possession by minors.

- (a) It shall be unlawful for a person under the age of 21 years to attempt to purchase alcoholic beverages or for any other person to purchase alcoholic beverages for an underage person.
- (b) It shall be unlawful for a person under the age of 21 years to exhibit fake or forged or borrowed credentials in an effort to obtain alcoholic beverages to which he is not legally entitled.
- (c) It shall be unlawful for any person under the age of 21 years to have alcoholic beverages in his possession.
- (d) No person engaged in the business of a licensee regulated hereunder shall make, or permit to be made, any sales of alcoholic beverages to a person under the age of 21 years.

- (e) It shall be illegal for a person under the age of 21 years to loiter in an establishment selling any alcoholic beverages at retail.

#### Sec. 10-3-3. - Verification of age.

- (a) It shall be unlawful for any person, licensee, agent, officer, or employee of a licensee to fail to properly check the identification of any patron when selling or otherwise providing any alcoholic beverages, which failure results in a person under the age of 21 years being sold, served, or placed in possession of, by said person, licensee, agent, officer, or employees of a licensee, any alcoholic beverage while on the licensed premises.
- (b) For the purposes of this section, the term "identification" means any document issued by a governmental agency containing a description of the person so identified, such person's photograph, and such person's date of birth. As used herein, the term "identification" includes a passport, a military identification card, a driver's license, or a state department of public safety identification card. The term "identification" does not include a birth certificate nor any traffic citation or complaint.
- (c) Any person violating the provisions of this section shall be punished as for a misdemeanor.
- (d) Notwithstanding any criminal prosecution which may result from a violation of this section, and regardless of whether or not there has been a criminal conviction for a violation of this section, any licensee or any officer, agent, or employee of the licensee that fails to comply with the provisions of this article, which failure results in a person under the age of 21 years, being sold, or served, or to have in his possession any alcoholic beverage, while on the licensee's premises, shall be subject to the penalties provided at [Sec. 10-2-13](#).

State Law reference -- Similar provisions, O.C.G.A. §3-3-23.

## CHAPTER 4 - EXCISE TAXES

#### Sec. 10-4-1 - Administration; enforcement; rules; records; confidentiality of reports.

- (a) *Authority of the city.* The mayor shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.
- (b) *Rules and regulations.* The mayor shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other laws of the city and the state, or the constitution of the state or the United States Constitution for the administration and enforcement of the provisions of this article and the collections of the taxes hereunder.
- (c) *Records required from licensee; form.* Every person who sells alcoholic beverages in the city shall keep such records, receipts, invoices and other pertinent papers in such form as the mayor may require.
- (d) *Examination of records; audits.* The mayor, or any person authorized in writing by the mayor, may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid.
- (e) *Authority to require reports; contents.* In the administration of the provisions of this article, the city may require the filing of reports by any person or class of persons having in possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the city and shall set forth the price charged for each sale, the date of sales, and such other information as the mayor may require.
- (f) *Disclosure of business of operations, etc.; limitation on rule.* The mayor or any person having an administrative duty under this article shall not make known in any manner the business affairs, operations or information obtained by an audit of books, papers, records, financial reports, equipment and other facilities of any licensee or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this article, except in the case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, upon satisfactory proof of interest, may be given information as to the items

included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties. This subsection is limited by the requirements of the Open Records Act of Georgia, O.C.G.A. § 50-18-70 et seq., as the same may be amended from time to time.

#### Sec. 10-4-2 - Penalties.

Any person found guilty of violating any of the provisions of this article shall be deemed guilty of a misdemeanor offense and upon conviction thereof shall be assessed a fine of up to \$1,000.00 for each such offense. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this article is committed, continued, or permitted by such person, and shall be punished accordingly. Violations of this article shall be prosecuted in the municipal court for the city.

#### Sec. 10-4-3. - Taxes assessed.

In addition to the license fees required herein and in addition to the excise taxes levied by the state, all licensees and wholesale dealers hereunder shall pay to the city the taxes imposed in this article.

#### Sec. 10-4-4. - Malt beverages and wines.

There is hereby imposed an excise tax on the sale of malt beverages and wines, at retail and wholesale, 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;
- (3) There is hereby imposed an excise tax, on the first sale or use of wine by the package, of \$0.22 per liter, and a proportionate tax at the same rate on all fractional parts of a liter for sales by-the-drink, subject to state law exemptions.

State Law reference- Similar provisions, O.C.G.A. §§ 3-6-60, 3-5-80.

#### Sec. 10-4-5 - Distilled spirits.

There is hereby imposed an excise tax, on each sale of distilled spirits by-the-drink in the city, of three percent of the purchase price of the drink.

State Law reference-e- Similar provisions, O.C.G.A. § 3-7-61.

#### Sec. 10-4-6. - Payment of tax.

- (a) The excise taxes provided in this article shall be imposed upon and shall be paid by wholesale and retail dealers.
- (b) Each person responsible for the payment of the excise tax shall file a report with the city by the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by size and type of container, sold during the month in the city.
- (c) The wholesale or retail dealer shall remit the tax imposed herein to the city by the tenth day of the month following the calendar month in which the alcoholic beverages are sold or disposed.

#### Sec. 10-4-7. - Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city is not satisfied with the return of the tax or the amount of the tax required to be paid to the city by any person, it may compute and determine the amount required to be paid upon the basis of any information within its possession or that may come into its possession. One or more deficiency determinations may be made of the amount due for one or more calendar month.
- (b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month (O.C.G.A. § 48-2-40), or fraction thereof from the tenth day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
- (c) *Offsetting of overpayments.* In making a determination, the city may offset overpayments for a period against underpayments for another period, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in subsection (b) of this section.
- (d) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or intentional disregard of rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto.
- (e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade any provisions of this regulation or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.
- (f) *Notice of city's determination; service of.* The city shall give written notice of its determination. The notice may be served personally or by mail. If by mail, such service shall be addressed to the address as it appears in the records of the city. In the case of service by mail of any notice required by this article, the service is complete at the time of deposit in the United States Post Office.
- (g) *Time within which notice of deficit determination to be mailed.* Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the tenth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return if filed, whichever period should last expire.

#### Sec. 10-4-8. - Determination if no return made.

- (a) *Estimate gross receipts.* If any person fails to make a return, the city shall make an estimate of the amount of the gross receipts, or as the case may be, of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is, or may come into, the possession of the city. Upon the basis of this estimate, the city shall compute and determine the amount required to be paid to the city, adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determinations may be made for one or more periods.
- (b) *Manner of computation; offsets; interest.* In making a determination, the city may offset overpayments for a period or penalties, and against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) of this section.
- (c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the tenth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.
- (d) *Payment for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this article or rules and regulations, a penalty of 25 percent of the amount to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty provided in [Sec. 10-4-9](#).
- (e) *Giving of notice; manner of service.* Promptly after making its determination, the city shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

#### Sec. 10-4-9. - Penalties and interest for failure to pay tax.

Any person who fails to pay the tax herein imposed to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a penalty of 15 percent of the tax, or amount of tax, in addition to the tax or amount of the tax, plus interest on unpaid tax or any portion thereof as set forth in [Sec. 10-4-8\(c\)](#). Further, failure to timely pay the taxes imposed by this section for three consequential months or four



times in a 12-month period shall render the licensee liable therefore subject to suspension of the alcoholic beverages license for 15 consecutive days. Failure to timely pay the taxes imposed by this chapter five or more times within a 12-month period shall render the licensee liable and therefor subject to revocation of the alcoholic beverages license.

Sec. 10-4-10. - Collection of delinquent tax by city; duty of assignees to withhold taxes; liability; offsetting erroneous collections.

- (a) *Action for tax; time for.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of this state, or any other state, or of the United States, to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorneys' fees equal to 15 percent of principal and interest due, and other legal fees incident thereto.
- (b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any person liable for any amount under this article sells his business or quits the business, his successors or assigns shall withhold a sufficient portion of the purchase price to pay such amount owing hereunder until the former owner produces a receipt from the city showing that he has been paid, or a certificate stating that no amount is due.
- (c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.*  
If the purchaser of a business fails to withhold the necessary amount from the purchase price as heretofore required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for transfer of license, the city shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the city of the amount that must be paid as a condition of issuing the transfer of license. The time within which the obligation of a successor may be enforced shall begin at the time the business is sold or at the time that the determination against the individual becomes final, whichever event occurs the later.
- (d) *Tax credit, penalty or interest paid more than once, or illegally collected.* Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this article, it may be offset as provided in Sec. [10-4-8\(b\)](#). If the person determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the city, the excess amount paid the city may be credited on amounts then due and payable from the licensee by whom it was paid, or his administrators or executors.

Secs. 10-4-11 through 10-4-25 Reserved.

## CHAPTER 5 -ADULT ENTERTAINMENT

Sec. 10-5-1. - Findings; public purpose.

Based on the experience of other urban counties and municipalities, including, but not limited to, Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Ft. Lauderdale and Palm Beach, Florida; Amarillo and Beaumont, Texas; Indianapolis, Indiana; Los Angeles and Los Angeles County, California; Phoenix, Arizona; St. Paul, Minnesota; and Austin, Texas; which experiences we believe are relevant to the problems faced by the city, it is the finding of the council that public nudity (either partial or total) under certain circumstances, particularly circumstances related to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "adult entertainment," begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhood, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and it is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity. To that end, the ordinance from which this article is derived is hereby adopted.

## Sec. 10-5-2. - Regulated entertainment.

The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcohol beverages:

- (1) The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.
- (2) Live entertainment where any person appears in the manner described in subsection (1) of this section or where such person performs acts of or acts which simulate any of the following:
  - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act, which is prohibited by law;
  - b. The touching, caressing or fondling of the breasts, buttocks, anus or genitals;
  - c. The displaying of pubic hair, anus, vulva or genitals;
  - d. Provided, however, that random acts of patrons or employees, whose actions do not constitute actions taken pursuant to encouragement or acquiescence of the management of the establishment and are not for the purposes of entertainment, promotion, publicity, or notoriety for the establishment shall not constitute the forms of behavior regulated by this article; provided further that nothing herein shall be deemed to make legal any conduct that may otherwise be prohibited by law.
- (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) of this section.

## Secs. 10-5-3 through 10-5-30 - Reserved.

## CHAPTER 6 - SALES OF ALCOHOL OFF-PREMISES FOR CATERED FUNCTIONS

### Sec. 10-6-1. - Licensed alcohol beverage caterers eligible for off-premises licenses; application; fee.

- (a) Any licensed alcoholic beverage caterer who holds a validly issued license from the city for the retail sale of malt beverages or wine or distilled spirits by the drink for consumption on-premises may be issued an off-premises license which authorizes such licensed alcoholic beverage caterer to sell malt beverages and wine and distilled spirits by the drink off-premises and in connection with an authorized catered function.
- (b) Any licensed alcoholic beverage caterer seeking a license for sales of alcohol by the drink for an off premises catered function shall submit an application, provided by the city, for such license. Each application shall state the certificate number of the alcohol license held by the applicant and shall contain all other information requested by the city.
- (c) All licenses issued pursuant to this article shall be valid for the approved term of the catered function. (d) The applicant shall pay a license fee for a license to sell beer and wine at an approved off-premises catered function and an additional fee if distilled spirits are also served. The fees will be in an amount as established by the city from time to time.

### Sec. 10-6-2. - Limitations.

- (a) No license shall be issued to any person or entity that does not already hold a license validly issued pursuant to article II of this chapter.
- (b) Malt beverages or wine or distilled spirits may only be sold at off-premises catered functions for which the licensee has received an event permit issued in accordance with [Sec. 10-6-3](#).

### Sec. 10-6-3. - Event licenses.

- (a) In order to sell malt beverages or wine or distilled beverages at an authorized catered function, a licensed

alcoholic beverage caterer must:

- (1) Apply to the city for an event license. The application shall include the name of the licensed alcoholic beverage caterer; the date, address, and time of the *event*; and the licensed alcoholic beverage caterer's on-premises license number and such other information as the city may require.
  - (2) Provide satisfactory reports to the city on a form provided by the city stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as may be required by the city.
  - (3) Maintain original event licenses and documents in the vehicle transporting the alcoholic beverages to the catered function at all times.
- (b) In order to sell malt beverages or wine or distilled spirits at a catered function, the location of the event/function must qualify pursuant to [Sec. 10-2-4](#) provided, however, that distances between the point of sale of malt beverages or wine or distilled spirits and a church, school building, school grounds, college campus, or alcoholic treatment facility shall be measured as follows: no *event* or function may be held pursuant to this article unless the point of sale is at least 100 yards from any church, school building, school grounds, college campus, or alcoholic treatment facility (protected activity). Distances shall be measured from the point of sale, where the malt beverage or wine or distilled spirits are sold, in a straight line to the nearest public sidewalk, walkway, street, road or highway; along such public sidewalk, walkway, street, road or highway by the nearest route to the main public entrance of the building of the protected activity, or the nearest portion of the grounds of the protected activity. To the extent this subsection conflicts with [Sec. 10-2-4](#), the more permissive regulation standard relating to the sale of malt beverages, wine, and distilled spirits off-premises at catered functions shall apply.
- (c) No event permit shall be issued except for locations within a C-1, C-2, C-3, PCD or 0-1 zoning district. No permit shall be issued in a residential zoning district.

#### Sec. 10-6-4. - Violations.

- (a) It shall be unlawful for any person to distribute or sell malt beverages or wine or distilled spirits off the premises of the licensed alcoholic beverage caterer's business without a license issued pursuant to this article. This subsection shall not affect any other provisions of this chapter which may require a licensed alcoholic beverage caterer who has a license to sell alcoholic beverages on the premises of the licensed alcoholic beverage caterer's business.
- (b) It shall be unlawful for a licensed alcoholic beverage caterer licensed under this chapter to distribute or sell malt beverages, or wine or distilled spirits off-premises except in connection with an authorized Catered function within the scope of an approved and issued *event* license.
- (c) It shall be unlawful for a licensed alcoholic beverage caterer to employ any person under 21 years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. It is the intent of this subsection (to prevent any person employed by such caterer, or any other employee, to knowingly violate any prohibitions contained in O.C.G.A. § 3-3-23, relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under 21 years of age. Nothing herein shall prohibit the employment of persons under 21 years of age for purposes not involving the selling or handling of alcohol.
- (d) All employees of a licensed alcoholic beverage caterer who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages must be permitted as a server as provided in this chapter.
- (e) If a licensed alcoholic beverage caterer has his license issued pursuant to article II of this chapter revoked or suspended for any reason, then any license issued to such licensed alcoholic beverage caterer pursuant to this article shall be automatically revoked. Further, if a licensed alcoholic beverage caterer has his license issued pursuant to this article revoked or suspended then any license issued to such licensed alcoholic beverage caterer pursuant to article II of this chapter shall be automatically revoked.
- (f) Any person violating the provisions of this article shall be guilty of a misdemeanor.

Secs 10-6-5 through 10-6-30. - Reserved.

## CHAPTER 7 - MANUFACTURERS

Sec. 10-7-1. - Alcoholic beverage manufacturing license required.

The manufacture of alcoholic beverages in the city is unlawful unless the manufacturer has first obtained a valid manufacturing license issued under this chapter and article or falls under the exemptions permitted by O.C.G.A. § 3-5-4.

Sec. 10-7-2. - Types of alcoholic beverage manufacturing licenses to be issued.

Licenses for the manufacture of alcoholic beverages shall be limited to the following types of alcoholic beverage producers:

- (1) Distillery;
- (2) Microbrewery;
- (3) Farm winery.

Sec. 10-7-3. -Application for alcoholic beverage manufacturing license.

The application process for an alcoholic beverage manufacturing license shall follow the same procedures and requirements for other licenses required under this chapter.

Sec. 10-7-4. - Compliance with state law required.

Manufactures granted an alcoholic beverage manufacturing license must comply and stay in compliance with all applicable state laws and regulations of the state in order to maintain its license.

- (1) Manufacturers of distilled spirits: See [Sec. 10-2-21](#) and [10-2-23](#).
- (2) Microbreweries may manufacturer malt beverages up to 15,000 barrels annually and, in accordance with O.C.G.A. § 3-5-24.1 sell up to 3,000 barrels of such malt beverages per year to individuals who are on the licensed premises for:
  - (a) Consumption on the premises; and
  - (b) Consumption off the premises, provided that such sales for consumption off the premises shall not exceed a maximum of 288 ounces of malt beverages per consumer per day.
- (3) Farm wineries may manufacture and sell wine in accordance with O.C.G.A. § 3-6-21.1 through 21.3.