

**Proposed Ordinance #0-26-21
Subject Matter: Chapter 10 – Alcoholic Beverages
Date of Public Hearing Before City Council: November 18, 2021**

**CITY OF FAYETTEVILLE
COUNTY OF FAYETTE
STATE OF GEORGIA**

**ORDINANCE NUMBER 0-26-21
CITY OF FAYETTEVILLE, GEORGIA**

**AN ORDINANCE OF THE CITY OF FAYETTEVILLE, AMENDING THE
CITY’S CODES OF ORDINANCES, CHAPTER 10, ALCOHOLIC
BEVERAGES, TO PROVIDE FOR ISSUANCE OF LICENSES FOR
PACKAGE SALES AND MANUFACTURING OF DISTILLED SPIRITS,
AND OTHER AMENDMENTS**

**THE MAYOR AND CITY COUNCIL OF THE CITY OF FAYETTEVILLE,
GEORGIA**

ARTICLE ONE

Chapter 10 of the Code of Ordinances of the City of Fayetteville is hereby repealed, in its entirety and said Chapter 10 of the Code of Ordinances is hereby deleted in its entirety; to be immediately replaced by the following new Chapter 10 of the Code of Ordinances of the City of Fayetteville.

ARTICLE TWO

The City hereby enacts and ordains the following ordinance regulating Alcoholic Beverages in the City of Fayetteville attached as “Exhibit A”.

ARTICLE THREE

The Ordinance adopted at Article Two above shall be codified as Chapter 10 of The City of Fayetteville’s Code of Ordinances.

ARTICLE FOUR

This Ordinance shall become immediately effective upon its reading and adoption by the City Council.

ARTICLE FIVE

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, sentence, paragraph, or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction such an illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

ARTICLE SIX

All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

BE IT RESOLVED, that the Mayor and Council of the City of Fayetteville, Georgia do hereby adopt the attached City of Fayetteville Ordinance.

SO RESOLVED, this 18th Day of November, 2021.

Edward J. Johnson, Jr., Mayor

Attest:

Anne Barksdale, City Clerk

Darryl Langford, Mayor Pro Tem

T. Joe Clark, Councilmember

Richard J. Hoffman, Councilmember

Paul C. Oddo, Jr., Councilmember

Scott Stacy, Councilmember

EXHIBIT A
PART II - CODE OF ORDINANCES
Chapter 10 ALCOHOLIC BEVERAGES

Chapter 10 ALCOHOLIC BEVERAGES¹

ARTICLE I. IN GENERAL

Sec. 10-1. Definitions.

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.

Alcoholic frozen consumables means a frozen consumable that contains any measurable amount of ethyl alcohol, which is regulated by and in accordance with Georgia Department of Revenue Policy Bulletin ATD-2019-01.

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.

Banquet or meeting hall/event center means a use which provides rental space for group functions such as, but not limited to, wedding parties, conferences, service club meetings, and similar gatherings, along with the catering of food and/or alcoholic beverages.

Brewpub means a fully licensed restaurant where beer or malt beverages are manufactured and sold on the premises as an accessory use. Limited retail sales for on-premises consumption in draft form and wholesale distribution are permitted in accordance with O.C.G.A. § 3-5-36.

Brown-bagging means bring-your-own-bottle (BYOB) into establishments that may not hold a license to sell and may not sell or serve any alcoholic beverages.

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.

City means City of Fayetteville, Georgia.

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

¹Editor's note(s)—Ord. No. 0-41-02, §§ 1-2, §§ 1-2, adopted Sept. 19, 2002, amended ch. 10 in its entirety to read as herein set out. Prior to amendment, former ch. 10, §§ 10-1—10-6, 10-31—10-56, 10-76—10-78, 10-106—10-115, 10-146, 10-147, pertained to similar subject matter and derived from Ord. No. 0-41-01, § 2, adopted Jan. 8, 2001, Ord. No. 0-41-01, § 3-1, adopted Feb. 15, 2001.

Cross reference(s)—Businesses, ch. 22; public drinking, § 62-14; public drunkenness, § 62-15; intoxicated persons in automobiles, § 82-15.

Distillery means a manufacturer of distilled spirits for wholesale sales. A distillery may conduct promotional tours and offer free samples of distilled spirits in accordance with the official code of Georgia , and offer retail sales in accordance with O.C.G.A. § 3-4-24.2.

Entertainment district means a specifically authorized and pedestrian oriented area of the city as established by ordinance of mayor and council that allows those establishments with a valid consumption on the premises licenses within such area to dispense and/or serve an alcoholic beverage for "carry out" purposes provided all other laws, rules and ordinances are followed.

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

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, but not including cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage.

Frozen consumables means ice cream, frozen yogurt, frozen custard, popsicles or other frozen consumable or edible products.

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 bottle 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 eleven types of licenses, as listed in section 10-31(b) of this chapter/ordinance.

License department means the City of Fayetteville administration as designated by the city manager 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 chapter 10 of the Fayetteville Code of Ordinances.

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 fourteen 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 for wholesale sales only, and producing less than 15,000 barrels annually. Microbreweries may conduct promotional tours and offer free samples of malt beverages in accordance with the official code of Georgia, and offer retail sales 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, boarding 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 non-prescription 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 of Georgia laws and regulations regarding the sale and service of alcoholic beverages for consumption on- or off-premises, as applicable.
 - h. City of Fayetteville ordinances and regulations regarding the sale and service of alcoholic beverages for consumption on- or off-premises, as applicable.

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- 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 of Georgia laws and regulations and City of Fayetteville 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 of Fayetteville's 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) 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) 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 section 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 section and records of the licensee's enforcement of the policies requiring dismissal specified in subsection (6), which shall be available for inspection by the city on an annual basis, or when credible evidence of noncompliance exists.
 - (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 as used in this chapter 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 section, "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 non-alcoholic 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 package stores means establishments primarily engaged in the retail sale of distilled spirits, malt beverages, or wine in unbroken packages, not for consumption on the premises, except as authorized by O.C.G.A. tit. 3, as amended, and which derives from such retail sale of alcoholic beverages in unbroken packages at least 75 percent of its total annual gross sales.

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 10, but which has obtained an alcohol license for a special event from the Georgia Department of Revenue.

Special event non-profit means a nonprofit civic organization which is not currently licensed pursuant to this chapter 10, but has been issued a temporary license by the Georgia Department of Revenue to sell alcoholic beverages for consumption on the premises or to sell wine (including at auction) at retail for off-premises consumption, or both.

Tap house means an establishment whose primary business is to sell premium, craft malt beverages and wines for on-premises consumption only.

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, but not including 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 which sells alcoholic beverages, not including distilled spirits, with a primary focus on wine 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 non-profit fundraiser.

Wine tasting room means an outlet, authorized by the State of Georgia, 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-19-12, arts. 1, 2, 9-20-12; Ord. No. 0-16-14, art. 1, 9-18-14; Ord. No. 0-15-16, art. 1, 9-1-16; Ord. No. 0-13-19, art. 1, 4-18-19; Ord. No. 0-9-20, art. 5, 7-16-20)

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

Sec. 10-2. Construction of definitions.

Words and terms not explicitly defined in these regulations or in the Official Code of Georgia Annotated shall have the meaning given by common and ordinary use as defined in the latest edition of Webster's New Collegiate Dictionary.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

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

Sec. 10-3. Adoption of state and federal laws.

All laws of the State of Georgia and the United States of America, 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. The failure to comply therewith shall be a violation of this chapter and grounds for denial of a license or revocation thereof.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-4. 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 authorized by the City's Charter. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-5. Drinking in public.

- (a) Except for the area and circumstances specified in subsection (b) herein, it shall be unlawful for any person to possess an alcoholic beverage in an open container:

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- (1) Either on their person, in a motor vehicle or otherwise on the streets, sidewalks, parks, squares or other public places within the City of Fayetteville, unless associated with an authorized catered function or special event.
 - (2) Outside a structure licensed as a retail consumption dealer, unless consumption is within a designated outside area upon the licensed premises, and immediately adjacent to the licensed structure.
- (b) Within the areas of the city bounded by the map in exhibit A, (the "entertainment districts") the following regulations apply:
- (1) Any city licensee authorized to sell alcoholic beverages by the drink for on premises consumption may sell alcoholic beverages to a person age 21 years or over in a plastic cup, supplied by either the city's Mainstreet Tourism Association, or Trilith Development LLC, for removal from the premises; provided, however, that the alcoholic beverage is not placed in a can, bottle or other glass container.
 - (2) Any alcoholic beverage dispensed pursuant to this section shall not exceed 16 fluid ounces in size and no person shall possess an open container containing an alcoholic beverage in excess of 16 fluid ounces on the streets, sidewalks, parks, squares or other public places within the area described in this section;
 - (3) Unless specifically provided otherwise by ordinance, the regulations provided by this section shall be in full force and effect during public events and festivals sponsored by the city's Mainstreet Tourism Association.
 - (4) Any business, lessee or property owner within the entertainment district may prohibit a person or persons from entering its business or leased or owned real property who possess an alcoholic beverage in an open container regardless of the container type. Any person in possession of an alcoholic beverage in an open container failing to exit the premises after such a request will be guilty of misdemeanor trespass.
 - (5) Any business, lessee or property owner within an entertainment district may prohibit all persons from entering its business or leased or owned real estate possess an alcoholic beverage in an open container regardless of the type of container upon posting a sign upon the premises clearly visible from the contiguous rights-of-way or at the entrance of the premises stating the following: "Alcoholic beverages prohibited upon these premises". Any person in possession of an alcoholic beverage in an open container who enters a premises so posted with a visible and legible sign shall be guilty of misdemeanor trespass.
 - (6) It shall be unlawful for a minor to have in his/her possession an approved entertainment district cup.
 - (7) It shall be unlawful for anyone to allow a minor to drink from an approved entertainment district cup.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-15-16 , art. 2, 9-1-16; Ord. No. 0-13-19 , art. 2, 4-18-19)

Sec. 10-6. Emergency suspension of sale.

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

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-7. Brownbagging; when BYOB is allowed.

It is prohibited for any person to bring in his own alcoholic beverage in any business establishment without regard to whether such establishment is licensed to serve alcoholic beverages except for the following specific exceptions:

- (1) This section shall not prohibit any person dining at an eating establishment licensed to sell wine for consumption on the premises from bringing an unopened bottle of wine into said establishment for consumption where such eating establishment has a policy permitting same.
- (2) This section shall not prohibit any person who is a patron of a business establishment which provides as its primary business art instruction, sewing and embroidery instruction, or cooking instruction from bringing one unopened bottle of wine into the establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of wine into the business establishment for consumption on the premises by the patron; and (b) the business establishment is licensed for BYOB as required hereinafter.
- (3) This section shall not prohibit any person who is a patron of a business establishment which provides as its primary business art instruction, sewing and embroidery instruction, or cooking instruction from bringing no more than two unopened 16-ounce containers of beer, or the equivalent, into the establishment where: (a) the owners or their agents have a policy permitting a patron to bring an unopened bottle of beer as described into the business establishment for consumption on the premises by the patron; and (b) the retail establishment is licensed for BYOB as required hereinafter.
- (4) Any wine not consumed at a business establishment, as described in subsection (2) of this section, shall be disposed of at the premises and not carried out in an open container, unless the business establishment is able to reseal and repackage the opened bottle of wine as required by O.C.G.A. § 3-6-4.
- (5) Any beer opened and not consumed at a business establishment, as described in subsection (3) of this section, shall be disposed of at the premises and not carried out in an unsealed container.
- (6) A business establishment, as described in subsections (2) and (3) of this section, BYOB licensed as required, may have available for its patrons use, either for a fee or not, glasses and openers for the patrons' use.
- (7) A business establishment, as described in subsections (2) and (3) of this section, shall be a licensed business by the city and meet all application requirements for a BYOB (beer and wine only) license and be governed by the ordinance provisions set forth in article II of this chapter. Further, such a business establishment so licensed shall not have any employee under the age of 18 working in the establishment and shall have an established closing time no later than 10:00 p.m.
- (8) 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.

(Ord. No. 0-9-20 , art. 12, 7-16-20)

Secs. 10-8—10-30. Reserved.

ARTICLE II. LICENSE

Sec. 10-31. License 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.

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- (b) Licenses granted by the city:
- (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 package sale of distilled spirits for off-premises consumption;
 - (5) Retail sale of wine for off-premises consumptions;
 - (6) Retail sale of distilled spirits for on-premises consumption;
 - (7) Wholesale dealers of malt beverages;
 - (8) Wholesale dealers of wine;
 - (9) Wholesale dealers of distilled spirits;
 - (10) Ancillary wine tasting;
 - (11) Ancillary growler malt beverage tastings;
 - (12) Manufacture of malt beverages;
 - (13) Manufacture of distilled spirits;
 - (14) Special event;
 - (15) Catered function;
 - (16) Limited pour of wine or malt beverages or both as to certain business establishments;
 - (17) Alcoholic frozen consumables; and
 - (18) BYOB.
- (c) Unless located within an established Entertainment District, no licensee or licensees 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 or for a single-licensed location except that a licensee may hold additional licenses issued pursuant to article VI of this chapter 10.
- (d) License fees. License fees for the sale of malt beverages and/or wines for on-premises or off-premises consumption shall be established at \$1,000.00 for each type (i.e., malt beverage or wine) per license per year. License fees for the sale of distilled spirits for on-premises consumption or for retail package sales for off-premise consumption shall be established at \$5,000.00 per license per year. License fee for a catered function shall be \$25.00 for beer and wine, and an additional \$25.00 for distilled spirits per event. License fee for a special event shall be \$50.00 per event. Ancillary tasting, alcoholic frozen consumables, and BYOB licenses shall be established at \$500.00 per year. Limited pour licenses shall be established at \$50.00 per year. All other license fees shall be \$1,000.00 per year. Annual 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.
- (Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-19-12, art. 3, 9-20-12; Ord. No. 0-16-14, art. 2, 9-18-14; Ord. No. 0-15-16, art. 15, 9-1-16; Ord. No. 0-1-18, art. 1, 2-1-18; Ord. No. 0-9-20, arts. 1, 6, 8, 7-16-20)

Sec. 10-32. License department.

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- (a) The license department 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 license department shall also have authority to prescribe such forms as it deems necessary for the proper administration of these regulations.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-33. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-15-16, art. 13, 9-1-16)

Sec. 10-34. Application contents and investigation.

- (a) Background investigations shall be made on the applicant and any other person who may have an "interest in 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 section 10-1. 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 where 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 non-profit, the list will include the non-profit'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 historic town center (Main Street District) and the Town at Trilith mixed use development as contrasted to the more segregated uses and districts and lower density of the remainder of the city:

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- a. Within the Main Street Architectural Overlay District (as defined by section 94-187 of the City's Code; hereinafter "Main Street District"), no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 200 yards of any school building, educational building, school grounds, or college campus; no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 100 yards of any church facility, [except that this limitation "within 100 yards of any church facility" shall not apply to, limit or restrict the location or operation of any applicant or licensee for the sale of distilled spirits, wine or malt beverages (one, all or any combination thereof) for on-premises consumption when the location of the applicant's or licensee's "sale for on-premises consumption" is within the Old Courthouse Square of the Main Street Architectural Overlay District, specifically: Stonewall Avenue between and including addresses 101 Stonewall Avenue East and 129 Stonewall Avenue East; and Glynn Street between and including addresses 101 Glynn Street South and 119 Glynn Street South; and 140 Lanier Avenue East; and also except that this limitation "within 100 yards of any church facility" shall not apply to, limit or restrict the location or operation of any applicant or licensee for the sale of distilled spirits, wine or malt beverages (one, all or any combination thereof) for on-premises consumption when the church facility in question is located in a Planned Commercial Center as defined at section 94-3 of the City's Code of Ordinances, or a shopping center or retail center that qualifies as a Planned Commercial Center], or alcoholic treatment center owned and operated by the state or any county or municipal government within the state; no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 100 yards of any private residence measured along the most direct route of travel, which residence is located outside of the Main Street District (all of the former collectively called "protected activity"). The above stated required distances between the sale of alcoholic beverages and any protected activity shall be applicable to both protected activities within the city limits and protected activities outside of the city limits. As used herein, the term "school building" or "educational building" shall apply to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools or private schools as defined in subsection (b) of the O.C.G.A. § 20-2-690. As used herein, school grounds shall mean, real property on which a school building or educational building, as defined above, is located and where educational instruction is given to students on a routine and ongoing basis. As used herein, residence shall mean any building or structure, in a residential zoning district or which constitutes a legal nonconforming use, in which a person or persons may legally reside.
- b. Within the city outside of the Main Street Architectural Overlay District (as defined by section 94-187 of this Code; hereinafter "Main Street District") excluding Town at Trilith (as defined by their Development Agreement), no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 200 yards of any school building, educational building, school grounds, or college campus; no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 100 yards of any church facility, [except that this limitation "within 100 yards of any church facility" shall not apply to, limit or restrict the location or operation of any applicant or licensee for the sale of distilled spirits, wine or malt beverages (one, all or any combination thereof) for on-premises consumption when the church facility in question is located in a Planned Commercial Center as defined at section 94-3 of this Code, or a shopping center or retail center that qualifies as a Planned Commercial Center], or alcoholic treatment center owned and operated by the state or any county or municipal government within the state; no person may knowingly or intentionally sell or offer to sell any alcoholic beverage within 100 yards of any private residence measured along the most direct route of travel, which residence is located outside of the Main Street District (all of the former collectively called "protected activity"). The above stated required distances between the sale of alcoholic beverages and any protected activity shall be applicable to both protected activities within the city limits and protected activities outside of the city limits. As used herein, the term "school building" or "educational

building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of the state and which are schools or private schools as defined in subsection (b) of the O.C.G.A. § 20-2-690. As used herein, school grounds shall mean, real property on which a school building or educational building, as defined above, is located and where educational instruction is given to students on a routine and ongoing basis. As used herein, residence shall mean any building or structure, in a residential zoning district or which constitutes a legal nonconforming use, in which a person or persons may legally reside.

- c. For purposes of this section "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 purposes of measuring a route of travel hereunder, no major or collector street, as defined in section 94-135 of the City's Code of Ordinances, 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 subparagraphs 1., 2. or 3. above, 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;

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- iii. Along such public route of travel by the nearest route;
 - iv. To the main public entrance of the principal building of the protected activity. If multiple buildings exist and one cannot be determined to be the principal building then to the main public entrance of the largest enclosed building used for a protected activity.
- d. Any licensee holding a pre-existing valid license to sell alcoholic beverages within the city whose licensed premises, at the time of the enactment of this chapter which adds private residence as a "protected activity", is within 200 yards of a private residence (subsection 10-34(b)(6)a. and b.), shall be an approved nonconforming licensed premises.
 - e. Any licensee holding a pre-existing license to sell alcoholic beverages within the city whose licensed premises, at the time of the granting of a certificate of occupancy to a "protected activity" is within the prohibited distances as provided at subsection 10-34(b)(6)a. and b. shall be an approved nonconforming licensed premises.
 - f. Any licensee holding a pre-existing license to sell alcoholic beverages within the city whose licensed premises subsequently fails to meet the distance requirements contained in subsection 10-34(b)(6)c. because a protected activity begins operating within the prohibited distances after the issuance of the pre-existing license to sell alcoholic beverages then such licensed premises shall be an approved nonconforming licensed premises.
 - g. Except as otherwise provided hereinafter, an approved nonconforming licensed premises shall not be denied subsequent licenses because of the nonconforming status described at subsection 10-34(b)(6)d. and subsection 10-34(b)(6)e. The nonconforming status of the licensed premises will expire upon the licensee discontinuing the use of the licensed premises for the sale of alcoholic beverages unless the city receives a licensee application for sale of alcoholic beverages of the same type as existing at the time of the creation of the nonconforming status) from an applicant qualifying as a licensee, within 30 days of the licensee's discontinuance of alcoholic beverage sales at the licensed premises.
 - h. Nothing in this section shall be construed to regulate minimum distance requirements for the issuance of a license to manufacture malt beverages or distilled spirits.
- (7) A \$300.00 application fee shall be paid by an applicant for any license designated at section 10-31(b), except that there is no application fee for a special event or catered function, and no application fee for a vendor serving alcoholic beverages at a city sponsored event, and no application fee for a limited pour or BYOB license.
- (8) Such other information and documents as may be required by the city manager or his designee.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-36-03, art. 1, 8-21-03; Ord. No. 0-3-04, arts. 1, 2, 1-15-04; Ord. No. 0-30-08, art. 1, 11-20-08; Ord. No. 0-11-10, arts. 1—3, 8-19-10; Ord. No. 0-16-14, art. 3, 9-18-14; Ord. No. 0-15-16, arts. 16, 20, 9-1-16; Ord. No. 0-12-18, § art. 3, 5-3-18 ; Ord. No. 0-13-18, 6-7-18 ; Ord. No. 0-13-19 , art. 3, 4-18-19; Ord. No. 0-9-20 , art. 13, 7-16-20)

Sec. 10-35. Licensee qualifications.

- (a) The applicant and each individual applying licensee shall be a legal resident of the United States.
- (b) The applicant and each individual licensee shall be and continue to be a resident of the State of Georgia, excepting applicants for a special event. Licensees who are corporations or companies must be formed in the State of Georgia or must be registered to transact business within the State of Georgia, and only the applying general manager of applying corporate officer must meet the residency requirements.

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- (c) No applicant, licensee, general manager, or person having an interest in the license shall have been convicted within five years immediately preceding the date of application for any felony, or crime involving moral turpitude. In those instances involving corporations, this prohibition shall also apply to:
- (1) Any closely held corporation's president, vice-president, secretary, treasurer, and all stockholders owning five percent or more of the 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; and
 - (2) Any shareholder owning 50 percent or more of any corporation, or a person having subscriptions, options, and/or warrants for purchase of a corporation's stock that when fully executed would give that person 50 percent or more of the corporation's stock.
- (d) Licensees shall be the owners of the premises for which the license is held or the holder of the 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.
- (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 section 10-43 shall be taken against a licensee should the city manager or his designee find any of the following:
- (1) The application fails to comply with the requirements of this chapter and of Georgia 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 Georgia law applicable to licensee as to the sale of alcoholic beverages.
 - (3) The applicant and/or licensee has ever had its/his/her 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 its/his/her 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 its/his/her business license, for any business, suspended two or more times during the past five years, or revoked by the City of Fayetteville or Fayette County.

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- (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 O.C.G.A. §§ 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 article i hereof.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-15-16 , arts. 3, 12, 18, 19, 9-1-16)

Sec. 10-36. 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 Georgia 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-4-17 , art. 1, 4-6-17)

Sec. 10-37. 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 section 10-43.
- (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, may be prosecuted as an offense against the city punishable as provided by the city's Charter.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-38. 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.

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- (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) Alcoholic beverages shall only be served, dispensed, delivered, or sold by employees of the licensee who hold a valid server permit pursuant to section 10-51 of this chapter.
 - (e) All licensees shall become a responsible licensee within 60 days of the adoption of this chapter, within 60 days of the issuance of a license to sell or serve alcoholic beverages, for on or off-premises consumption, and prior to renewal of existing licenses. Licensee shall maintain on record at the licensee's business, the text of the course of instruction for its servers, and identity of the servers completing the course, which shall be produced for inspection at the city's request. All servers employed by the licensee at the time the course is given, as required of a responsible licensee (section 10-1), must attend the course or be removed from duties as a server. The city council may approve, by resolution, courses of instructions for servers of alcohol, which if implemented by a licensee as required by this chapter shall constitute compliance with the responsible licensee requirements for a course of instructions for servers of alcohol.
 - (f) 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-15-10, 12-16-10)

Sec. 10-39. Decisions affecting license status.

- (a) All decisions of the city's license department or the city manager 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 section 10-48, hereof.
- (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 city manager with an opportunity to present evidence.
- (c) Where a building intended for the manufacture or sale of alcoholic beverages is at the time of the application for such license not in existence or not yet completed, a license may be issued for such location, provided the plans for the proposed building show clear compliance with all provisions of this chapter and applicable provisions of this Code. No manufacturing or sales shall be allowed in such establishment, however, until it has been completed in accordance with such plans and is inspected by the city manager, or his/her designee, to ensure compliance with city codes.
- (d) All holders of licenses under this article must, within twelve 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 twelve-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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-15-16, art. 4, 9-1-16; Ord. No. 0-4-17, art. 2, 4-6-17)

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

Sec. 10-40. Calendar-year term.

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- (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 city manager 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 semi-annual basis as approved by the city manager 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 paragraphs (a) and (b), above, 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-30-08, art. 1, 11-20-08; Ord. No. 0-15-16 , art. 5, 9-1-16)

Sec. 10-41. 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 paragraphs (a) and (b), above, 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-30-08, art. 1, 11-20-08; Ord. No. 0-15-16 , art. 6, 9-1-16)

Sec. 10-42. Licenses not transferable; one license per location.

Licenses granted pursuant to this chapter are not transferable to another location. Unless located within an established Entertainment District the same licensed premises may not be licensed for both on-premises and off-premises consumption.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-30-08, art. 1, 11-20-08; Ord. No. 0-9-20 , art. 2, 7-16-20)

Sec. 10-43. 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 city's Charter and related laws of the State of Georgia 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.

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- (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 or her 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 city manager on a date certain and show cause why the code enforcement officer's recommendation should not be implemented.

The code enforcement officer may recommend:

- (1) A finding that the evidence does not authorize action by the city manager;
 - (2) That a warning be issued to the licensee, for which there shall be no appeal to the city manager;
 - (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 city manager;
 - (7) Revocation of the license; or
 - (8) Any combination of the above actions.
- (d) Within ten days from the date of delivery to the licensee of the code enforcement officer's recommendation, the licensee may request a hearing before the city manager prior to it taking action on the code enforcement officer's recommendation (except for recommendations (1) and (2) above, to which there shall be no appeal). Any decision of the code enforcement officer to suspend pending a hearing by the city manager shall automatically be scheduled for a hearing before the city manager no later than 30 days from the date of the suspension. The city manager 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 city manager shall act upon the code enforcement officer's recommendation without a hearing or input from the licensee.
- (e) At the conclusion of the hearing, the city manager 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.
 - (10) With regard to violations of this chapter, or violations of state law regulating the sale of alcoholic beverages, committed by any licensee employed server(s) (excluding general managers and persons with an interest in license), while acting within the licensee's employment, upon reasonable proof acceptable to the city manager that the licensee at the time of the violation and at the time of the hearing before the city manager was and is a responsible licensee, and the licensee actively encourages

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- and requires compliance with policies, guidelines, and education required of a responsible licensee, the city manager shall:
- a. For the first violation within two years, issue a warning and may levy a fine against the licensee;
 - b. 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;
 - c. For the third violation within two years, revoke the licensee's license (and probate any portion of the revocation).
- (f) 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 city manager shall be due and payable on the date that the city manager 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 city manager 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 city manager shall be due and payable on the date that the city manager takes action of the code enforcement officer's recommendation, provided, however, the city manager shall not take any action on the code enforcement officer's recommendation prior to conducting a hearing as required by subsection 10-43(d) hereof. If the licensee does not pay such fine within three days of the assessment of the fine by the city manager 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-36-03, art. 3, 8-21-03; Ord. No. 0-15-16, art. 17, 9-1-16; Ord. No. 0-4-17, art. 3, 4-6-17)

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

Sec. 10-44. Automatic revocation.

Whenever the State of Georgia 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-44A. New license issued after revocation or denial.

When a license has been revoked or and 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-45. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-46. 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 subsection 10-77(b) or section 10-78 of this chapter.
 - (6) Allow a person not holding a current server permit pursuant to section 10-51 of this chapter to sell, serve, take orders for, pour or deliver to customers alcoholic beverages.
 - (7) Violation of any requirement of prohibition of any provision of this chapter regulating the operation of a licensed business.
 - (8) Refill an entertainment district cup without verifying age.
 - (9) Provide to a minor an entertainment district cup, empty or containing any beverage.
- (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 of Georgia. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter.

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- (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 a automobile, truck, motorcycle, or other vehicle.
 - (i) A retail consumption dealer shall comply, and shall cause its patrons to comply, with the requirements of section 10-5 when allowing consumption of alcoholic beverages outside the licensed structure, which consumption may only be upon the licensed premises. Unless the licensed establishment is located in an entertainment district.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-13-19 , art. 4, 4-18-19)

Sec. 10-47. Additional requirements for license for sale of alcoholic beverages for off-premises consumption.

This section 10-47 shall not apply to wine auctions conducted at a special event licensed by the city.

- (a) 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 (section 10-1), which maintain an inventory of food for human consumption at wholesale cost of at least \$10,000.00. Unless located within an established Entertainment District, 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.
 - (1) Exceptions.
 - a. Wine tasting rooms and growler sales: Wine tasting rooms, as defined in section 10-1, 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.
 - b. Gift basket sales: Licenses for off-premises consumption may be granted to businesses for the sole purpose of selling gift baskets which may contain an unopened bottle(s) of wine, malt beverage, or distilled spirits. Alcoholic beverages provided for this purpose shall only be purchased from a licensed wholesaler. Gift baskets containing alcoholic beverages shall only be received by the customer at the licensed premises and are not permitted for delivery.
- (b) The licensee's premises must be in a commercial or mixed-use zoning district. Businesses that are licensed for the retail package sale of distilled spirits for off-premise consumption must abide by the distance requirements pursuant to O.C.G.A Sections 3-3-21 and 3-4-47. Licensees for retail package sale of distilled spirits for off-premise consumption may not offer the following ancillary services on the premises: check cashing, money orders, wire transfers, and state lottery sales. Outside of the Main Street historic district, license holders for retail package sale of distilled spirits for off-premises consumption shall maintain an inventory of alcoholic beverages at wholesale costs of at least \$500,000 and shall have a minimum floor size of 5,000 square feet.
- (c) Hours of operation of retail licensee for the sale of malt beverages and/or wines for off-premises consumption and retail package sale of distilled spirits for off-premise consumption may be anytime, 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 10 of the City's Code of Ordinance.
- (d) 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-26-05, art. 1, 8-4-05; Ord. No. 0-20-11, § 1, 12-1-11; Ord. No. 0-19-12, art. 4, 9-20-12; Ord. No. 0-15-16, arts. 7, 9, 9-1-16; Ord. No. 0-9-20, art. 3, 7-16-20)

Sec. 10-48. Additional requirements for license to sell alcoholic beverages for on-premises consumption.

- (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. 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 city manager or his or her 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 Fayette County, Georgia, 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 City Manager of the City of Fayetteville, Georgia. Public comments must be delivered to City Hall addressed to "City Manager" no later than 5 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 types 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 prepared foods. Licensee's premises must 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 foods. Of the total sales of all alcoholic beverages, the percentage of wine sales shall be no less than 75 percent. Licensee's premises must meet all prescribed safety standards set forth in city and state regulations and ordinances.
 - c. Bowling centers, billiard centers, gaming centers, golf clubs, or movie theaters serving the general public and which derive no more than 25 percent of their gross sales from sale of malt beverages and wine, only. Businesses described in this subsection 10-48(b)(1)c. may not be licensed to serve distilled spirits. The licensee must comply with all prescribed safety standards set forth in city ordinances and state laws and regulations.
 - d. Hotels containing a minimum of 40 rooms on the premises, and which derive at least 80 percent of their total annual gross income from the rental of rooms for overnight lodging are eligible for on-premises malt beverage and wine licenses only. Such on-site establishments shall 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.

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- 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. Wine tasting room of a farm winery.
 - j. 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 below may, if properly licensed hereunder, provide limited pours (as defined in Definitions, section 10-1 herein) 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 Georgia-licensed masseuse or massage therapist;
 - viii. Hospitality services within an independent-living, senior housing development.
 - 3. i. The business establishment may not charge for the wine or malt beverages.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
 - vi. A business establishment, as described in this section, shall have an established closing time no later than 10:00 p.m.

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- vii. Eighty percent of the business establishments annual gross revenues shall be derived from one of the approved activities.
 - k. Tap houses which derive no less than 20 percent of gross sales from the sale of food, and maintain minimums of 30 active, malt beverage taps, and six separate wine selections available for purchase by the glass.
 - l. Event centers.
- (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, "bowling centers" shall mean 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, "billiard centers" shall mean a commercial building equipped with at least 12 B.C.A.-sanctioned tournament-size pool tables at which, for a fee, members of the public participate in the game of pool.
 - (5) As used herein, "event center" shall mean a rental space for group functions such as, but not limited to, wedding parties, conferences and conventions, service club meetings, and similar gatherings, along with the catering of food and/or alcoholic beverages.
 - (6) As used herein, "golf club" shall mean 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.
 - (7) As used herein, "movie theater" shall mean a commercial building equipped with screening rooms which, for a fee, members of the public participate in watching a movie.
 - (8) As used herein, "gaming centers" shall mean a licensed business offering any variety of recreational, league play activities including but not limited to duckpin bowling, cornhole and similar interactive, group games.
- (c) *Serving hours.* Licensees shall serve alcoholic beverages for on-premises consumption only during the following hours:
 - (1) Monday: 8:00 a.m. to 12:59 a.m. Tuesday.
 - (2) Tuesday: 8:00 a.m. to 12:59 a.m. Wednesday.
 - (3) Wednesday: 8:00 a.m. to 12:59 a.m. Thursday.
 - (4) Thursday: 8:00 a.m. to 12:59 a.m. Friday.
 - (5) Friday: 8:00 a.m. to 12:59 a.m. Saturday.
 - (6) Saturday: 8:00 a.m. to 12:59 a.m. Sunday.
 - (7) Sunday: 11:00 a.m. to 12:59 a.m. Monday.
 - (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;

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- (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 or persons 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 or persons, any alcoholic beverage made with more than three ounces of distilled spirits.

(e) *[Reserved.]*

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-21-03, art. I, 3-20-03; Ord. No. 0-36-03, art. 2, 8-21-03; Ord. No. 0-30-08, art. 1, 11-20-08; Ord. No. 0-19-12, art. 5, 9-20-12; Ord. No. 0-15-16, arts. 8, 14, 9-1-16; Ord. No. 0-4-17, art. 4, 4-6-17; Ord. No. 0-1-18, arts. 2, 3, 2-1-18; Ord. No. 0-12-18, § art. 1, 5-3-18; Ord. No. 0-31-18, art. II, 11-15-18; Ord. No. 0-13-19, art. 5, 4-18-19; Ord. No. 0-9-20, arts. 9, 11, 7-16-20; Ord. No. 0-18-21, arts. 1—4, 9-16-21)

Sec. 10-48A. Requirements for wine tasting events and growler beer tasting events.

- (a) (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) Non-profit 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 an established Entertainment 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.

(Ord. No. 0-19-12, art. 6, 9-20-12; Ord. No. 0-16-14, art. 4, 9-18-14; Ord. No. 0-15-16, arts. 8, 10, 11, 21, 9-1-16; Ord. No. 0-9-20, art. 4, 7-16-20)

Sec. 10-48B. Alcoholic frozen consumables.

- (a) A licensed establishment that makes alcoholic frozen consumables shall be permitted to sell, serve, and/or dispense alcoholic frozen consumables, provided that the establishment derives at least 50 percent of its total annual gross sales from the sale of nonalcoholic frozen consumables or food on the premises.
- (b) Alcoholic frozen consumables may be carried and consumed within an established Entertainment District in accordance with the provisions of section 10-5(b).
- (c) Any establishment licensed under this section shall comply with all relevant and applicable provisions of this chapter.

(Ord. No. 0-9-20, art. 7, 7-16-20)

Sec. 10-49. 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 subsection (1) of part (c) of section 10-48 of this chapter.

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- (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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-50. Alcoholic beverage handling permits.

- (a) Any person, manager, or employee, who is responsible to sell, serve, deliver, dispense, or take orders for alcoholic beverages in restaurants, hotels, conference centers, lounges, stores, or any other business entity, or who handles alcoholic beverages in package stores, or who works as a security employee in any on-premises consumption or package store, whether or not such person is contracted or an employee of such package store or on-premises consumption location, shall apply to the police department for an alcoholic beverage handling permit or have a valid server permit issued from another law enforcement jurisdiction within Fayette County.
- (b) It shall be unlawful for any licensed establishment to hire any person, or to permit any person to work or assist in any capacity to sell, serve, deliver, dispense or take orders for alcoholic beverages, until such person has procured a city alcoholic beverage handling permit or have a valid server's permit issued from another law enforcement jurisdiction within Fayette County.
- (c) Alcoholic beverage handling permits shall not be issued to 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 a violation of any offense relating to the manufacture, sale or misuse of alcoholic beverages, including driving under the influence, within the preceding two years. For the purpose of this section an indictment, plea of guilty, or a plea of nolo contendere shall constitute a violation.
- (d) Alcoholic beverage handling permits shall not be issued to any person who has pled guilty more than once, or has been convicted more than once of a violation of the provisions of this chapter, or any similar provisions from any other jurisdiction, or state law relating to the manufacture or sale or use of alcoholic beverages, within the preceding five years prior to the date of application for a handling permit.
- (e) Alcoholic beverage handling permits shall not be issued to any person who has pled guilty to or been convicted of, or entered a plea of nolo contendere to any misdemeanor or felony relating to illegal gambling, soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegal drugs/narcotics, theft, crimes of violence, sexual offenses, or any other crime opposed to the decency, morality, or public welfare (including identity and credit card fraud) within the preceding five years prior to the date of application for a handling permit. Additionally, alcoholic beverage handling permits will not be issued to any person who is serving probation for a felony sentence involving any felony described above.
- (f) City alcoholic beverage handling permits will be issued from the chief law enforcement officer of the participating jurisdiction within Fayette County.
- (g) It shall be unlawful for any licensed establishment employee to sell, serve, deliver, dispense or take orders for alcoholic beverages within the city limits without having been issued a valid alcoholic beverage handling permit from the chief of police of the city police department or a valid server's permit for another law enforcement jurisdiction within Fayette County.
- (1) Prior to selling, serving, delivering, dispensing or taking orders for alcoholic beverages, employees who work for a licensed establishment shall be photographed and cleared through a background investigation by the police department. The employees shall make themselves available for photographing and such other investigation, including fingerprinting, as may be required by the police department in accordance with state law and local ordinance.

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- (2) Once cleared, a permit shall be issued to the employee indicating that such person is eligible to sell, serve, deliver, dispense or take orders for alcoholic beverages for the purpose of on-premises or off-premises consumption.
 - (3) The alcoholic beverage handling permit may be used at multiple locations if requested by the applicant; however, when applying for a handling permit the applicant must list all applicable city locations for which the employee works. Proof of employment will be required for each location.
 - (4) All alcoholic beverage handling permits are the sole and exclusive property of the city police department. Destruction, theft, defacement, or detriment of identification shall be punishable as a felony under state law.
 - (5) It shall be unlawful for a person to alter, deface, or fraudulently reproduce a city alcoholic beverage handling permit.
 - (6) The permit issued under this section shall be issued only to eligible persons who are at least 18 years of age.
- (h) No permit shall be issued until such time as a signed application has been filed with the chief of police and a background check has been completed. The applicant will submit an annual administrative processing fee of \$25.00 to be included upon receipt of their application. In the event the applicant does not meet the eligibility requirements, the fee is nonrefundable. Such application shall include, but not be limited to, the name, current home address, telephone number, social security number, date of birth, place of birth, proof of the date of birth of the applicant and the identity of the applicant including at least one photographic identity card issued by a governmental agency, height, weight, hair and eye color and a list of prior arrests and time of service in jail or prison. The fact of an arrest record shall be used for investigative purposes only and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- (1) If there is no record of a violation of this article and the applicant is determined eligible, the chief of police shall issue an alcoholic beverage handling permit. If it is found that the applicant is ineligible the applicant will be notified that they do not meet the eligibility requirements.
 - (2) Permits will be renewed annually prior to the expiration date indicated on the handling permit. Upon renewal, proof of completion of a course of instruction for servers must be submitted.
 - (3) For those applicants who, within the past five-year period, have resided or currently reside in a state other than Georgia, the applicant must furnish to the chief of police a certified copy of a driver's history and criminal background history from the state or states in which he or she has resided or resides.
 - (4) All permits issued through administrative error or through an error in the completion of a background investigation may be terminated by the chief of police.
 - (5) An employee excluded from being granted a permit or maintaining a renewal permit under these terms shall have the right to appeal such exclusion to the appeal board which shall consist of chiefs of police from all participating jurisdictions within Fayette County. The decision of the appeal board shall be final. An applicant for a permit may appeal the decision of the appeal board by Writ of Certiorari to the Superior Court of Fayette County pursuant to O.C.G.A. § 5-4-1 et seq.
- (i) It shall be the responsibility of the licensee or license representative to acquaint all employees engaged in the sale or service of alcoholic beverages with the requirements of this chapter and state law regulating the handling, selling, serving, delivering, dispensing or taking orders for alcoholic beverages.
- (j) This section shall not be construed to require a permit of those employees whose duties are limited solely to those of busboy, stock clerk (see exception regarding package stores in subsection (a)), cook or dishwasher, or any other employee whose duties do not include handling alcoholic beverages.

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- (k) While on duty in any licensed establishment, every person required to possess an alcoholic beverage handling permit shall have their handling permit conspicuously displayed on their person and visible at all times. All permits issued under this section shall be made available for inspection upon the demand of any law enforcement officer employed by the city police department.
- (1) In any prosecution for violation of subsection (k) of this section, it shall be presumed that the manager or employee did not have a permit unless the permit was displayed as required in the same subsection (k).
- (l) If a permit is lost or stolen, the holder thereof shall immediately notify the issuing law enforcement agency and request a replacement, which for a fee of \$10.00, shall be issued within three days following verification of the identity of the holder.
- (m) All licensed establishments will be in compliance within 90 days from the approval of this section by city council.
- (n) The penalty for violating any of the provisions of this section shall be a misdemeanor.
- (Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-10-08, art. 1, 5-1-08; Ord. No. 0-17-09, art. 1, 9-17-09; Ord. No. 0-19-12, art. 7, 9-20-12)

Sec. 10-51. Alcoholic beverage handling permit revocation proceedings.

- (a) The omission or falsification of any material information in an application for a permit shall be a violation of this section and shall be grounds for the denial, suspension or revocation of any such permit.
- (b) The service or selling of alcoholic beverage to any person that the employee or agent knew or should have known to be in a state of intoxication shall be grounds for suspension or revocation of any such permit.
- (c) The service or selling of alcoholic beverage to any person without requiring proof of age identification as required in this chapter shall be grounds for suspension or revocation of any such permit.
- (d) The violation of any law, ordinance or regulation governing the operation of an establishment licensed to sell alcoholic beverages or which is reasonably related to the operation of such establishments shall be grounds for suspension or revocation of any such permit.
- (e) An employee excluded from being granted or maintaining a permit under the terms of this section, or whose permit is revoked or suspended under the terms of this section, shall have the right to appeal such decision to the appeal board.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02; Ord. No. 0-10-08, art. 2, 5-1-08; Ord. No. 0-17-09, art. 2, 9-17-09)

Sec. 10-52. Reserved.

Editor's note(s)—Ord. No. 0-10-08, art. 3, adopted May 1, 2008, repealed § 10-52 which pertained to term, transfer and amendment of server permits and derived from Ord. No. 0-41-02, §§ 1 and 2, adopted Sept. 19, 2002. See § 10-50 pertaining to alcoholic beverage handling permits.

Sec. 10-53. Reserved.

Editor's note(s)—Ord. No. 0-10-08, art. 3, adopted May 1, 2008, repealed § 10-53 which pertained to display of server permits and derived from Ord. No. 0-41-02, §§ 1 and 2, adopted Sept. 19, 2002. See § 10-50 pertaining to alcoholic beverage handling permits.

Sec. 10-54. Reserved.

Editor's note(s)—Ord. No. 0-10-08, art. 3, adopted May 1, 2008, repealed § 10-54 which pertained to revocation of server permits and derived from Ord. No. 0-41-02, §§ 1 and 2, adopted Sept. 19, 2002. See § 10-51 pertaining to revocation proceedings.

Sec. 10-54A. Reserved.

Editor's note(s)—Ord. No. 0-10-08, art. 3, adopted May 1, 2008, repealed § 10-54A which pertained to new serving permits after a denied revocation and derived from Ord. No. 0-41-02, §§ 1 and 2, adopted Sept. 19, 2002. See § 10-51 pertaining to revocation proceedings.

Sec. 10-55. Reserved.**Sec. 10-56. Enforcement by authorities.**

Police may conduct periodic checks of all alcoholic beverage licensees and licensed establishments to inspect and ensure that the employees of such establishments are following proper identification procedures for purchasers of alcoholic beverages, that licensees do not employ alcohol beverage servers or bartenders who are not permitted pursuant to section 10-51 of this chapter, and that the establishments are in compliance with state law and local ordinances.

- (1) Such inspections may include, but are not limited to, the following methods:
 - a. Surveillance by plainclothes or uniformed officers to confirm compliance with State laws and local ordinances;
 - b. Attempted purchase or purchase of alcoholic beverages by a young adult police operative, 17 years of age or older, to ensure that identification is being checked to confirm legal age.
 - c. Such other methods as approved by the chief of police.
- (2) If, based upon the results of these checks, police conclude the licensee or establishment is not in compliance with this chapter, the police chief shall forward a report of the inspection to the city manager. Based upon the report, the city manager will notify the licensee or license representative of the results, and put the licensee or his/her representative on notice that the licensee must take immediate action to correct areas of noncompliance with this chapter.
- (3) The city manager shall determine whether or not the noncompliance identified requires further action pursuant to section 10-43 of this chapter and shall proceed accordingly.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Secs. 10-57—10-75. Reserved.***ARTICLE III. SALES TO UNDERAGE PERSONS*****Sec. 10-76. Definition.**

The term "underage person" as used in this article shall mean any person under the age of 21 years.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

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

Sec. 10-77. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-78. 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" shall mean 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" shall include a passport, a military identification card, a driver's license, or a state department of public safety identification card. "Identification" shall 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/her possession any alcoholic beverage, while on the licensee's premises, shall be subject to the penalties provided at section 10-43 of this chapter.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

State law reference(s)—Similar provisions, O.C.G.A. § 3-3-23.

Secs. 10-79—10-105. Reserved.

ARTICLE IV. EXCISE TAXES²

Sec. 10-106. Administration; enforcement; rules; records; confidentiality of reports.

- (a) *Authority of the city.* The city manager 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 city manager 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 of Georgia, or the Constitution of this state or the United States 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 city manager may require.
- (d) *Examination of records; audits.* The city manager or any person authorized in writing by the city manager 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 or dates of sales, and such other information as the city manager may require.
- (f) *Disclosure of business of operations, etc.; limitation on rule.* The city manager 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 paragraph is limited by 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-107. 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

²Cross reference(s)—Finance and taxation, ch. 46.

punished accordingly. Violations of this article shall be prosecuted in the municipal court for the City of Fayetteville.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-108. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-109. Reserved.

Sec. 10-110. Excise tax rates.

In addition to the annual license fee required for the sale of alcoholic beverages, there is levied an excise tax computed as follows:

- (1) For distilled spirits, the maximum allowed as provided in O.C.G.A. § 3-4-80 for package sales, and O.C.G.A. § 3-4-130 for sales by the drink;
- (2) For foreign and domestic wines, the maximum allowed as provided in O.C.G.A. § 3-6-60 except as exempt in O.C.G.A. § 3-6-70; and,
- (3) For malt beverages, the maximum allowed as provided in O.C.G.A. § 3-5-80 except as exempt in O.C.G.A. § 3-5-90.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

State law reference(s)—Similar provisions—O.C.G.A. § 3-7-61.

Sec. 10-111. 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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-112. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city is not satisfied with the return or returns 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 than one deficiency determinations may be made of the amount due for one or more than one 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 or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in paragraph (b), above.
- (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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-113. 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 or periods 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 for more than one period.
- (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) hereof.
- (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 fifteen percent penalty provided in section 10-114.

- (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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-114. 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 section 10-113(c). Further, failure to timely pay the taxes imposed by this section for three (3) consequential months or four 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 therefore subject to revocation of the alcoholic beverages license.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-115. 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 section 10-113(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.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Secs. 10-116—10-145. Reserved.

ARTICLE V. ADULT ENTERTAINMENT

Sec. 10-146. 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 of Fayetteville, 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, this article is hereby adopted.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

Sec. 10-147. 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 paragraph (1) of this section or where such persons (or person) perform(s) 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.

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- c. The displaying of the male or female 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 paragraphs (1) and (2) above.

(Ord. No. 0-41-02, §§ 1, 2, 9-19-02)

ARTICLE VI. SALES OF ALCOHOL OFF-PREMISES FOR CATERED FUNCTIONS³

Sec. 10-148. Licensed alcohol beverage caterers eligible for off-premises licenses; application.

- (a) Any licensed alcoholic beverage caterer, as defined in article I of this chapter 10, who holds a validly issued license from the City of Fayetteville 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.

(Ord. No. 0-15-16 , art. 22, 9-1-16; Ord. No. 0-9-20 , art. 10, 7-16-20)

Sec. 10-149. 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 10.
- (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 section 10-150 of this chapter 10.

(Ord. No. 0-15-16 , art. 22, 9-1-16)

Sec. 10-150. Event licenses.

- ~~— (1) In order to distribute or sell distilled spirits, malt beverages, or wine at a catered function or special event, the licensed alcoholic beverage caterer shall be required to apply to the city for an event license. The application shall include the name of the caterer, the date, address, and time of the event, and the alcoholic beverage caterer's license number.~~
- ³Editor's note: Ord. No. 0-15-16, art. 22, adopted Sep. 1, 2016, repealed the former Art. VI, §§ 10-148, 10-149, and enacted a new Art. VI as set out herein. The former Art. VI pertained to similar subject matter and derived from Ord. No. 0-41-02, §§ 1, 2, adopted Sep. 19, 2002; and Ord. No. 0-16-14, art. 5, adopted Sep. 18, 2014.

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- (2) When an alcoholic beverage caterer is domiciled outside the city and currently licensed by the local government authority in which it is domiciled as an alcoholic beverage caterer, only a Special Event license shall be required in order for the alcoholic beverage caterer to distribute or sell distilled spirits, malt beverages, or wine at a catered function or special event inside the city. However, local excise taxes shall be levied on the total quantity of alcoholic beverages brought into the city by the caterer. A copy of the license issued by the local government authority where the alcoholic beverage caterer is domiciled shall be attached to the event application.
 - (3) The licensed alcoholic beverage caterer shall provide such personnel as needed to handle all beverage alcohol served or dispensed at the catered event. This shall include bartending, dispensing, serving, providing, or furnishing of alcoholic beverages. Employees of a licensed alcoholic beverage caterer shall be 21 years of age or older in order to handle beverage alcohol at such catered event.
 - (4) The licensed alcoholic beverage caterer shall maintain original event licenses and documents in the vehicle transporting the alcoholic beverages to the catered function at all times.
 - (5) In order to sell malt beverages or wine or distilled spirits at a catered function or special event, the location of the event/function must qualify pursuant to section 10-34 of this chapter 10 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 VI 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 section 10-150(4) conflicts with section 10-34, the more permissive regulation standard relating to the sale of malt beverages, wine, and distilled spirits off-premises at catered functions shall apply.
 - (6) Event licenses shall only be issued for locations within a commercial or mixed-use zoning district.
 - (7) Private events. For events where alcoholic beverages are furnished by the host, which are not open to the public and at which no admittance fee, cup fee or by-the-drink fee is required, the event holder shall be exempt from the requirements of this article. However, if alcoholic beverages are to be provided at such an event by a licensed alcoholic beverage caterer, then the requirements of this article must be met.

(Ord. No. 0-15-16 , art. 22, 9-1-16)

Sec. 10-151. 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 VI. 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 section 10-51 of this chapter.
- (e) If a licensed alcoholic beverage caterer has his/her/its license issued pursuant to article II revoked or suspended, for any reason, then any license issued to such licensed alcoholic beverage caterer pursuant to this article VI shall be automatically revoked. Further, if a licensed alcoholic beverage caterer has his/her/its license issued pursuant to article VI revoked or suspended then any license issued to such licensed alcoholic beverage caterer pursuant to this article II shall be automatically revoked.
- (f) Any person violating the provisions of this article VI shall be guilty of a misdemeanor.

(Ord. No. 0-15-16 , art. 22, 9-1-16)