

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF HOLLY SPRINGS, GEORGIA, AS AMENDED, TO AMEND ARTICLE I – IN GENERAL; ARTICLE II – LICENSES; ARTICLE III PROHIBITIONS AND RESTRICTIONS CHAPTER 6 – ALCOHOLIC BEVERAGES; FOR THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE CITY OF HOLLY SPRINGS, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The Council of the City of Holly Springs hereby ordains that:

Section 1. That Section 6-1, Article I of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-1. Definitions.

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

Administrator means the city manager or his designee.

Agent means an individual who does not have an ownership interest in the licensed premises, who meets the requirements of section 6-60 of this chapter, who is employed in a managing capacity and designated by the owner of the licensed premises to be licensee.

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

Alcoholic beverages means and includes all alcohol, distilled spirits, malt beverage, wine or fortified wine.

Applicant means the person making application for a license under this chapter for the sale of alcoholic beverages and, if applicable, any individual designated by that person to be licensee.

Business area means any street length between intersections where 50 percent or more of such street length is in use for business purposes.

Church means a permanent building where persons regularly assemble for religious worship and shall be publicly designated as a church, but shall not include a residence also used for religious purposes.

Closed function means an event sponsored by a nonprofit organization not open to the general public which must have a written, limited guest list prepared at least 48 hours in advance of the date on which the closed function is to occur, and which occurs at a city park or facility which is managed by the city. No pay-at-the-door guest or drop-ins are to be permitted. Alcoholic beverages may be served without charge and consumed at closed functions, but the offer and sale of alcoholic beverages at such functions is prohibited; except that a general admission fee permitting attendance at the closed function may be collected in advance.

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

Convenience store means a retail establishment whose primary business is the sale of pre-packaged or unprepared food and grocery items, which may sell fuel products, household items, or tobacco products and other goods commonly associated with the same.

Conviction means adjudication of guilt, plea of guilty, plea of nolo contendere or the forfeiture of a bond charged with a crime, but shall not include a discharge under provisions of what is commonly called the State of Georgia First Offender Act, being O.C.G.A. 42-8-60, or as may be amended from time to time.

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

Distance means the measurement in lineal feet from the center of any door of customer entry of the proposed premises of a licensee in a direct line to the applicable property line or structure at issue under sections 6-37 and 38 of this chapter. A radius shall be measured from the center of any door of customer entry of the proposed premises of any licensee. Should the proposed premises contain two or more customer entry doors, the distance shall be the shortest measurement in lineal feet from the center of any door of customer entry as determined by city officials to the property line or structure at issue.

Drink means any spirituous liquor not in its original package served for consumption on the premises, which may or may not be diluted by any other liquid.

Erotic entertainment/dance establishment means a nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers or entertainers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. Specified sexual activities shall include any of the following:

- (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct; anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerastia;
- (2) Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast;
- (5) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain;

(6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Family means any person related to the holder of an alcoholic beverage license within the first degree of consanguinity or affinity as determined according to civil law.

Farm winery means a domestic manufacture of wine in quantities of less than 100,000 gallons of wine per year, that is licensed by the state pursuant to O.C.G.A. 3-6-21.1, or as may be amended from time to time. Provided a license is issued as required by this chapter, a farm winery is authorized to sell wine by the package, by the drink and operate a wine tasting facility on the premises of the farm winery without additional license requirements, except as is required in the Holly Springs zoning ordinance.

Food caterer means any person whose primary business is the preparation of food for consumption off the premises.

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

Grocery store means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed five percent of its total gross sales.

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guest, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of such guests and having one or more public dining rooms, with adequate and sanitary kitchen and a capacity of at least 40, where meals are regularly served to such guest, such sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a bar, lounge, restaurant or nightclub on their premises; and the holder of such franchise shall be included in the definition of hotel hereunder.

License means the authorization by the mayor and city council to engage in the sale of alcoholic beverages either by the package or consumption on the premises.

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

Lounge means a separate room in which alcoholic beverages are sold, connected with a part of and adjacent to a restaurant or located in a hotel as defined in this section with all booths, stools and tables being unobstructed and open to view. All lounges shall be air-conditioned and have a seating capacity of at least 40. A lounge, as defined in this section, which is operated on a different floor in the premises, or in a separate building, or is not connected to or adjacent to a

restaurant, shall be considered a separate establishment and shall pay an additional license fee therefore.

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

Managing capacity means the president or chief executive officer of a corporation, or a person who has responsibility for management of the operations, including sale of alcoholic beverages, at the location to be licensed or supervision of management of the operation, including sale of alcoholic beverages, at the location to be licensed and who is a full-time employee of the licensee.

Manufacture means any maker, producer, or bottler of an alcoholic beverage. The term also means:

- (1) In the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
- (2) In the case of malt beverages, any brewer; and
- (3) In the case of wine, any vintner.

Minor means a person less than 18 years of age.

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

Package store means a business establishment whose primary business activity is the retail sale of alcoholic beverages by the package.

Permit holder means that person authorized with a work permit and designated by the licensee to sell alcoholic beverages at the licensed premises.

Person means any individual, sole proprietor, 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, whether public, private or quasi-public. In the case of a partnership, it includes all partners. In the case of a corporation, it includes all principal shareholders.

Pouring license means a license that authorizes on-premises consumption of alcoholic beverages.

Principal shareholder means a person who owns any shares of a corporation with less than 35 shareholders or more than five percent of the shares of a corporation which has more than 35 shareholders, except that a person who owns shares which are publicly traded shall not be deemed to be a principal shareholder or to have a beneficial interest in the corporation based solely on the fact of stock ownership.

Private club means a nonprofit association organized and existing under the laws of the state, actively in operation within the city, which has been in existence at least one year prior to the filing of its application for a license to be issued under this chapter, having at least 75 members regularly paying monthly, quarterly, or semiannual dues, organized and operated exclusively for pleasure, recreation and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any shareholders or members, and owning, hiring or leasing a building or space therein for the reasonable use to its members with suitable kitchen and dining room space and equipment and maintaining and using a sufficient number of servants and employees for cooking, preparing and serving meals for its members and guest; provided, that no member or officer, agent or employee of the club is paid, directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of spirituous liquors to the club or its members or guest beyond the amount of such salary as may be fixed by its members at any annual meetings or by its governing board out of the general revenue of the club.

Private residence means a house or dwelling wherein not less than one or more than two families customarily reside and shall not include a mobile home, an apartment house having facilities for housing more than two families, a boardinghouse or rooming house where there are five or more boarders or roomers, any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of any application for license, or any residence that shall be a nonconforming use in a commercial zone.

Public park means any public lands owned or controlled and operated by this city, and county of this state, any municipality of the state, the state, the United States of America or any property owned or managed by a nonprofit organization, in and upon which facilities are provided for the recreation and enjoyment of the general public.

Purchase price means the consideration received for the sale of spirituous liquors by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property, or services of any kind or nature, and also the amount for which credit is allowed by the licensee or his agent to the purchases, without any deduction there-from whatsoever.

Purchaser means any person who orders and gives present or future consideration for any spirituous liquor by the drink.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly prepared and served, without sleeping accommodations, such place seating a minimum of 50 or more people, and holding a certificate of approval from the county health department. At least two meals per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating; and the serving of such meals shall be the principal business conducted and food sales must be equal to or more than 50 percent of total sales. The serving of distilled spirits to be consumed on the premises shall only be incidental thereto.

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

Retail sale, means selling or offering for sale alcoholic beverages to any member of the public. Such term shall also include, without limitation, the sale to any member of the public of any ticket or license, or the charging of any cover charge or fee, for admission to any event or

premises where alcoholic beverages are available without further charge, as well as the sale of any ticket, stamp, token or similar item which may be redeemed or exchanged for alcoholic beverages.

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

School means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools and colleges of this state and which are public schools or private as defined in subsection (b) of O.C.G.A. § 20-2-690, or as may be amended from time to time, including any public or private location that teaches the Georgia Prekindergarten Program and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught and shall not include residences where home study programs are located.

Specified anatomical areas means and includes any of the following:

- (1) Less than completely and opaquely covered human genitals or public region, buttock or female breast below a point immediately above the top of the areola; or
- (2) Human male genitalia in a discernibly turgid state, even if completely and opaquely covered.

Spirituuous or alcoholic liquors means all beverages containing alcohol, obtained by distillation or containing more than 21 percent of alcohol by volume, including fortified wines.

Underage person means any person below the age at which alcoholic beverages may be legally purchased in the state, as provided by O.C.G.A. § 3-3-23, or as may be amended from time to time.

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

Wholesaler means any person engaged in distribution or selling to retailers for the purpose of resale of any alcoholic beverages as defined in this section.
(Ord. of 1-20-03, § 1)”

Section 2. That Section 6-29, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-29. Application – Filing; form; contents; timing.

(a) All persons desiring to obtain a license required under this chapter shall make written application to the city at the city hall for such privilege upon forms to be prepared and approved

by the city. Such applications shall state the name and address of the applicant. If the applicant is other than an individual, the application shall state the owner of the license, the name of the proposed licensee and a d/b/a name of the proposed licensed premises, if applicable. The application shall state the address where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of the partners; if a corporation, the names of the officers and principal shareholders; and such other information as may be required by the administrator, or the police department, and shall be sworn to by the applicant or agent thereof.

(b) All applications for a license under this chapter shall be reviewed administratively by the administrator, the community development director, and chief of police upon filing. Applications must demonstrate compliance with all sections of this chapter, in addition to requirements by state law and other locally adopted ordinances. The failure or inability of the application to meet the minimum requirements set forth under this chapter or other applicable state and local codes shall render the application void and the administrator shall reject and return the application to the persons desiring to obtain a license, indicating the reason(s) for rejection.

(c) The minimum requirements of this chapter to make application for a license shall be met and demonstrated upon applying. No exemptions to any provisions of this chapter and the requirements set forth are authorized.

(1) The names and addresses of all persons interested in the ownership of the business of selling at retail package liquor, together with any interest each person or any member of his immediate family has in any other retail liquor store;

(2) The ownership of the land and building where such retail business is operated;

(3) The amount of rental paid for such land and building and the manner in which the same is determined and to whom and what intervals it is paid;

(4) The names and addresses, by affidavit from the owner, lessor or sublessor of such land and building, of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail liquor store is located; and

(5) Any other information called for by the administrator, the police department, or city attorney.

(d) After administratively accepting the application for license, should additional information be needed by the city, the persons applying shall furnish all data, information and records requested by the city, through any authorized officer, such as the administrator or chief of police, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants by filing an application agree to produce for oral interrogation any persons requested by the city through its duly authorized representative, such as the administrator, chief of police, or city attorney, and considered as being important in the ascertainment of the facts relative to the issuance or denial of such license. The failure to produce such persons within 30 days after being requested to do so shall result in the automatic denial of such application.

(e) All applications for license, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interest in retail liquor stores. This shall include:

- (1) The names and addresses of all persons interested in the ownership of the business of selling at retail package liquor, together with any interest each person or any member of his immediate family has in any other retail liquor store;
- (2) The ownership of the land and building where such retail business is operated;
- (3) The amount of rental paid for such land and building and the manner in which the same is determined and to whom and what intervals it is paid;
- (4) The names and addresses, by affidavit from the owner, lessor or sublessor of such land and building, of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which the retail liquor store is located; and
- (5) Any other information called for by the administrator, the police department, or city attorney.

(f) Each application furnished under this section must be complete in its entirety before being accepted by the city for filing and processing.

(g) As a prerequisite to the issuance of any new license under this chapter and as a prerequisite to the issuance of a renewed license under this chapter, all applicants and existing licensees shall be required to execute and deliver to the city a verified statement indicating receipt of Holly Springs Code of Ordinances relating to alcoholic beverages.

(h) After staff has determined that an application is complete, the administrator shall render a decision not later than 45 days.

(Ord. of 1-20-03, § 1, Ord. of 2-24-11)”

Section 3. That Section 6-30, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-30. Same--Investigation; report.

(a) All applications required by this chapter shall be investigated by the police department, which shall report its recommendation within a reasonable time thereon to the administrator. A copy of the report shall be filed with the city clerk.

(b) All licensed premises shall be open for inspection by a city inspector or member of the city police department, or any other person so designated by the mayor, council, city manager or chief of police.

(Ord. of 1-20-03, § 1)”

Section 4. That Section 6-31, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-31. Same--Advertisement of intent to engage in business.

(a) All applicants for license under this chapter shall give notice of the purpose of making such application by advertisement at least one time per week for two consecutive weeks in the daily paper published in the county in which the legal advertisements of the city are carried, which notice shall contain a particular description of the location of the proposed business and shall give the name of the applicant, and if a partnership, the names of the partners, and if a corporation, the names of the officers, and date and time any comments or objections to the application must be submitted in writing to the City Clerk. The advertisement referred to in this section shall be of type not smaller than ten-point capital and lower case and shall be at least a one-inch column advertisement.

(b) The running of the advertisement required in this section in a newspaper may be concurrent with the time after the application for license is filed, and if one day's advertisement in two weeks is not made before the filing of the application, the application shall state that the advertisement is being made.

(c) The applicant shall cause to be placed upon the location of the proposed business a sign or signs stating the following: _____ license application filed with the City of Holly. Any comments or objections to this application must be in writing and received by the City Clerk of the City of Holly Springs, at 3237 Holly Springs Parkway on or before 5:00 p.m., on _____ day of _____, 20____." All interested persons take notice." The sign or signs shall not be less than 18 inches by 24 inches, and shall face toward all public streets, sidewalks or other public property which adjoins the location so as to be clearly legible to persons using such public areas.

(Ord. of 1-20-03, § 1)"

Section 5. That Section 6-32, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

"Sec. 6-32. Same – Approval.

After the completion of procedural requirements of the application phase, the administrator will approve or deny the application. Annual renewals shall be processed by staff; ownership changes shall be reviewed by staff and determined by the administrator. With the exception of an ownership change, no license shall be issued until it has been approved by the administrator. Denial of applications shall be provided to the applicant in writing providing the reasons for denial and mailed to the applicant. The applicant shall be notified of the right to appeal the denial to the Mayor and Council as provided in Section 6-62(d).

(Ord. of 1-20-03, § 1)"

Section 6. That Section 6-34, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

"Sec. 6-34. Architectural standards.

All applicants for license shall furnish plans and renderings for the proposed premises. Such premises shall be constructed, renovated or built so as to be equal to and compatible with the surrounding neighborhood or better. The exterior shall be of finished building material such as brick, stone or wood, but not concrete block. The applicant shall comply with all building, health and similar city and county codes. The applicant shall obtain and file with his application a certification of zoning certifying the property where the applicant shall operate his business to be

zoned NC, GC, MXD, or such other commercial districts as may be approved or adopted from time to time.
(Ord. of 1-20-03, § 1)”

Section 7. That Section 6-35, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

Sec. 6-35. Citizenship, residence and age requirement.

(a) Where the applicant for a license under this chapter is a corporation any license for the sale of alcoholic beverage shall be applied for by and shall be issued to the corporation and either the principal shareholder thereof, or an agent is defined in this chapter.

(b) Where the applicant for a license under this chapter is a partnership, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the partnership and either the general partner of the partnership, or an agent, as agent is defined in this chapter.

(c) Where the applicant for a license under this chapter is a sole proprietor, any license for the sale of alcoholic beverages shall be applied for by and shall be issued to the sole proprietor, provided that the sole proprietor works in a full-time managing capacity on the licensed premises. If the sole proprietor does not work in a full-time managing capacity on the licensed premises, then the license shall be applied for by and shall be issued to the sole proprietor and an agent, as agent is defined in this chapter.

(d) Each of the persons named in subsections (a), (b) and (c) of this section must be a U.S. citizen, or a legal alien for at least three years prior to making application.

(e) Each of the persons named in subsections (a), (b) and (c) of this section must be 21 years of age or older at the time the application for a license is filed.

(f) The principal shareholder in the case of a corporate applicant, the general partner in the case of a partnership applicant, the sole proprietor in the case of a sole proprietor applicant or the agent of such applicant shall be a resident of the State of Georgia at the time the application for a license is filed or renewed.

(g) The licensee shall notify the city in writing and shall keep such notification current, of the name, address and telephone number for such licensee and the agent of such licensee at such address and telephone number for the purpose of receiving communication and notices required under this chapter.

(h) All applicants for licenses under this article and all current managers of establishments for which licenses are sought shall be bona fide residents of the state of Georgia for a period of one year proceeding the time of the filing of the applications.
(Ord. of 1-20-03, § 1)”

Section 8. That Section 6-36, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-36. Location of business--Districts where permitted.

(a) *Wholesaler's license.* No license shall be issued to a wholesaler of alcoholic beverages except where the wholesale business is to be located in the area of the city which is zoned general commercial (GC) or light industrial (LI).

(b) *License for on-premises consumption.* No license for the sale of alcoholic beverages by the drink shall be issued unless the location has been zoned, general commercial (GC), neighborhood commercial (NC), or mixed use development (MXD), but not industrial, under the zoning laws on the city or is in use as a business under specific special use permit; provided this subsection shall not apply to private clubs. No license shall be issued for a location, which operates as a nonconforming use.

(c) *Package distilled spirits.* No license to engage in retail sale of distilled spirits in package form shall be issued to any person for the operation of such business except within the areas zoned general commercial (GC) and have frontage along a major local street. However, a new license may be issued to a legally nonconforming location where a prior license was once valid, in the event that no intervening use occupied the specified location. An intervening use is defined as any use other than a "package store." Packages stores shall not be non-conforming uses, as defined by the Holly Springs Zoning Ordinance. Should a package store cease operations, change ownership, lapse or fail to renew the occupation tax permit by the penalty deadline, receive a revocation of occupation tax permit or be closed under the provisions of this code, completion of the application requirements of this code shall be made anew and a new license shall be required to operate.

In addition to the other requirements of this chapter, state, and local codes, licenses for package stores shall only be issued under the following provisions:

- (1) Package store locations, known as "Distilled Spirits Retail Sales Districts" are hereby created and illustrated on the map by the same name, attached hereto as Exhibit "A" and on file in the office of the administrator or chief of police.
- (2) Of the five (5) districts illustrated on the map, only one (1) package store shall be considered for license per district. Should a package store already exist in a district, a new license in the said district is ineligible.
- (3) Together with the application, persons seeking a package store shall submit a letter from the property owner, stating that the use is acceptable and the lease will be granted or property conveyed, should the license be approved.
- (4) Persons seeking to operate a package store must first demonstrate to the administrator of chief or police that the proposed establishment and owners meet the minimum requirements of this chapter as stated in Section 6-29. Upon demonstrating compliance with the provisions of this chapter, the proposed package store, if eligible, must apply for and receive a conditional use permit (CUP) from the City Council, in accordance with the Holly Springs Zoning Ordinance. If the CUP is approved by City Council, the persons seeking to operate a package store must then proceed through the alcohol licensing application process set forth in Section 6-29 et seq.
- (5) Package store alcohol licenses and conditional use permits are non-transferable and shall not be considered non-conforming uses.

- (6) The five (5) districts illustrated on the map are aligned with planned commercial areas that the City Council believes are appropriate areas for package stores to locate, however, this section and the districts illustrated are not intended to guarantee that a license will be issued or that the City Council is obligated to issue a license.

(d) All licenses granted herein shall be further subject to O.C.G.A. 3-3-21, or as may be amended from time to time.

(Ord. of 1-20-03, § 1; Ord. of 3-19-2007; Ord. of 4-19-10, § 1)”

Section 9. That Section 6-38, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-38. Same--Distance from schools, churches, parks, hospitals and public buildings.

(a) No license for the sale of distilled spirits shall be granted for any location that is a distance of 300 feet of a church building or at a distance of 600 feet of school or college grounds. No license for the sale of wine and/or malt beverages shall be granted for any location that is a distance of 300 feet of school or college grounds. No license for the sale of distilled spirits, wine or malt beverages shall be granted for any location that is a distance of 300 feet of an alcoholic treatment center owned and operated by this state or any county or municipal government therein, unless such location is located in a commercial sector with a mixed use overlay or within the Holly Springs Town Center District.

(b) No license for the sale of distilled spirits shall be granted for any location that is a distance of 200 feet of a daycare facility. Additionally, no license may share an ingress/egress of a daycare facility, unless such location is located in a commercial sector with a mixed use overlay or within the Holly Springs Town Center District.

(Ord. of 1-20-03, § 1; Ord. of 3-19-2007)”

Section 10. That Section 6-39, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-39. Existing licensed business; compliance.

(a) To prevent an unconstitutional taking of property, all licensees for alcoholic beverages within the city in compliance with city ordinance requirements involving residency, distance, location, parking and type of building structure in effect at the time of first receiving the license and continuing to be in compliance therewith shall be exempt from the requirements of this chapter involving residence, distance, location, parking and type of building structure. Renewals of such licenses shall also be deemed in compliance under this chapter to the extent provided in this subsection.

(b) Transfers of business ownership at the same location shall be deemed in compliance under this chapter with regard to requirements involving distance, location, parking and type of building structure, provided that such business complied with such requirements at the time a license was first issued for such business and further provided that such business has continuously been in compliance with such requirements.

(c) Business transfers to new locations require a new license with review and approval by the administrator ; in addition, ownership transfers at a licensed location must be approved by the administrator , with the new owner applying for a new license, complying with all requirements of this chapter.
(Ord. of 1-20-97, § 9-1-25; Ord. of 1-20-03, § 1)”

Section 11. That Section 6-40, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-40. Same--Additional considerations.

The administrator may take into consideration in its discretion the zoning of the surrounding area, the nature of the area, and the impact on traffic as factors in the consideration of a license application under this chapter.
(Ord. of 1-20-03, § 1)”

Section 12. That Section 6-41, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-41. Conditions disqualifying application.

(a) No application for any license under this chapter shall be granted, retained, renewed or transferred where the application or the evidence shows any of the following conditions to exist:

(1) Evidence that the applicant, licensee or any individual having an ownership interest in said license, has been convicted or shall have taken a plea of nolo contendere within ten years immediately prior to the filing of the application for any felony.

(2) Evidence that the applicant or licensee has had any license issued under the police powers of any county, state, municipality, or other government entity, revoked.

(3) Evidence that the applicant or licensee is family, as family is defined in this chapter, to any distributor or wholesaler of alcoholic beverages or employees thereof. This subsection shall not restrict a farm winery from selling at retail or wholesale.

(4) Evidence that the applicant or licensee has failed to answer any question on the alcoholic beverage application accurately or failed to provide accurate information to the mayor and city council, police department, business license division staff or any city official or city employee.

(b) The city clerk shall have the authority to deny an application for a new license under this chapter upon a showing that any one or more of the above conditions exists without a hearing before the mayor and city council. Upon such a denial, the applicant shall have a right to appeal to the mayor and city council within ten days of the decision to deny on such basis. Upon the showing that one or more of the conditions outlined in section 6-59 exists on an existing licensee, the licensee shall be entitled to notice and a hearing pursuant to section 6-62 herein prior to any action taken on said license by the city.

(c) In addition to the standards stated elsewhere in this chapter, the following standards may also apply to the issuance, retention, renewal, transfer or denial of a license for alcoholic beverages either by the package or for consumption on the premises:

- (1) Evidence that the applicant has violated any law, regulation or ordinance relating to such business within a five year period immediately preceding the date of application.
- (2) Evidence that the applicant has insufficient mental capacity to conduct the business for which application is made.
- (3) Evidence that, despite compliance with the minimum distance requirement, the type and number of schools or number of churches in the vicinity causes underage persons to frequent the area.
- (4) Evidence that the location and type of structure could create a difficulty in police supervision.
- (5) Evidence that a license for the location would be detrimental to the property owners in the area.
- (6) Evidence that the license in that location would be detrimental to traffic conditions or that there is a lack of sufficient parking which would result in parking on the streets or adjoining property.
- (7) Evidence that the conduct of the business creates a disturbance, congregation of intoxicated persons, congregation of underage persons, or consumption of alcoholic beverages on the premises by underage persons, or causes the police to answer complaints or make extra surveillance of the premises. More than three underage persons without supervision of a parent or one authorized by a parent shall be prima facie evidence of a congregation of underage persons.
- (8) Evidence of unusual police observation or inspection in order to prevent the violation of any law, regulation or ordinance regulating such business, if the applicant is a previous holder of a license.
- (9) Evidence that the application is a guise or dummy application for another person who cannot meet the qualifications of this chapter for the issuance of a license.
- (10) Evidence that the applicant or any corporation or partnership of which the applicant is or was an officer, director, principal shareholder, general partner or managing agent is delinquent in the payment of any property tax or other tax or license fee payable to the city, the county or the state.
- (11) Evidence that the applicant, licensee or any individual having an ownership interest in said license, has been convicted or shall have taken a plea of nolo contendere within five years immediately prior to the filing of the application for any misdemeanor of moral turpitude or DUI. (Ord. of 1-20-03, § 1)”

Section 13. That Section 6-42, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-42. Limitations on number of licenses within a family.

(a) No application for a retail license to sell distilled spirits in the package at retail shall be granted where any person or member of his family owns, holds or controls any interest whatsoever in more than one license to engage in the business of selling distilled spirits by the package at retail in the city.

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

Interest in a license shall be deemed to exist if the person involved is the owner of a license, a co-owner of a license, a partner in a partnership which owns all or any part of a license, a shareholder in any corporation organized for pecuniary gain which owns all or any part of a license, an owner, lessor, sublessor or shareholder in any corporation organized for pecuniary gain owning or leasing any real estate which is occupied by a retail liquor store or shares in any of the income or corpus of any trust fund or estate having any interest in a retail liquor store.

(c) All applications for license, both original and renewal, must be accompanied by a full and complete statement under oath of information relative to all interest, as defined in subsection (b) of this section, in retail liquor stores, this shall include the names and addresses of all persons interested in the ownership of the business of selling at retail package liquor, together with any interest each person or any member of his immediate family has in any other retail liquor store; the ownership of the land and building where such retail business is operated; the amount of rental paid for such land and building and the manner in which the same is determined and to whom and at what intervals it is paid; the names and addresses, by affidavit from the owner, lessor or sublessor of such land and building, of all persons having any whole, partial, beneficial or other interest in and to the land and building on and in which such retail liquor store is located; and any other information called for by the administrator.

(d) Any change in any relationship declared in this section must be filed with the administrator and failure to so file within a period of 30 days after such change is made shall be grounds for suspension or revocation of the license by the administrator.

(e) No retail licensee or person having interest therein shall have any business or commercial transactions with a wholesaler or manufacture of alcoholic beverage other than the purchase and payment for alcoholic beverages.

(f) No retail license shall be approved where the licensee pays to any person any rent, management fee, or other payment based on the profits or sales of such licensed store. Any legal, accounting, management or other consulting fees and all rentals shall be in an amount which is reasonable for the area, and consistent with amounts paid by other similar businesses and other retail establishments. All retail establishments shall maintain accurate books which correctly reflect all business transactions and shall make them available for inspection and audit by the city. Such records shall be maintained for a period of seven years.

(g) It shall be unlawful for any licensee or other person having interest therein to have any connection, either directly or indirectly, in any scheme or device to obtain an interest in a retail

package store, being more than as allowed by this chapter, or to engage in any scheme or device to use another person as a quasi or dummy to obtain a retail license.

(h) Any violation of this section shall constitute due cause to revoke any license issued under this chapter in which such violators shall have an interest.
(Ord. of 1-20-03, § 1)”

Section 14. That Section 6-45, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-45. License to be obtained within two weeks of approval; issuance.

(a) All licenses must be obtained not later than two weeks from the date of approval of the application by the administrator, and if not so obtained, the license granted by the administrator shall be void.

(b) When a license has been approved and the applicant has deposited with the city the required fee, the license shall be issued, subject to 6-47(a).
(Ord. of 1-20-03, § 1)”

Section 15. That Section 6-47 Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-47. Time limit for commencement of business; forfeiture for nonuse.

(a) All holders of licenses under this chapter must within three months after the issuance of such license open for business or be working under a valid building permit. Applicant may seek a one-month extension after showing cause in writing to the administrator. The administrator shall hear and decide all extension requests within seven working days of request. Applicant may not seek more than three extensions. Failure to open the licensed establishment as required within the period shall serve as an automatic forfeiture and revocation of the unused license and no refund of license fees shall be made to the license holder unless extended by the administrator.

(b) Any holder of a license under this chapter who shall begin the operation of the business as authorized in the license, but who shall for a period of three consecutive months thereafter cease to operate the business as authorized in the license, shall upon completion of such three-month automatically forfeit his license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action of the administrator.
(Ord. of 1-20-03, § 1; Ord. of 8-15-05(2))”

Section 16. That Section 6-48, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-48. License fees; duration.

(a) The annual license fee for each classification of license under this chapter shall be set by the mayor and city council in the Master Fee Schedule.

(b) The schedule of fees for each license classification under this chapter shall be on file at the Holly Springs City Hall.

(c) All licenses shall be granted for the full calendar year or for the number of months remaining in the calendar year. Any applicant granted a license before July 1 shall pay the full license fee without proration. License fees for licenses granted on or after July 1 shall be prorated based on the number of months remaining in the calendar year; partial months shall be counted as a full month.

(d) In the case of revocation or surrender of such license before the expiration of a full year since payment of the license fee, the holder of the license shall not be entitled to receive any refund whatsoever.

(e) Each person manufacturing or selling distilled spirits, beer and or wine in the city shall pay an annual license as detailed under the alcohol fee schedule to be maintained at city hall.

(f) The collection of the annual license fee by the city shall be governed by an established policy, adopted and amended with resolution by city council from time to time.

(g) Application and license fees are not refundable.
(Ord. of 1-20-03, § 1; Ord. of 12-1-08(1), § 1)”

Section 17. That Section 6-49, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-49. Excise taxes.

The following excise taxes shall be paid to the city:

(1) An excise tax computed at a rate of \$0.22 per liter on all distilled spirits sold within the city to be paid by each wholesaler selling, shipping, or in any way delivering distilled spirits to any pouring outlet. The wholesaler shall collect the excise tax at the time of delivery to each pouring outlet and pay the tax to the city by April 10, July 10, October 10, and January 10 for the preceding three months.

(2) The above per liter excise tax shall be prorated so that all containers of distilled spirits shall be taxed on the basis of \$0.22 per liter. It shall be unlawful for any wholesaler to sell, ship or deliver in any manner any distilled spirits to a pouring outlet without collecting the tax. It shall be unlawful for any licensee to possess, own, hold, store, display or sell any distilled spirits on which such tax has not been paid.

(3) In addition, there is an excise tax computed at the rate of three percent of the charge to the public on sales of distilled spirits by the drink. Such tax shall be paid to the city by the licensee on all distilled spirits sold to customers in the city on the tenth day of each month. Licensees collecting the excise tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount due is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. §§ 48-8-1 et seq.

(4) An excise tax computed at a rate of \$0.05 per 12-ounce container, or proportionately on containers of various sizes, where the malt beverage is sold in a bottle, can or other container; and \$6.00 per container of not more than 15.5 gallons where the malt beverage is sold in a barrel or bulk container for draft or tap on all malt beverages sold within the city, to be paid by each wholesaler selling, shipping or in any way delivering malt beverages to any pouring or retail outlet. The wholesaler shall collect the excise tax at the time of delivery and pay the tax to the city by April 10, July 10, October 10 and January 10 for the preceding three months.

(5) An excise tax computed at a rate of \$0.22 per liter which shall be paid to the city on all distilled spirits sold in the city. Such tax shall be paid to the governing authority by the wholesaler on all distilled spirits sold to retail dealers in the city as follows:

a. Each wholesaler selling, shipping or in any way delivering distilled spirits to any retail dealer, shall collect the excise tax at the time of delivery to each retail dealer on or before the tenth day of the month following.

b. The \$0.22 per liter rate shall be prorated so that all containers of distilled spirits shall be taxed on the basis of \$0.22 per liter. It shall be unlawful for any wholesaler to sell ship, or deliver in any manner any distilled spirits to a retail dealer without collecting the tax. It shall be unlawful for any retail dealer to possess, own, hold, store, display, or sell and distilled spirits on which tax has not been paid.

(Ord. of 1-20-03, § 1)

State law references: Local excise tax authorized, O.C.G.A. 3-4-80. “

Section 18. That Section 6-53, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-53. Payment of fees, number of license, renewal; annual sales statement, inspection of records.

(a) All licenses granted under this article shall expire on December 31 of each year. A licensee who desires to renew their license shall file a renewal application accompanied by the requisite license fee with the City Clerk upon forms prescribed by the City Clerk on or before November 15 of each year without penalty, and not later than December 15.

(b) Applications for renewal filed after November 15 and on or before December 15 shall be subject to the penalty as provided in section 6-52, in addition to other remedies under state or federal law and/or actions taken by the mayor and city council.

(c) No renewal license shall be granted on an application filed after December 15, but such application shall be treated as an initial application, and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been issued. For purposes of this section, the date of postmark or actual receipt by the city shall constitute the day of filing.

(d) A person doing business at more than one place shall take out and pay for a separate license for each place of business.

(e) Each licensee shall provide the city with a certified statement prepared by his bookkeeper or accountant of the gross sales of the business for the preceding calendar year. Copies of the state sales tax returns for the same period shall be attached to the statement. Such statement must be properly notarized and certified to be true and correct by the licensee or his agent under penalty of law, and shall accompany the basic license fee payment on or before December 15 of each year.

(f) Any holder of or applicant for an alcoholic beverage license must make available for audit any and all records concerning such business upon request of the administrator or his representative. The books, records, inventory, stock and facilities of any alcoholic beverage license holder or applicant for same shall be open for inspection at any time for agents of the City of Holly Springs and the police department.
(Ord. of 1-20-03, § 1)”

Section 19. That Section 6-55, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-55. Food caterer permits.

In order to distribute or sell distilled spirits, malt beverages, or wine at an authorized catered function, a food caterer shall be required to with the exception that closed functions shall not be included:

- (1) Obtain a valid pouring license for the location of the food caterer's business, known as the alcoholic beverage caterer's license.
- (2) Apply to the city for an event permit providing the name of the caterer, the date, the caterer's address, the time of the event and the licensed alcoholic beverage caterer's license number.
- (3) Pay an event fee of \$100.00 and pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those licensed alcoholic beverages caterers who are domiciled in a local political subdivision other than the City of Holly Springs.
- (4) Maintain the original event permit in the vehicle transporting the alcoholic beverages to the catered function at all times. The event permit is valid for the length and duration of the authorized event and shall expire at the end of the event. It shall be unlawful for a licensed alcoholic beverage caterer to employ any person less than 21 years of age who, in the course of such employment would dispense, serve, sell, or handle alcoholic beverages. It is unlawful for any food caterer to distribute or sell any alcoholic beverages in connection with a catered event or function without first having obtained an event permit as herein provided. The event permit as contemplated herein shall be granted or denied at the sole discretion of the administrator.
(Ord. of 1-20-03, § 1)”

Section 20. That Section 6-57, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-57. Renewal--Required annually.

All licensees under this chapter shall, in order to continue such business, renew their licenses annually. Renewing licenses are not required to meet the posting and advertising provisions of this chapter when the following requirements are satisfied:

- (1) Same applicant and information as contained in the formerly approved application.
- (2) Updated background check for criminal record or alcoholic violations in the past year conducted by police department.
- (3) No prior, existing, or pending violations of the alcoholic beverage ordinance.
- (4) Compliance with all State of Georgia alcoholic beverage regulatory statutes and regulations.
- (5) Timely payment of renewal fees and timely submission of renewed information.
(Ord. of 1-20-03, § 1)”

Section 21. That Section 6-59, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-59. Transfer of license, restrictions.

Licenses, under this chapter shall not be transferable as to location or ownership, except upon approval by the administrator and issuance of and payment for the license, subject to the following:

- (1) In case of the death of any person holding a license, or any interest therein, such license may, in the discretion of the administrator be transferred to the administrator, executor or the lawful heirs of the deceased person.
- (2) Nothing in this section, however shall prohibit one or more of the partners in a partnership holding a license to withdraw from the partnership holding a license to withdraw from the partnership in favor of one or more of the partners, who were partners at the time of the issuance of the license. Such a withdrawal shall not however, serve to bring any new ownership into the partnership.
- (3) Nothing in this section, however shall prohibit one or more principal shareholders in a corporation holding a license to withdraw from the corporation, who were principal shareholders at the time of the issuance of the license. Such a withdrawal shall not, however serve to bring any new ownership into the corporation.
- (4) Should a transfer of location be approved, there shall be no pro rata return of any license fee and the new location shall be considered under and meet the requirements of a new license under this chapter. Provided, however, where a transfer of an existing location is approved and there is no change in the ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (5) It shall be deemed a change of ownership when an owner or licensee adds an additional partner or partners or an additional principal shareholder or principal shareholders.

- (6) All applicants for transfer of location shall be posted as required by section 6-56.
- (7) A change in ownership requires an application for a new license and the payment of a new license fee according to the procedures in this chapter. However, the administrator is authorized to render final decisions upon ownership changes that do not affect a transfer of location.
- (8) It shall be the duty of each licensee to promptly report any changes of any kind in the ownership to the City Clerk.
- (9) If a licensee desires to sell the business for which the license was issued, the purchaser of the business must be informed by the licensee that the purchaser of the business must make application for and obtain a license prior to operating the business. Any transfer of the business for which the license is issued without the new owners being licensed shall cause the automatic revocation of the license.
- (10) In the event that an alcoholic beverage license is issued to a corporation and an agent, and the owner of the license desires re-issuance of the license under an alternative agent, such re-issuance shall not be deemed to be a change of ownership; provided however, that the owner of the license provided the name of a principal shareholder or alternative agent for purposes of background investigation, including fingerprinting of such person. No license under this chapter shall reissue to such designated alternative person unless and until the city grants approval of such background investigation. (Ord. of 1-20-03, § 1)”

Section 22. That Section 6-62, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-62. Penalties; revocation of license.

(a) Upon conviction in the municipal court of any violation of any provision of this chapter, unless otherwise provided, the punishment shall be as follows:

- (1) First offense, minimum fine of \$500.00;
- (2) Second offense, if within 12 months of the first, minimum fine of \$750.00;
- (3) Third offense, if within 12 months of second, minimum fine of \$1,000.00; or
- (4) As set by the municipal judge as allowed by the Charter.

(b) In addition to the penalties provided in subsection (a), a license issued pursuant to this chapter may be suspended, revoked or placed on probation by the administrator for the following reasons:

- (1) Failure to pay excise fees or any other fees or taxes required by the city.
- (2) Disorderly conduct of the establishment.
- (3) Acts of disturbance on the establishment.

- (4) Violence on the establishment.
- (5) Gambling on the establishment.
- (6) Conviction of violating this chapter by any court with jurisdiction.
- (7) Charges of or conviction of a felony by the licensee or any manager.
- (8) Creation or maintenance of a nuisance on the establishment.
- (9) Any false statement or material misrepresentation given in the application for the license.
- (10) Multiple citation violations (two or more) of any provision of this article.
- (11) Any and other just cause.

(c) If the administrator shall determine that a license should be suspended, revoked or placed on probation, the following procedures shall apply: The administrator, shall issue a notice of the proposed suspension, revocation or probation of any license, which notice shall include the address of the location and the specific allegations as to the violations of any provision of this chapter or any other provision of this Code. Further, any license issued under this chapter may be temporarily suspended by the administrator in its notice for any reason outlined in subsection (b) of this section if it is determined that it is in the best interest of the health, safety and welfare of the public. The notice shall be in writing and delivered by certified mail or in person. The notice shall include notice of the right to appeal the decision before the mayor and city council prior to the proposed action taking effect. The licensee shall have seven days from the date of the notice to appeal the decision. The request shall be in writing and delivered to the administrator. The appeal shall be held at the next regular scheduled council meeting unless the licensee shall agree to an extension of time.

(d) Procedure for denials, suspensions, revocations, probation.

(1) Any appeal scheduled before the mayor and city council under this chapter may be continued at the request of the applicant or licensee, for any good cause shown.

(2) At the appeal, the administrator and the applicant/licensee shall be afforded an opportunity to present evidence and examine witnesses. The rules of evidence applicable to the superior courts shall apply but shall be liberally construed to allow the mayor and city council to arrive at the truth. Testimony may be presented only through live witnesses or written, sworn statements.

(3) After hearing all evidence, the mayor and city council may affirm, rescind or modify in any way the action taken by the administrator.

(4) The vote shall be governed by the requirements for voting as apply to any ordinance voted on by the mayor and city council.

(5) The decision of the mayor and city council shall be made in writing and shall state the reasons for the decision and shall be based upon the merits of the case.

(6) The decision of the mayor and city council shall be final but may be appealed to the appropriate court within 30 days of the date of the written decision.

(e) The decision of the mayor and city council shall be binding upon the retail party or holder of the license.

(f) When the license of any establishment has been revoked, no further license shall be issued under this chapter to the same person at that location for a period of 24 months from the date of revocation.

(g) Whenever the state shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, the city license to manufacture or deal in those products shall thereupon be automatically revoked without any action by the city council or any municipal officer.

(h) All owners or officers of establishments licensed under this chapter shall be criminally responsible for any violation of this chapter by an employee thereof; provided the municipal court may only impose a just fine under this subsection.

(Ord. of 1-20-97, § 9-1-26; Ord. of 1-20-03, § 1; Ord. of 3-19-2007; Ord. of 6-17-07)”

Section 23. That Section 6-68, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-68. Mandatory workshop for licensee; mandatory training for permit holders.

(a) Licensee policy workshop.

(1) Effective January 1, 2003 all applicants for an alcoholic beverage license shall attend an alcohol sales and service policy workshop for owners and managers which workshop shall be approved by the administrator. The applicant shall attend such workshop prior to the issuance of any alcoholic beverage license. Such workshop shall be at the applicant's expense. If at any time the during the application review process, the applicant has not provided evidence of attending such workshop that the applicant has successfully completed the alcohol sales and service training workshop, the application shall be denied. This provision shall not be waived.

(2) Effective January 1, 2003, all existing licensees shall have three years in which to provide evidence to the administrator that the licensee has successfully completed an alcohol sales and service policy workshop. Such workshop shall be approved by the administrator and shall be at the licensee's expense. In the event that the licensee fails to timely provide evidence of attending such workshop, the alcoholic beverage license shall expire on January 1, 2006 and the license shall not be renewed until the city had received evidence from the licensee that the licensee has successfully attended and completed such workshop. This provision shall not be waived.

(b) Training of permit holders.

(1) Effective January 1, 2003, licensees are required to provide information to all permit holders on provisions of the law of this state regarding the sale of alcoholic beverages to intoxicated and underage persons and the penalties for violating such laws.

(2) Effective January 1, 2003, licensees shall provide regular information and training to all permit holders on the methods, procedures and measures to be taken in order to request, obtain and examine proper identification of patrons to be certain that such patrons are of legal age to purchase alcoholic beverages.

(3) Detailed records of such training, including the date, time, persons attending and substance of such training shall be maintained for a minimum of 48 months of the training. Evidence of such training records shall be made available upon request for inspection by the city.

(c) The failure of the licensee to comply with this subsection regarding the attendance of a policy workshop and the training of permit holders shall be grounds for due cause to suspend and/or revoke the license to sell alcoholic beverages.

(Ord. of 1-20-03, § 1)”

Section 24. That Section 6-69, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-69. Manager's permit.

(a) Every person licensed under this chapter for the retail sale of distilled spirits, malt beverages or wine shall employ one or more persons as manager for the licensed establishment. At least one manager shall be at the licensee's premises during all times alcoholic beverages are being consumed thereon, and such manager shall be in charge of the premises and responsible for the actions of the employees and customers of the licensed establishment. Each such manager shall obtain a manager's permit as provided in this section, and this permit shall be valid for a period of 12 months from the date of issuance.

(b) Each person wishing to obtain a manager's permit must make application on a form provided by the police department within three days of the date of employment. Upon receiving the completed application, the police department shall arrange to have the applicant photographed and fingerprinted and to place these records on file in the police department. The police department shall be authorized to issue a manager's permit after verifying the facts in the application.

(c) Licensees and managers under this section shall keep a copy of the permit on file at all times in the establishment and shall make these permits available for inspection during operating hours.

(d) Any person who has been convicted of a violation of any law or ordinance governing the sale of alcoholic beverages or sale or possession of illegal drugs in the past five years shall be ineligible to receive a manager's permit.

(f) If any manager of the licensee shall cease to be an employee of the licensee or shall cease to be a resident of the state or ceases to meet the requirements of this section, the licensee shall notify the administrator of such event and shall name a new manager within three days after such event occurs. Such new manager shall meet all the requirements of this Code for managers. The city shall charge a fee of \$100.00 for a change of the corporation's manager; however, if the licensee corporation fails to notify the city and name a new manager within the three-day period,

the city shall charge a fee of \$200.00 for a change of the corporation's manager and/or revoke the licensee's license.

(Ord. of 1-20-97, § 9-1-52; Ord. of 1-20-03, § 1)”

Section 25. That Section 6-70, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-70. Permit holders of licensees - Fingerprinting, investigation, reports.

(a) *For whom required.* The following persons shall be required to apply for and obtain a valid work permit from the city:

(1) All employees and independent contractors who sell and/or serve alcoholic beverages at a premises licensed under this chapter.

(2) Any person acting in a managerial and/or security capacity at the licensed premises, regardless of whether such person sells and/or serves alcoholic beverages.

(b) *Exemption.* The licensee to whom an alcoholic beverage license has been issued under this chapter is not required to obtain a work permit.

(c) *Application and issuance.* Subject to the time limit to make application for a work permit as provided herein, no person requiring a work permit may be employed by an establishment holding a license under this chapter until such person has been issued a work permit from the Holly Springs Police Department indicating the person is eligible for employment. All applications required by this section shall be investigated by the police department to include, among other things, fingerprinting, an investigation of the criminal record, if any, of the applicant. No work permit shall be issued by the police department if the applicant has violated any of the provisions of section 6-79 hereof. Any applicant who is not issued a work permit shall have the right to appeal such decision within ten days to the administrator.

(d) *Time limit.* All persons subject to the provisions of this section shall, within 48 hours after the date of their first day of employment in an establishment holding a license for alcoholic beverages, report to the police department for purposes of being fingerprinted and make application for a work permit.

(e) *Investigation and report.* The police department shall have a complete and exhaustive search made relative to any police record of the person fingerprinted under this section. If there is a record of a violation of this chapter, the chief of police shall issue a letter to the person fingerprinted, and a copy to the administrator, stating that the person is ineligible for a work permit. If it should be found there is a violation of this chapter of the person fingerprinted, the chief of police shall refer the matter to the administrator for action and shall notify the employer that such person is not eligible for a work permit. When the administrator has heard the matter at date and time to be determined by the administrator, he may issue a letter declaring such person to be eligible for a work permit if, in the discretion of the administrator, the record would not disqualify such person.

(f) *Letter of eligibility; term; fee.* Any work permit issued under this section shall expire 12 months from the date of issue unless earlier suspended or revoked by the administrator. The police department may prescribe regulations for certifying the eligibility for continued employment without the necessity of the employee being again fingerprinted. The police department may prescribe reasonable fees for certifying the eligibility for a work permit.

(g) *List of employees to be filed.* It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the chief of police or his or her designee the names of all persons holding a work permit, with their home address, home telephone number and place of employment. Changes in the list of persons holding a work permit, including the names of new persons requiring or holding a work permit, must be filed with the chief of police or his designee within three days from the date of any such changes.

(h) *Possession of permits by employees.* Permit holders shall at all times during their working hours have the permits available for inspection at the premises.

(i) At all times that the business is open the licensee shall have at least one permit holder on the premises.

(j) *Grounds for suspension, revocation, probation.* No work permit which has been issued or which may hereafter be issued under this section shall be suspended, revoked or placed on probation except for due cause as defined in this subsection, and after a hearing and upon written notice to the permit holder of the time, place and purpose of such hearing and a statement of the charge or charges upon which such hearing shall be held. Five day notice shall be deemed reasonable, but shorter or longer periods of notice shall be authorized as the administrator may deem the circumstances to justify. "Due cause" for the suspension or revocation of the permit shall consist of the violation of any laws or ordinances regulating the sale of alcoholic beverages or the violation of any state, federal or local ordinances set out in this chapter; or for the omission or falsification of any material in any application; or for any reason which would authorize the refusal of the issuance of a permit; or any violation of this chapter. All hearings shall be before the administrator at a specially called meeting and shall be conducted in the manner provided in section 6-62. After the hearing, if the administrator determines due cause exists, the administrator may suspend, revoke or place on probation for a maximum of 12 months, with or without conditions, the permit. The mayor and city council shall at its next meeting review a summary of the hearing before the administrator wherein the work permit was considered for a fine, probation, suspension or revocation (the summary shall be prepared by the administrator) and the mayor and council after such review may approve the action by the administrator or place the matter down for a hearing. Should the mayor and city council place the matter down for hearing, the mayor and council, after such hearing, may reverse or modify the decision of the administrator, suspend or revoke the work permit or place the permit holder on probation with or without conditions. The permit holder whose work permit was suspended, revoked or probated by the administrator may appeal to the mayor and city council pursuant to section 6-87 hereof.

(Ord. of 1-20-03, § 1)"

Section 26. That Section 6-71, Article II of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-71. Special event.

In order to distribute or sell distilled spirits, malt beverages, or wine at an authorized special event, the event organizer shall be required to:

(1) Demonstrate that the organizer would qualify for a valid pouring license for the location of the event.

(2) The organization sponsoring any special event, which seeks to serve alcoholic beverages must first apply for and obtain a special permit from the administrator in order to serve alcoholic beverages at the special event. This permit must be posted in a conspicuous location at the special event function at all times during the event. The special permit shall specify the hours in which the function is permitted to function. Alcohol for the event shall be purchased within the City of Holly Springs, if available, and proof of transaction shall be supplied to the administrator.

(3) Pay an event fee of \$100.00 and pay local excise taxes on the total quantity of alcoholic beverages brought into the city. This subsection only applies to those licensed alcoholic beverages caterers who are domiciled in a local political subdivision other than the City of Holly Springs or if alcohol for the event is purchased outside of the city limits.

(4) Maintain the original event permit in the vehicle transporting the alcoholic beverages to the function at all times. The event permit is valid for the length and duration of the authorized event and shall expire at the end of the event. It shall be unlawful for a licensed event organizer to employ any person less than 21 years of age who, in the course of such employment would dispense, serve, sell, or handle alcoholic beverages. It is unlawful for any event organizer to distribute or sell any alcoholic beverages in connection with an event or function without first having obtained an event permit as herein provided. The event permit as contemplated herein shall be granted or denied at the sole discretion of the administrator.

(5) The organization sponsoring any special event function, which seeks to serve alcoholic beverages, must hire an off-duty police officer to monitor the function.

(Ord. of 1-20-03, § 1)

Secs. 6-72--6-75. Reserved.”

Section 27. That Section 6-76, Article III of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-76. Persons with prior convictions.

No licensee shall employ, for compensation or otherwise, in any premises for the sale of alcoholic beverages under this chapter any person in any capacity requiring a work permit under sections 6-69 or 6-70:

1) who is not a citizen of the United States or an alien admitted for permanent residence or a person who has otherwise been granted employment authorization by the United States Immigration and Naturalization Service;

2) who has been convicted within five years immediately prior to the application for work permit of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any change relating to the sale of alcoholic beverages;

3) who has been convicted within five years immediately prior to the application for work permit

a) of any felony drug conviction;

b) of felony sex offense;

c) of any other crime involving moral turpitude;

d) of two or more convictions of driving under the influence; or

e) for whom there exist any outstanding warrant charging such person with any crime described in this section, provided that this section shall not apply to private clubs as defined in this chapter. The omission or falsification of any material information in an application for an alcoholic beverage permit shall be a violation of this chapter and grounds for the denial, suspension or revocation of any such work permit; however, any person denied a work permit under the terms of this section shall have the right to appeal such denial to the administrator. (Ord. of 1-20-03, § 1; Ord. of 6-17-07)”

Section 28. That Section 6-86, Article III of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-86. Offenses involving minors.

(a) No person under 21 years of age shall buy or allow to be bought for him any alcoholic beverage from any place where these beverages are kept.

(b) No person in charge of or employed in any place of business where alcoholic beverages are kept shall permit any person under 21 years of age to buy or allow to be bought for any person under 21 years of age any alcoholic beverages in or from the place of business or to frequent or loiter about the premises unless accompanied by a parent or legal guardian.

(c) No person shall furnish or serve to any person under 21 years of age any alcoholic beverage. A valid driver's license may be reasonably accepted by the person under this subsection, as sufficient evidence of age.

(d) Any attempt to commit any act made unlawful by this section shall be itself unlawful and subject to punishment in the municipal court.

(e) No person under 21 years of age shall falsely represent his age, in any manner whatever, for the purpose of illegally obtaining any alcoholic beverages.

(f) No person shall allow or require a person in his employment, under 18 years of age to dispense, serve, sell or take orders for any alcoholic beverage. However, the provisions of this section shall not prohibit persons, under 18 years of age who are employed in supermarkets, convenience stores or drugstores from selling or handling alcoholic beverages sold for consumption off the premises.

(g) Violation of any provision of this section shall constitute an offense and shall be punishable in the municipal court; provided, violation of this section by persons who have not yet reached the age of 17 shall be handled as provided by the state juvenile court code.

(Ord. of 1-20-97, § 9-1-23; Ord. of 1-20-03, § 1)”

Section 29. That Section 6-94, Article III of Chapter 6 – Alcoholic Beverages of the Code of the City of Holly Springs, Georgia, as amended, is hereby deleted and replaced as follows:

“Sec. 6-94. Sanitary and fire protection regulations; disturbances; inspections.

- (a) All premises licensed under this chapter shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the condition of premises used for the storage and sale of food for human consumption.
 - (b) It shall be unlawful for a licensee to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices on any licensed premises.
 - (c) The fire department shall inspect premises licensed under this chapter to determine compliance with subsection (a) and (d) of this section and report its findings to the administrator.
 - (d) All premises licensed under this chapter shall conform at all times with all fire regulations of the city.
- (Ord. of 1-20-03, § 1)”

Section 30. If any Section, sub-section, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide for separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 31. This Ordinance shall become effective immediately upon approval by the Mayor and City Council.

SO ORDAINED, this 19th day of January, 2012.

Jeremy Smith, Mayor Pro Tem

Karen Norred, City Clerk
Seal: