

STATE OF GEORGIA

COUNTY OF CHATHAM

AN ORDINANCE FOR THE PURPOSE OF AMENDING THE CITY OF BLOOMINGDALE CODE OF ORDINANCES, MORE SPECIFICALLY CHAPTER 6 ENTITLED ALCOHOLIC BEVERAGES, BY CREATING CERTAIN SECTIONS, REPLACING CERTAIN SECTIONS, AND AMENDING CERTAIN SERCTIONS; TO REPEAL ALL ORDINANCES IN CONFLICT HERewith; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

BE IT ORDAINED by the Mayor and Council of the City of Bloomingdale, State of Georgia, and it is hereby ordained by the authority thereof that:

The Bloomingdale Code of Ordinances are hereby amended by amending Chapter 6 entitled Alcoholic Beverages, by creating certain sections, replacing certain sections, and amending certain sections which are contained in Exhibit "A" (attached hereto and incorporated herein).

All ordinances, or parts of ordinances, and provisions of the Bloomingdale Code of Ordinances in conflict with this ordinance are hereby repealed.

ADOPTED THIS 19th day of January, 2012.


WAYNE TIPTON
Mayor


CHARLES D. AKRIDGE
City Administrator

Read first time: 1-5-12

Read second time and passed: 1-19-12

ARTICLE I. IN GENERAL

Sec. 6-1. Definitions.

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

- (a) *Alcohol* - means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) *Alcoholic beverage* - means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.
- (c) *Bottle club* - means any business establishment to which patrons bring with them alcoholic beverages to be consumed on the business premises, and where such business is not licensed to sell alcoholic beverages. Bottle clubs are prohibited in the city.
- (d) *Broker* - means any person who purchases or obtains an alcoholic beverage from an importer, distillery, brewery or winery and sells the alcoholic beverage to another broker, importer or wholesaler without having custody of the alcoholic beverage or maintaining a stock of the alcoholic beverage.
- (e) *Church* - means a building designed or arranged for religious services and utilizes such edifice for regularly scheduled ongoing religious services and is open to the public and is recognized by the State and Federal laws.
- (f) *Commissioner* - means the state revenue commissioner.
- (g) *Daycare* - city authorized licensed business that cares for children in a specified business location which meets all state requirements.
- (h) *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. *Also referred to as Liquor.*
- (i) *Fortified wine* - means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.
- (j) *Gallon or wine gallon* - means a United States gallon of liquid measure equivalent to the volume of 231 cubic inches or the nearest equivalent metric measurement.
- (k) *Importer* - means any person who imports an alcoholic beverage into this state from a foreign country and sells the alcoholic beverage to another importer, broker or wholesaler and who maintains a stock of the alcoholic beverage.
- (l) *Malt beverage* - means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.
- (m) *Manufacturer* - 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.
- (n) *Package* - means a bottle, can, keg, barrel or other original consumer container.
- (o) *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.

- (p) *Retail consumption dealer* - means any person who sells distilled spirits for consumption on the premises at retail only to consumers and not for resale.
- (q) *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.
- (r) *School* - means a facility used for education and recognized by the State of Georgia as an institution in any branch of knowledge, public or private, including the following: preschool, elementary, middle and high schools, colleges, community colleges and universities.
- (s) *Shipper* - means any person who ships an alcoholic beverage from outside this state.
- (t) *Standard case* - means six containers of 1.75 liters, 12 containers of 750 milliliters, 12 containers of one liter, 24 containers of 500 milliliters, 24 containers of 375 milliliters, 48 containers of 200 milliliters, or 120 containers of 50 milliliters.
- (u) *Tax stamp* - means the official mark, stamp, or indicium of the department used to indicate the payment of taxes imposed by this title.
- (v) *Wholesaler* or *wholesale dealer* - means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers or to retail consumption dealers.
- (w) *Wine* - means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term 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.

ARTICLE II. SALES OF ALCOHOL

DIVISION 1. GENERALLY

Sec. 6-2. Sale subject to conditions; license constitutes privilege.

- (a) Alcoholic beverages may be sold in the city under a license granted by the city council upon the terms and conditions hereafter provided.
- (b) All licenses shall be a mere grant or privilege to carry on the business during the terms of the license subject to all terms and conditions imposed by the city ordinances and state law.

Sec. 6-3. Required; types of sales.

It shall be unlawful for any person to sell or possess for the purpose of sale within the designated area any malt beverage, wine, or distilled spirits when such person does not have a license from the city to sell or possess for the purpose of sale such beverages. Licenses shall be issued for either on-premises consumption or off-premises consumption.

Sec. 6-4. Hours of sale.

- (a) Hours for holders of off-premises consumption licenses. Holders of off-premises consumption licenses shall engage in the sale of malt beverages and wine only between the following hours: Monday through Saturday 6:00 a.m. to 12:00 a.m.(midnight) and Sunday from 12:30 p.m. until 10:00 p.m.
- (b) Alcoholic beverages shall be sold for consumption on the premises:
 - 1) Monday through Saturday from 6:00 a.m. to 12:00 a.m. (midnight)
 - 2) Sunday from 12:30 p.m. to 10:00 p.m.
- (c) Election days. The city council hereby prohibits the sale of malt beverages, wine and distilled spirits from 7:00 a.m. - 7:00 p.m. on any election day (both on-premise and off-premise).
- (d) *Christmas Day*. The sale of malt beverages, wine, and distilled spirits is also forbidden on Christmas Day, pursuant to O.C.G.A. 33-3-20(c).
- (e) In the event New Year's Eve falls on a Sunday, notwithstanding any other provisions contained within the City Code to the contrary, persons, firms, or corporations owning or operating a place of business offer for sale, and/or permit the consumption of alcohol, upon the business premises between the hours of 10:00 p.m. and 12:00 a.m. (midnight).

Sec. 6-5. Time limits on opening and continuing business.

- (a) All licenses issued under this article must, within ninety (90) days after the issuance of a city license, open for business. Failure to open for business shall constitute a forfeiture and cancellation of the issued licenses and no refund of license fees or business taxes shall be made. Any applicant unable to comply with the time limit of this section may make written request to the city administrator for an extension of time not to exceed an additional sixty (60) days; and the city administrator at his discretion may grant or deny the request.
- (b) Any license issued under this chapter shall automatically be null and void where the licensed business has not operated or been open to the public for six (6) consecutive months.

Sec. 6-6. Drive-in and curb service.

- (a) Curb service by consumption on the premises licensed under this article or delivery of any alcoholic beverages off the licensed premises, other than by wholesalers licensed hereunder or by the state is prohibited.
- (b) Drive-in service windows for the public at premises licensed for on premises consumption under this article are prohibited.
- (c) Curb service and drive in service windows shall be allowed at retail package sale premises licensed under this article.

Sec. 6-7. Illumination of premises.

- (a) All restaurants including all tables, booths, and other areas where customers are served and including all passageways for customers, shall be sufficiently well illuminated so that they may be viewed by those inside the premises.
- (b) The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall contain sufficient lighting so that all sides of the building containing entrances thereto are clearly visible at all times.

Sec. 6-8. Distance and area requirements.

- (a) No person or legal entity shall be licensed by the city under this chapter where the proposed place of business is located within a distance of 200 yards of any building occupied by a church or daycare unless granted by City Council.
- (b) The distance between establishments for the sale or consumption of alcoholic beverages and churches, schools, regardless of jurisdictional boundaries, shall be determined with a certified survey from a land surveyor registered in the State of Georgia. The survey shall be provided by the applicant when distance clarification is required, at the discretion of the city administrator. The survey shall indicate the distance between any such uses or buildings. The survey shall indicate the shortest distance, as measured by following a straight line from the nearest building in which the alcoholic beverages are sold or consumed to the nearest point of the other property building or other use.
 - 1. In cases where there are no churches, schools, or existing alcoholic beverage establishments within 100 yards, the survey shall so certify when requested by the city.
 - 2. The cost of any required survey will be charged to the applicant requesting the license or the disputing party when disputing the City's measurements.
- (c) If the proposed establishment is to be located within a shopping center or group of commercial stores within a single structure, the required distances shall be measured from any entrance of that proposed establishment rather than the nearest wall of the building or structure in which alcoholic beverages are to be sold or consumed. Outside consumption of alcohol will not be permitted unless the applicant is a licensed eating establishment that occupies a stand alone lot or building.
- (d) Where an establishment for the sale or consumption of alcoholic beverages is located in conformity with the provisions of this section, the subsequent location of a church, in the proximity of such existing establishment shall not be construed to cause such establishment to be in violation of this chapter, provided the location/establishment's alcohol license has not been expired for more than one (1) year.

Sec. 6-9. Misrepresentation of alcoholic beverages.

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

Sec. 6-10. Bottle clubs.

It shall be unlawful for a person to operate a business within the city limits of Bloomingdale for the purpose of operating a bottle club.

Sec. 6-11. Signs and advertising.

All signs and advertising must comply with the Bloomingdale sign ordinance.

Sec. 6-12. Sales to or possession by persons under the age of 21.

- (a) *Acting as agent for underaged person.* It shall be unlawful for any person to knowingly or intentionally act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
- (b) *Misrepresentation of age by underaged person.* It shall be unlawful for a person under the age of 21 to

misrepresent such person's age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverage.

- (c) *Purchase or possession by underaged person.* It shall be unlawful for any person under the age of 21 to purchase or knowingly possess any alcoholic beverage.
- (d) *Furnishing to underaged person.* It shall be unlawful for any person to knowingly, directly, or through another person, furnish, cause to be furnished or permit anyone in such person's employ to furnish alcoholic beverage to a person under the age of 21.
- (e) *Misrepresentation of identity; use of false identification.* It shall be unlawful for any person under 21 years of age to misrepresent such person's identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (f) *Age requirements for salespersons.* All clerks or cashiers selling package goods for consumption off the premises should not be less than 18 years of age. All other servers and/or waitresses for beverages to be consumed on the premises must be at least 21 years of age.
- (g) *Loitering in place of sales.* It shall be unlawful for a person under the age of 21 to loiter in an establishment selling alcoholic beverage at retail.
- (h) *Violation of section provisions; penalties.* Any violation of provisions (a)--(e) of this section shall constitute a violation of the general provisions of state law. A violation of subsections (f) and (g) of this section shall constitute a misdemeanor to be prosecuted pursuant to O.C.G.A. 36-1-20, which specifies the maximum punishment shall not exceed a fine of \$500.00 or imprisonment for 60 days, or both. In addition, any licensee's conviction for a violation of any of the provisions of this section shall be grounds for immediate suspension or revocation for cause of the license by the city.

Sec. 6-13. Possession or consumption by under-aged person.

- (a) It shall be unlawful for any person under the age of 21, within the limits of the city, to be in possession of, to consume, or to have consumed any intoxicating, alcoholic or malt beverage.
- (b) It shall be unlawful for anyone under the age of 21 to be within the limits of the city in an intoxicated condition.

Sec. 6-14. Open containers prohibited.

- (a) No bottle or other container of alcoholic beverages shall be opened or consumed by any person on a public street, right-of-way, or on any city owned or maintained property.
- (b) No establishment licensed under this article to sell alcoholic beverages shall allow a person to leave that premises with alcoholic beverages in open cup, bottle, can or other open container.
- (c) It shall be illegal for anyone to consume alcohol on the premises of any off-premise alcohol permitted business or outside the designated areas for an on-premise business.
- (d) This provision shall not apply to city-sanctioned events. A City of Bloomington sanctioned event is one which is approved through referendum by the city council.

Sec. 6-15. Sales to intoxicated persons.

No licensee shall permit the sale of alcoholic beverages to any person who is in a state of noticeable intoxication or allow persons who are noticeably intoxicated to congregate on licensed premises.

Sec. 6-16. Disorderly conduct.

No licensee shall permit on the licensed premises any disorderly conduct, breach of the peace, or noise or activity which is disturbing to the surrounding neighborhood.

Sec. 6-17. Annexed areas.

Any person(s), establishment, partnership, corporation or other entity which hold a license from the county for the sale, manufacture, package or distribution of alcoholic beverages and which is located in an area annexed by the city, shall have thirty (30) days from the effective date of the annexation to apply for the appropriate licenses and permits under this chapter. The applicant shall pay all applicable fees and costs for the equivalent license(s) to the city according to a quarterly pro-rated schedule.

DIVISION 2. CONSUMPTION-ON-THE-PREMISES.

Sec. 6-18. Eligibility for pouring on-the-premises.

- (a) No alcoholic beverages may be sold by the drink for consumption on the premises where sold except in eating establishments regularly serving prepared food, with a full service kitchen which consist of a operating kitchen sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the county health department and city fire department or designee.
- (b) Prepared to serve food during the times that business is open for on-premises consumption of alcoholic beverages.
- (c) Have at least fifty-five percent (55%) of its total sales comprised of the sale of food prepared on the premises and nonalcoholic beverages consumed on the premises; and for this purpose, if a restaurant makes a minimum charge, cover charge, or admission charge, or any other non-food or non- beverage charge, the amount so charged shall not be counted in computing total sales and shall not be counted as a food or beverage sale. Alcohol sales shall not exceed 45% of the total monthly sales.
- (d) Have a permanent seating capacity at tables, not counting bar stools, of at least twenty-five (25) persons to the applicable building, fire and safety codes in effect for the city.
- (e) If such establishment provides a bar or counter service for the sale of alcoholic beverages for on-premises consumption, the seating capacity of such bar shall not exceed twenty (20) percent of the total seating capacity of the premises.

Sec. 6-19. Pricing of alcoholic beverages.

- (a) All on-premise licensees are prohibited from selling or giving away alcoholic beverages under the following circumstances:
 - 1) Serving multiple drinks for a single price or offering all you can drink for a set price.
 - 2) Making a single price the basis for a required purchase of two or more servings.
 - 3) Sponsoring, conducting or allowing of contests or other promotions which have as their primary purpose the increasing of the consumption of alcoholic beverages.
 - 4) Selling, offering to sell or delivering to any person any alcoholic beverage at a price less than one-half ($\frac{1}{2}$) the price customarily charged for such alcoholic beverage, provided, nothing contained herein shall be construed to prohibit reducing the price of a drink by up to one-half ($\frac{1}{2}$) the price customarily charged.
 - 5) Offering or delivering any free alcoholic beverage.

- (b) This section shall not apply to private functions not open to the public. Private function not open to the public shall mean any function wherein the licensee has agreed to the use of the licensee's establishment by a person, firm or organization for a set period of time for valuable consideration.

Sec. 6-20. Open area and patio sales.

- (a) The city council may consider a request for consumption on the premises of a deck patio, or open area.
- (b) The consumption and/or sale of alcoholic beverages may be allowed in open areas and patios provided that such open areas and patios provide a barrier of a minimum of five feet (5') and are approved by the City Council, and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment, including but not limited to regulations pertaining to maximum capacity, ingress and egress.
- (c) All patios, decks, and open areas must be attached and accessible to the licensed business. Outside consumption of alcohol will not be permitted unless the applicant is a licensed eating establishment that occupies a stand alone lot or building.

DIVISION 3. CONSUMPTION-OFF-THE-PREMISES (Malt Beverages & Wine Only)

Sec. 6-21. Requirements

When licenses are restricted for the sale of malt beverages and wine for off-the-premises consumption only, the licensee and purchaser shall each have the duty not to open the alcohol on the premises or consume any alcohol on the premises.

DIVISION 4. LICENSES

Sec. 6-22. Article provisions subject to rules and regulations and amendments passed by council.

All the provisions of this article are and shall be subject to the regulations prescribed by ordinance of the council, as such regulations may be from time to time amended, setting forth the rules, terms and conditions upon which such licenses may be issued; the annual license fee; the collection, payment, and reporting of excise taxes; the qualifications of licensees; the hours of operation of such licenses; the control of customers doing business with such licenses; and any and all other matters that the council may deem it advisable to set forth the proper control and regulation of the sale and consumption of malt beverages, wine, and alcohol in the designated areas of the city. All such licenses as may be hereafter issued shall be expressly subject to the provisions of such ordinance or regulation as may be then or thereafter in force. All such licenses shall be nontransferable, except with the express approval of the council, and shall convey to the licensee no property right but only a privilege, which may be revoked by this body at this time by written notice to the licensee with the reasons therefore stated.

Sec. 6-23. Approving authority.

The city administrator or his designate may approve applications for licenses or renewals thereof, except for Sunday sales which shall be determined by City Council, upon payment of all charges due under this article, and where no obligation has been filed and where the application clearly shows, in the case of a renewal, no change in the ownership or operation of the business; and otherwise the matter shall be placed upon the agenda for consideration by the city council.

Sec. 6-24. Applications for license.

- (a) All applications for new licenses or renewals under this chapter shall be accompanied by a payment in cash or by certified check, for all the minimum fees and business taxes provided for in this Code for the classification into which the applicant falls.
- (b) Each application for malt beverages, wine, or liquor license, whether manufacturing, wholesale, retail package or consumption on the premises, shall include a \$100.00 application fee to cover the expenses of advertising, investigation and processing of the application. All applications shall be subject to approval by the city administrator or his designee.
- (c) The city application shall be a photocopy or other copy of all the appropriate state applications and forms along with a city supplemental application form provided by the city along with the following:
 - 1) A legal description of the property upon which the premises are located.
 - 2) Fingerprints of the applicant to be taken by the Bloomingdale Police Department.
 - 3) Signed statement ensuring conformity to all applicable ordinances to include distance requirements, public safety, and health requirements.
 - 4) Once the State License to sell or distribute alcohol is obtained a copy of the license shall be submitted to the city within 60 days.
- (d) The application shall also contain a form of oath providing that the information disclosed in the application is true and correct, and providing further that the applicant will abide by, observe and conduct his or her business according to the rules and regulations prescribed by the city, the acts of the general assembly, known as the Georgia Alcoholic Beverage Laws And Regulations 1986 Edition, as now or hereafter amended, and the rules and regulations of the state department of revenue in respect thereto. The oath shall be taken by the applicant and the agent in charge of the establishment if different from or additional to the applicant, and the oath shall be taken by the true owners.
- (e) Any false statement or material misrepresentation in any application hereunder shall be grounds for the revocation of any license granted hereunder.

Sec. 6-25. Separate application and separate license for each location of sale.

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

Sec. 6-26. Qualifications.

- (a) A licensee must be at least 21 years of age, of good moral character and a citizen of the United States or legal resident and a resident of the State of Georgia.
- (b) No license for the sale of alcoholic beverages by the drink for consumption on the premises shall be issued to any applicant who does not meet the requirements of a restaurant.
- (c) The application shall specify whether the license is to be issued for:
 - 1) Off-premises consumption;
 - 2) On-premises consumption, which shall be defined as consumption in the building housing the point of sale and any porches, docks, pavilions, decks, extensions or appurtenances incidental to such building, including improved real estate; or
 - 3) Both on-premises consumption and off-premises consumption.
- (d) The license applicant shall not have been convicted of a felony, or have been convicted of any violation of the laws of this state, or any other state, relating to the sale of alcoholic beverages or narcotics within three (3) years of the date of the application.

- (e) The license applicant shall be active in, and solely responsible for, the management and operation of the business for which the license is granted. If the business to be operated under the license is a partnership, the license applicant shall be the partner primarily responsible for the operation of the business for which the license is granted. Written evidence in the form of a partnership agreement, or other evidence satisfactory to the city, of the authority and responsibility of the proposed licensee, shall be submitted with the application. If the owner of the business to be operated under the license is a corporation or unincorporated association, the license applicant must be the president or vice-president of the corporation or unincorporated association, or a person designated by appropriate resolution satisfactory to the city as the person solely responsible for the management and operation of the business.
- (f) As a prerequisite to the issuance of a license, the license applicant shall furnish a complete set of fingerprints to the city for the purposes as set forth in O.C.G.A. § 3-3-2(c).
- (g) The license applicant shall make a sworn statement of his qualifications as a part of the application for a license. Any misstatement or concealment of fact in the application or the sworn statement of qualifications shall be grounds for revocation or suspension of the license issued. The license applicant shall furthermore be liable to prosecution for perjury under the laws of the state.
- (h) An affidavit executed by the applicant must be attached to any application for a yearly license for on-premises consumption, setting forth that at least fifty-five (55) percent of the total annual gross food and beverage sales will be derived from the sale of prepared meals or food. Failure to attach such affidavit or failure to comply with the terms of the affidavit will result in disapproval of the application, disapproval of the license, or revocation of the license. Furthermore, each such applicant shall submit quarterly statements reflecting the gross food and beverage sales to date and the gross alcohol sales to date to the city administrator. Such gross food and beverage sales statement shall be accompanied by a copy of the most current quarterly state sales tax report for the licensee and shall be due to the city administrator no later than April 15, July 15, October 15, and December 15 of each year.

Sec. 6-27. Issuance of license to persons with prior convictions prohibited.

- (a) No license under this chapter shall be issued, renewed or transferred to any person, partnership or corporation where any individual having any interest either as owner, partner, stockholder, directly or indirectly, beneficial or absolute, shall have been convicted within three (3) years immediately prior to the filing of the application for any felony or convicted within three (3) years immediately prior to the filing of the application for any misdemeanor relating to any alcoholic beverage business or any municipal ordinance violation relating to any alcoholic beverage business. "Any interest" is defined as being an ownership of stock or control of 50 percent or more of the partnership or corporation.
- (b) The term "conviction" shall include an adjudication of guilt, a plea of guilty or the forfeiture of a bond in part or in whole when charged with a crime or the suspension or revocation of any alcoholic beverage license owned in whole or in part by persons listed in subsection (a) of this section. A plea of nolo contendere or the forfeiture of a bond shall be considered a conviction for purposes of this subsection.

Sec. 6-28. Ratio of alcoholic/non-alcoholic sales.

Should the total sales from food and non-alcoholic beverages reported by any licensee for consumption on the premises not be equal to or greater than those from the sale of all alcoholic beverages for any two consecutive reporting periods, or for two non-consecutive reporting periods in any 12-month period, the license may be suspended or revoked by the city council after a hearing.

DIVISION 5. ENFORCEMENT AND PENALTIES

Sec. 6-29. Display of license at place of business.

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

Sec. 6-30. Open to inspection.

Any establishment holding a license issued under this article shall at all times during the hours that the establishment is open to the public, be open to inspection by any officer of the police department or any license inspector of the city or to any person designated by the city council or the city administrator.

Sec. 6-31. Enforcement of article.

- (a) *Removal of license.* The council, by resolution, may direct the city administrator to remove the license from any place of business of any licensee upon a determination by the city administrator or designee that any provision of this article, or the laws of the state pertaining to the sale of malt beverages, wine, or liquor has been violated. Upon removal of the license as provided in this subsection, it shall be illegal for the licensee to engage in the sale of malt beverages, wine, liquor until such time as the license has been reinstated as provided in subsection (b) of this section.
- (b) *Notice of removal, suspension or revocation; hearing; decision of council.* Upon removal of a license, the council through the city administrator or other duly appointed official shall give written notice within three working days to the licensee of the reasons for the removal, as well as notice of any suspension or revocation of the license. The licensee may, within ten working days from the receipt of the notice from the council, make written application to the council for a hearing on the matter of suspension or revocation, including the right of the licensee to present evidence and cross examine opposing witnesses. Failure of the licensee to request a hearing within the allowed period shall constitute a waiver of any right of further appeal of the decision regarding revocation or suspension. If a hearing is requested as provided in this subsection, the hearing will be held within twenty working days from the receipt of the request by the council. The council, after hearing evidence, shall reach its decision and advise the licensee of the decision. If the council determines, that a license shall be reinstated, the license shall be returned to the licensee on the effective date of the reinstatement as determined by the council.

Sec. 6-32. Revocation, suspension or other penalty

- (a) The city administrator shall be authorized to suspend or revoke an alcoholic beverage license or impose other penalties upon the licensee under the conditions set forth in this section.
 - 1. A licensee's employee or agent holding an alcoholic beverages serving permit has served or sold any alcoholic beverage to any person that the employee or agent knew or should have known to be in a state of intoxication.
 - 2. A licensee's employee or agent holding an alcoholic beverages serving permit has served or sold any alcoholic beverage to any person without requiring proof of age identification as required in this chapter.
 - 3. A licensee's employee or agent holding an alcoholic beverages serving permit has violated any other law, ordinance or regulation governing the operation of an establishment licensed to sell alcoholic beverages or which are reasonably related to the operation of such establishments.
 - 4. A licensee's employee or agent holding an alcoholic beverages serving permit has given false or

misleading information in his or her application for serving permit.

5. A licensee's employee or agent holding an alcoholic beverages on-premise or off-premise permit has violated any other provision of this Article.
- (b) In lieu of revocation, the city administrator is also authorized to suspend the license of a licensee violating any provision of this chapter. In the event that the city administrator elects to suspend a license, such license shall be suspended for three (3) days for the first violation and ten (10) days for a second violation occurring within any consecutive twelve-month period. For a third violation occurring within any consecutive twelve-month period, the license shall be revoked for a minimum of ninety (90) days.
- (c) Monetary penalties are noted per violation and are in addition to any suspensions of the licensee.
- | | |
|-------------------------------|---------|
| 1 st Offense | \$1,000 |
| 2 nd Offense - | \$2,500 |
| 3 rd Offense - | \$5,000 |

Sec. 6-33. Late Penalty of Mixed Drink Tax

A \$50 penalty shall be assessed against any license holder that fails to submit their documentation and or payments in accordance with this Article. An additional \$15 will be assessed against the license holder for each additional day beyond 10 days of the due date.

DIVISION 6. EXCISE TAXES

Sec. 6-34. Malt Beverages and wine.

- (a) *On malt beverages; assessed; amounts.* There is hereby assessed an excise tax on all malt beverages sold within the designated area. Such excise tax shall be in the following amounts:
- | | |
|----------------------------------|-------------|
| 8 ounce container | \$0.033 |
| 10 ounce container | \$0.0417 |
| 12 ounce container | \$0.05 |
| 16 ounce container..... | \$0.0667 |
| 32 ounce container | \$0.133 |
| 128 ounce container | \$0.5333 |
| 7.5 gallon keg/drum/barrel | \$3.00 per |
| 15.5 gallon keg/drum/barrel | \$6.00 per |
| 31.0 gallon keg/drum/barrel | \$12.00 per |
- (b) *Payment of tax on malt beverages.* The payment of the excise tax on all malt beverages as provided in subsection (a) of this section shall be in accordance with the provisions of O.C.G.A. § 3-5-81 or other applicable provisions of the laws of the state.
- (c) *Imposition of tax on wine sales; amount.* There is hereby imposed an excise tax on all wine sold within the designated area in the amount of \$0.22 per liter, and a proportionate tax at the same rate on all fractional parts of a liter.
- (d) *Collection, payment and reporting of tax on wine.* The collection, payment and reporting of the excise tax on wine as provided in subsection (c) of this section shall be made in the same manner as provided for the collection, payment and reporting of the excise tax on malt beverages by O.C.G.A. § 3-5-81.

(Ord. No. 95-005, § IX, 9-25-95)

Sec. 6-35. Distilled spirits/Liquor.

There is hereby assessed an excise tax on all distilled spirits/liquor sold within the designated area. Such excise tax shall be in the following amounts:

Liquor: Per Gallon	\$0.80
Liquor: Per Half Gallon	\$0.40
Liquor: Per Quart	\$0.20
Liquor: Per Fifth	\$0.16
Liquor: Per Pint	\$0.10
Liquor: Per Tenth	\$0.08
Liquor: Per Half Pint	\$0.05

Sec. 6-36. Distilled spirits by the drink – imposition.

- (a) There is imposed upon the sale of distilled spirits by the drinks in the city a tax in the amount of three percent (3%) of the purchase price of the liquor by the drinks to the consumer. Each licensee shall be allowed a deduction of three percent (3%) of the amount of taxes collected as reimbursement for collection of such taxes; provided that such tax is not delinquent at the time of payment. A record of each sale will be made in writing and maintained for inspection by any authorized agent of the city.
- (b) The city will also require that each permitted licensee submit a wholesale invoice for the submitting period for all distilled spirits.

Sec. 6-37. Distilled spirits by the drink -- Collection.

Every consumption on-the-premises licensee shall collect the tax imposed by this article from purchasers of distilled spirits by the drinks. The licensee shall furnish such information as may be required by the city council to facilitate the collection of the tax. In all cases where the purchase is by deferred payment or credit, the licensee becomes liable for the collection and payment of the tax at the time of delivery of the distilled spirits by the drink to the purchaser.

Sec. 6-38. Payment to city.

- (a) Each licensee shall pay over the amount of taxes collected and coming due under this article in any calendar month to the city not later than the 20th day of the following calendar month.
- (b) On or before the 20th day of each month, a return shall be filed with the city clerk for the preceding month by each licensee liable for the payment of tax under this article. Returns shall be in such form as the city council may specify and shall show the licensee's gross receipts from the sale of mixed drinks and the amount of taxes collected or coming due thereon.

DIVISION 7. FEES

Sec. 6-39. Classification fee.

Classes of licenses issued under this chapter, activities permitted and regulated thereunder, and the annual license fees shall be as follows:

- (a) *Retail licenses:*
 - Monday through Saturday package sales for off-premises consumption of beer and wine . . . \$1,000.00
 - Sunday package sales for off-premises consumption of beer and wine . . . \$500.00
- (b) *Retail consumption on-the-premises licenses:*
 - 1) Pouring license for beer and wine only. . . \$1,000.00
 - 2) Pouring license for distilled spirits . . . \$2,000.00
- (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 quarters remaining in the calendar year; partial quarters shall be counted as a full three months.
- (d) *Wholesale licenses*
 - Resident wholesale dealer's license: wholesale of distilled spirits, wine, and malt beverages by a wholesale dealer having a place of business in the city . . . \$1,000.00
- (e) *Application fees.* Each application for a license under this chapter shall be accompanied by a non-refundable application fee for \$100.00.
- (f) *Retail licenses.* Each applicant for a retail license for on-premises consumption or off-premises consumption shall pay, at the time the license is received, the annual license fee as provided in the schedule of fees and charges on file in the office of the city clerk. Such license shall be for a one-year period, beginning on January 1 and ending on December 31 of each year. The annual license fee for a combination on-premises and off-premises consumption license shall be as provided in the schedule of fees and charges on file in the office of the city clerk.
- (g) *Wholesale licenses.* Wholesale licenses shall be issued only to those parties who are licensed by the state to sell and distribute malt beverages and wine at wholesale. Application shall be made with the city.
- (h) *Annual fixed fee for wholesalers.* The annual fixed fee for wholesale licenses for the sale of malt beverages and wine in the city, when such wholesaler's principal place of business is located in the city, shall be as provided in the schedule of fees and charges on file in the office of the city clerk. The license year shall run from January 1 to December 31 of each year. The annual fixed fee for wholesale licenses for the sale of malt beverages and wine in the city, when such wholesaler's principal place of business is located outside of the city, shall be as provided in the schedule of fees and charges on file in the office of the city clerk.
- (i) *Transferability of wholesale licenses.* A license shall be retained for each wholesaler. Licenses issued pursuant to this article shall not be transferable from one entity to another, or from one person to another, except with express approval of the council after written application for such transfer and the payment of a transfer fee as provided in the schedule of fees and charges on file in the office of the city clerk.

Sec. 6-40. Change of location--Fee.

- (a) Any business moving from one location in the city to another under the same name shall notify the city clerk of the move and the new address in writing on a form provided by the city and pay a \$75.00 administrative fee for each license which must be transferred no later than the day of moving for the purposes of ensuring that all other code requirements have been met.
- (b) The specified license will be valid at the new location if the new location conforms to the zoning regulations of the city and any other location transfer requirements of this article. The change of location must be approved by the city administrator or his designee.