

**AN ORDINANCE AMENDING CHAPTER 24
OF THE CODE OF ORDINANCES OF THE
CITY OF MANSFIELD, GEORGIA**

Whereas, the City of Mansfield has the responsibility to regulate and prohibit any act, practice, or conduct which is detrimental or likely to be detrimental, to the health, sanitation, cleanliness, welfare and safety of the inhabitants of the City and to provide for the enforcement of such standards; and,

Whereas, the City of Mansfield has the power to make, ordain, and establish such ordinances, rules and regulations as shall appear necessary for the security, welfare, convenience and interest of the City and its inhabitants and for preserving the health, peace, order and good government of the City; and,

Whereas, pursuant to its police powers, the City of Mansfield is authorized to enact legislation to regulate certain conduct which could affect the public health, safety and welfare; and,

Therefore, we, the members of the City Council for the City of Mansfield, Georgia, **HEREBY ORDAIN AS FOLLOWS:**

Section 1: Chapter 24 of the Code of Ordinances of the City of Mansfield, Georgia is deleted in it entirely and replaced with the following:

See Exhibit A attached hereto and incorporated herein by this reference.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.

Section 3: Such amendment shall be effective as of the day adopted by the City Council for the City of Mansfield, Georgia,

This Ordinance is adopted this 12 day of SEPT, 2016.

CITY OF MANSFIELD, GEORGIA

By: Jefferson R. Riley, Mayor
Jefferson Riley, Mayor

ATTEST:

Jeana Hyde
Jeana Hyde, City Clerk



CHAPTER 24 - ALCOHOLIC BEVERAGES

Article 1 - General Provisions

24-101 - License required.

Subject to the provisions of this chapter, the city will issue retail licenses for the sale of malt beverages and wine for off-premises consumption, licenses for sale of malt beverages and wine for on-premises consumption, wholesale licenses for the distribution of alcoholic beverages, licenses for the manufacture of alcoholic beverages, licenses for alcoholic beverage caterers, and nonprofit civic organization temporary permits within the corporate limits of the city. It shall be unlawful for any person to manufacture, sell, offer to sell or possess for the purpose of distribution or sale of alcoholic beverages in the city without being currently licensed as required under this chapter. Notwithstanding anything contained herein, it shall be unlawful for any person to sell or offer to sell distilled spirits or fortified wine in the city except pursuant to a wholesale licenses for the distribution of alcoholic beverages, licenses for the manufacture of alcoholic beverages

24-102 - Compliance with state law.

The laws of this state, regulating the sale and distribution of alcoholic beverages, codified as the Georgia Alcoholic Beverages Code, are incorporated into this chapter and made a part hereof by reference. Convictions of any violation of said laws or any provision of this chapter by the holder of a license issued pursuant to this chapter shall constitute grounds for immediate revocation of such license.

24-103 - Definitions.

As used in this chapter, the following words and terms shall have the meanings herein given them:

"Alcoholic beverage" means and includes all alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine, as such terms are defined in the Georgia Alcoholic Beverage Code or otherwise regulated for the packaged sale thereof under this chapter.

"Alcoholic beverage caterer" means any licensee who provides alcohol at any authorized event or function, or special event approved by the city.

"Ancillary wine tastings" means the provision of samples of wine offered for sale to customers by the holder of a license to sell wine for off-premises consumption at such location under the conditions set forth in this definition. Wine sampling shall be limited to customer requests of a sample of a wine offered for sale within the premises, or in conjunction with wine education classes and sampling designed to promote wine appreciation and education. Wine tasting for customers shall only be conducted at a wine counter area constituting no more than ten (10) percent of the entire floor area of the premises. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period. Wine bottles shall be opened only by the licensee or an employee, and samples shall only be poured by the licensee and/or an employee. No open containers of wine shall be removed from the licensed premises. Wine sampling and tasting is only permitted within the enclosed portion of the premises.

"Ancillary growler malt beverage tastings" means the provision of samples of growler malt beverages offered for sale to customers by the holder of a license to sell malt beverages for off-premises consumption at such location under the conditions set forth in this definition. In no event shall the holder of a license for off-premises sale of distilled spirits be eligible to provide growler malt beverage tastings. Growler malt beverage sampling shall be limited to customer requests of a sample of a growler malt beverage offered for sale within the premises, or in conjunction with growler malt beverage education classes and sampling designed to promote growler malt beverage appreciation and education. Growler malt beverage tasting for customers shall only be conducted at a counter area constituting no more than ten (10) percent of the entire floor area of the premises. Samples shall not exceed two ounces, and no customer shall consume more than eight ounces in any two-hour period. Only the licensee or an

employee shall open, handle, and serve, and samples shall only be poured by the licensee and/or an employee. No open growler containers shall be removed from the licensed premises. Growler malt beverage sampling and tasting is only permitted within the designated interior portion of the premises.

"Church" means an entire building or structure used primarily as a place of worship, irrespective of the denomination of the worshippers.

"Distilled spirits" means any alcoholic beverage obtained by distillation or containing more than twenty-one (21) percent alcohol by volume.

"Food caterer" means any food service establishment, as defined and permitted in accordance with O.C.G.A. Section 26-2-270, who prepares food for consumption off the premises.

"Growler" means a bottle not to exceed two liters and not less than twelve (12) ounces that is filled with a malt beverage from a keg by a licensee, or an employee of a licensee, holding a license issued by the city for retail sale of malt beverages for off-premises consumption.

"Hotel" means a building or structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for rent to guests, whether transient, temporary, or permanent, which has a minimum of seventy-five (75) rooms, each having a minimum gross area of two hundred (200) square feet (including a private bathroom for each guest room) used for the sleeping accommodations of such guests and which regularly offers at least sixty (60) percent of its rooms for travelers and guests on a short-term basis. A hotel may, but is not required to, offer public dining rooms, meeting rooms and other related facilities which are conducted on the same premises and as a part of the hotel operation. Motels meeting the qualifications set out herein for hotels shall be considered to be a hotel hereunder.

"License" means the authorization by the city to engage in the sale of alcoholic beverages.

"Licensee" means any person, firm or corporation duly licensed to sell alcoholic beverages.

"Lounge" means a separate room where alcoholic beverages are served by the drink, which is either connected with or part of and is adjacent to a restaurant and operated in conjunction therewith, or located in a hotel and operated in conjunction with the hotel, on the same premises as the hotel, and under the same management as the hotel operations. All indoor portions of lounges shall be air conditioned, have a seating capacity for at least forty (40) patrons, and shall have all booths, stools and tables unobstructed and open to view.

"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.

"Minor" for purposes of this chapter means any person under twenty-one (21) years of age.

"Person" means and includes any individual, partnership, corporation, limited liability company or other business entity.

"Premises" means the definite closed, enclosed or portioned-in locality, whether a room, shop or building, and any structures, including patios, verandas, porches, decks, pavilions and terraces which are physically attached to said locality and upon prior written consent of, and under such conditions as may be specified by, the mayor and council of the city, may include a portion of the public sidewalk right-of-way adjacent to said locality, wherein alcoholic beverages may be sold and consumed. Notwithstanding any provision of this article to the contrary, the term "premises," when applied to a golf course shall also mean and include all tee areas, cart paths, fairways, roughs, greens and other open areas within the boundaries of the tract of land upon which the golf course is situated.

"Private club" means a nonprofit corporation or limited liability company organized and existing under the laws of the state of Georgia, actively in operation within the city having at least fifty (50) dues paying members, and owning, hiring or leasing a building or space therein for the exclusive use of its members with suitable kitchen and dining room space and equipment and maintaining a sufficient number of

employees for preparing and serving meals for its members and guests at least five days a week, provided, that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages by the club to its members or guests beyond the amount of such salary as may be fixed by its members at or its governing board to be paid out of the general revenue of the club.

"Private residence" means a house or dwelling wherein not less than one nor more than two families customarily reside and shall not include a mobile home, an apartment house or condominium having facilities for housing more than two families, nor a boarding or rooming house where there are five or more boarders or roomers.

"Restaurant" means any public place maintained, and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, and provided with kitchen and dining room facilities with seating capacity for at least twenty-five (25) people, employing a sufficient number of employees to prepare and serve food for its guests. At least one meal per day must be served at least five days a week, with the exception of holidays, vacations and periods of redecorating, and the serving of such meals shall be the principal business conducted, with the serving of alcoholic beverages to be consumed on the premises only incidental thereto. The sale of alcoholic beverages in a dollar amount exceeding the dollar food sales for any period of ninety (90) consecutive days shall be prima facie evidence that the principal business of a licensee is not that of serving food.

"Wholesaler" or "wholesale distributor" means any person engaged in distribution or selling to licensees for the resale of alcoholic beverages.

"Wine" means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume, made from fruits, berries or grapes, either by natural fermentation or by 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.

24-104 - Hours of operation.

- A. Retail Sales for Off-Premises Consumption. The hours of operation for licensees for retail sales of alcoholic beverages for off-premises consumption shall be between the hours of seven a.m. and eleven forty-five p.m. Monday through Saturday and the hours of twelve thirty p.m. and eleven thirty p.m. on Sunday, except on Thanksgiving and Christmas.
- B. Retail Sales for On-Premises Consumption.
 - 1. The hours of operation for licenses for retail sales of alcoholic beverages for on-premises consumption shall be between the hours of eight a.m. and two a.m., Monday through Saturday, and between the hours of twelve-thirty p.m. and twelve midnight on Sunday.
 - 2. No licensee shall in any manner dispense alcoholic beverages on the licensed premises between the hours of one-thirty a.m. and eight a.m., Monday through Saturday, nor on Sunday, except between the hours of twelve-thirty p.m. and twelve midnight.
 - 3. The provisions of this subsection shall not be construed so as to prohibit a restaurant from being open for business during times when the sale or consumption of alcoholic beverages is prohibited, so long as the licensee posts a conspicuous notice to its customers that such sales are illegal at those times.

24-105 - Location.

- A. Sales of alcoholic beverages under licenses issued under this chapter shall be made only at the location shown in the license application.
- B. In addition to the foregoing location requirements in this section, a building proposed as a location for on-premises consumption of alcoholic beverages shall afford adequate toilet facilities and parking

spaces and shall provide sufficient lighting so that the interior of the building and the premises on all sides of the building are illuminated and readily visible at all times from the street on which the building is located.

- C. Where a building in which a licensee proposes to operate under the provisions of this article is at the time of application for such license not in existence, or not yet completed, the license may be approved by the mayor and council for subsequent issuance by the city clerk, provided the applicant files with the application plans and specifications for the proposed building showing clearly a compliance with all provisions of this article and applicable ordinances of the city and state law. Any other provisions of this article to the contrary notwithstanding, the city clerk shall not issue the license and no sales shall be allowed at such location until the premises have been completed in accordance with such plans and specifications and otherwise in conformity with the other provisions of this article and state law. Such license shall be secured by the applicant within fourteen (14) days after the issuance of the certificate of occupancy for the subject premises.
- D.
 - 1. It shall be unlawful for any licensee under this chapter to deliver alcoholic beverages beyond the boundaries of the location for which such license is granted. Any alcoholic beverage served in an original container by a licensee for on-premises consumption shall be opened prior to delivery to a customer, nor shall any such licensee permit a customer to leave the licensed location with an alcoholic beverage served by the licensee.
 - 2. The sale of growlers is authorized for and by those licensees holding a license issued by the city for retail sale of malt beverages for off-premises consumption, but not authorized under any circumstances for licensees holding a license who sell, or offer for sale, vehicular fuel. The filling of growlers by means of a tapped keg shall not constitute the breaking of a package as contemplated by O.C.G.A. Section 3-3-26 or by subparagraph 1. of this subsection D. Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler. Growlers may be filled and made available for retail sale only if securely sealed. In order to be securely sealed, the growler must be sealed with a tamper-proof cap or seal.
- E. Licenses for consumption on premises will only be issued for locations for the operation of a duly licensed restaurant, lounge in conjunction with a duly licensed hotel, ancillary wine tastings in conjunction with operation of a duly licensed business selling wine for off-premises consumption, or ancillary growler malt beverage tastings in conjunction with operation of a duly licensed business selling malt beverages for off-premises consumption, as those terms are defined in this chapter.

Article 2 - Licensing Procedures and Regulations

24-201 - Qualifications for licensees.

Applicants for licenses in the several alcoholic beverage sale categories shall meet the following requirements and provide the city with appropriate sworn statements related thereto.

- A. Retail Sales for Off-premises Consumption.
 - 1. The applicant shall be not less than twenty-one (21) years of age.
 - 2. The applicant shall not have been convicted, pled guilty or nolo contendere, or had his or her probation or parole revoked in a prosecution for any felony or any other offense related to the sale or use of alcoholic beverages or any Georgia Controlled Substance, as that term is defined in O.C.G.A. Section 16-13-21, sex crimes or crimes against children, within the five years next preceding the date of his or her license application.
 - 3. The applicant shall be active in and solely responsible for the management of the business for which the license is granted.
 - 4. If the applicant is a partnership all members thereof must meet the foregoing requirements.

5. If the applicant is a corporation or a limited liability company the manager must meet requirement numbers 1 and 2, of this subsection and all its directors and officers must meet requirement number 2 of this subsection.
- B. Wholesale Sales. Wholesale licenses shall only be issued to applicants who are licensed by the State Revenue Department of Georgia.
- C. Manufacture of Distilled Spirits for Off-premises Consumption. In addition to the requirements of subsection A of this section, an applicant for a license for the manufacture of distilled spirits for off-premises consumption must meet the following requirements:
1. Each applicant or person having a direct or indirect beneficial interest in the license must not have had any license relating to alcoholic beverages issued by any licensing authority in the state of Georgia revoked.
 2. No person or entity shall hold a beneficial interest in more than one license issued under this article.
- D. Sale for On-premises Consumption. In addition to the requirements of subsection A of this section applicants for licenses for the sale of alcoholic beverages by the drink for on-premises consumption shall meet the following requirements:
1. Residency. Applicant (the owner, if a sole proprietorship; a partner, if a general partnership; or a designated officer or local general manager, if a corporation or limited liability company) shall designate a resident of Newton County who shall be responsible for any matter related to the license. Such residency shall not be a requirement if the applicant is a corporation authorized to do business in Georgia which designates an officer of the corporation or a general manager at the applicant's location in the city who shall be responsible for any matter related to the license.
 2. Prior Convictions. The applicant shall not have been convicted, pled guilty or nolo contendere, or had his or her probation or parole revoked in a prosecution for any felony or any other offense related to the sale or use of alcoholic beverages or any Georgia Controlled Substance, as that term is defined in O.C.G.A. Section 16-13-21, sex crimes or crimes against children, within the five years next preceding the date of his or her license application.
 3. Business Interests. Neither the applicant nor any owner of a beneficial interest in the applicant may have a financial interest in any distillery, wholesale liquor business or more than one retail package liquor business, or may have had any license for the manufacture, distribution or sale of alcoholic beverages in Georgia revoked by the issuing authority.
 4. The applicant must be duly licensed to operate a restaurant as a private club, to operate a lounge in conjunction with a duly licensed hotel, or, as to on-premises consumption limited to ancillary wine tastings only, to sell wine for off-premises consumption, or, as to on-premises consumption limited to ancillary malt beverage tastings only, to sell malt beverages for off-premises consumption.
- E. Alcoholic Beverage Caterers.
1. License Requirements for Resident Caterers. Any food caterer who possesses a valid license from the city to sell or otherwise dispense malt beverages or wine for on-premises consumption by the drink at a fixed location within the city may apply for an off-premises license that permits sales at an authorized catered event, function or special event permitted by the city and which takes place on private property. Each off-premises catering license authorized herein shall be valid only for the event for which the license is issued and any required event permit must be obtained. The fee for each license shall be set by resolution of the city council, and this fee amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council. It shall be unlawful for any person, including any food caterer, to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off premises and in connection with a catered event, function or special event without first having obtained a license as provided herein.

2. **Permit Requirements for Nonresident Caterers.** A nonresident alcoholic beverage caterer shall submit an application for an off-premises event permit. The fee for each such permit shall be fifty dollars (\$50.00) as authorized by O.C.G.A. Section 3-11-3 (or such fee as may be authorized by any future amendment or revision thereto). An application for an event permit shall include the name of the caterer, the date, address, time, and name of the event and the quantity and type of alcoholic beverages to be transported from the licensee's primary location to the location of the authorized catered event or function. The original event permit shall be kept in the vehicle transporting the alcoholic beverages to the catered event or function. It shall be unlawful for any person, including any food caterer, to engage in, carry on, or conduct the sale or distribution of alcoholic beverages off premises and in connection with a catered event, function or special event without first having obtained a license as provided herein.
3. **Limitation on License.** A licensed alcoholic beverage caterer may sell or otherwise dispense only that which is authorized by his alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may sell or otherwise dispense only malt beverages at the authorized catered event or function.
4. **Tax on Sales by Resident Caterers.** Excise taxes are imposed upon the sale of alcoholic beverages by a resident caterer as provided in Article 3 of this chapter.
5. **Tax on Drinks Served by Nonresident Caterers.** Excise taxes are imposed upon the total of individual alcoholic beverage drinks served by a nonresident caterer in the amounts set forth in Article 3 of this chapter and shall be paid within thirty (30) days after the conclusion of the catered event or function.
6. Any alcoholic beverage caterer who holds an alcoholic beverage license by virtue of its operation of a restaurant shall include the dollar amount of sales of alcoholic beverages at any off-premises catered event or function towards such licensee's total alcoholic beverage sales for purposes of calculating the ratio of dollar alcohol sales to dollar food sales in accordance with Section 24-103.

F. Nonprofit Civic Organization Temporary Permit.

1. To be eligible to apply for a temporary permit to sell alcoholic beverages at an authorized event, a bona fide nonprofit organization must be the applicant; a nonprofit authorization letter (Federal Form 501-C) must be produced; any required event permit must be obtained; and the authorized event for which the event permit is issued must be associated with and benefit the cause of a charitable or civic organization.
2. Pursuant to state law, a temporary permit shall authorize the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed one day, subject to all laws and ordinances regulating the time for selling such beverages; the temporary permit shall be valid only for the place specified in the permit; and no more than two such permits may be issued to the applicant organization in any one calendar year.
3. Each application for such a temporary permit shall be accompanied by a nonrefundable fee in an amount as set by resolution of the city council, which amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.

24-202 - Application requirements.

- A. Applications for licenses for sale of alcoholic beverages in the city shall be made to the mayor and council on forms provided by the city and filed with the city clerk. Such application shall contain the name and address of the applicant; a description of the proposed location of the business; the type of business to be conducted; and, if a corporation or limited liability company, the names and addresses of all members, shareholders, officials of the applicant and the names and address of any other person or entity who will have a beneficial interest in the license, if issued; if a partnership, the names and addresses of all partners; and such further information as may be deemed appropriate by the mayor and council under the provisions of this chapter. The completeness and accuracy of such

information shall be sworn to or affirmed in writing by the applicant at the time of filing the application.

- B. Applicants for a consumption on premises license shall also attach to such application:
1. A sketch, drawing or floor plan of the building and outside premises or, if such building has not been completed on the date of filing the application, a copy of the plans and specifications for the proposed building and a copy of a current building permit issued by the city planning department for same;
 2. Any and all other documents necessary or desirable to establish that the applicant meets the definition of the category of business for which a license may be granted pursuant to the provisions of Section 5.12.050 of this chapter.

24-203 - Application procedure.

- A. Upon filing the application with the city clerk, the applicant shall deposit in cash a nonrefundable processing fee as established by the mayor and council from time to time by resolution to cover the expense of the city's evaluation, processing and publication fees in connection with the application.
- B. The city shall require no more than forty-five (45) days for processing the application; provided, however, that applications for renewal of licenses shall be made on or before November 1st and processed on or before December 31st of the year in which such application is filed. A penalty of ten (10) percent of the applicable license fee shall be assessed for failure to timely renew such license.
- C. At the time the application is filed, the city clerk shall provide notice to the applicant of the date on which the application will be considered by the mayor and council. The applicant shall appear, personally or by attorney, at the council meeting at which the application is scheduled to be considered. The city clerk shall also publish in the newspaper in Newton County in which legal advertisements are published notice of the filing of the application at least once during the two weeks next preceding the week in which such consideration of the application is scheduled. Such notice shall contain a description of the location of the proposed business and the name of the applicant as well as the date, time and location of consideration of the application by the mayor and council.
- D. Written notice of the city council's decision on the application, stating the reasons therefor, shall be mailed or delivered to the applicant within ten (10) days next following such decision.
- E. An applicant aggrieved by the city council's decision upon consideration of the application shall, upon written request delivered to the city clerk within thirty (30) days following the applicant's receipt of notice of such decision, be afforded a rehearing before the city council within thirty (30) days of delivery of such request, with an opportunity to present further evidence and cross-examine any opposing witnesses.
- F. Upon approval of the application and payment of the applicable license fee as hereinafter set forth in Section 5.12.100 of this chapter, the city clerk shall issue the appropriate license.
- G. Licenses issued pursuant to this chapter shall be on a calendar year basis. Licenses issued for new businesses during the year shall be effective for the remainder of the calendar year of issuance. The applicable license fee for applications received after January 31st for such year shall be reduced pro rata for each month remaining in such year.
- H. All licenses issued under this chapter shall have printed thereon:
- THIS LICENSE IS SUBJECT TO REVOCATION, SUSPENSION OR ANNULMENT BY THE MAYOR AND COUNCIL OF THE CITY OF MANSFIELD AND FURTHER SUBJECT TO ALL APPLICABLE STATUTES, ORDINANCES, RULES AND REGULATIONS OF THE CITY OF MANSFIELD AND THE STATE OF GEORGIA.
- I. Misrepresentation by Applicant. Any material omission or untrue or materially misleading information which is contained in any original, renewal or transfer application for a license under this chapter

shall constitute grounds for denial of such application, and if any license has been previously granted under such circumstances, the same shall constitute grounds for revocation of such license.

24-204 - Transfer restrictions.

- A. Licenses hereunder shall not be transferable except as otherwise provided in this article.
- B. In case of death of any person owning a license, or any interest therein, the same may, with the approval of the mayor and council, and subject to the terms of this article, be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such heirs meet all of the other qualifications for licensees required hereunder. The license of such deceased person shall be held by the administrator, executor, or personal representative of such deceased person only for the time necessary to complete administration of the decedent's estate and to dispose of the license or his interest therein, but in no event for longer than twelve (12) months.
- C. A licensee may make application to the mayor and council to approve the transfer of the location of its business premises. Any new location shall meet all requirements of a new license to be issued hereunder except for the payment of a license fee. Upon approval of the requested transfer of location by the mayor and council, the existing license shall be surrendered to the city and a new license issued showing the new location upon payment of a twenty-five dollar (\$25.00) processing fee to the city.
- D. Applications for transfer of an unexpired license issued under this article shall be handled in the following manner:
 - 1. An application for transfer shall be made by the proposed transferee as an initial application for a license under this article. The proposed transferee's application shall specify that if approved, an existing current license of the same class issued under this article will be transferred to the applicant and the license to be transferred shall be fully identified in the transferee's application. The transferee's application shall otherwise be in complete conformity with the requirements of this article for new applicants. The transferee's application shall include written consent for such transfer of each person constituting a holder of the existing license.
 - 2. The application of the proposed transferee shall be accompanied by the processing fee specified under Section 5.12.080 of this article and shall otherwise be processed in accordance with the provisions of this article for a new application. If the mayor and council approve the application of the transferee, the transferee shall be issued a license for the unexpired term of the then existing license upon surrender of the said existing license.
- E. Nothing contained in this section shall prohibit one or more members of a partnership or limited liability company holding a license to withdraw from the partnership and to assign his interest in such entity to one or more of the other members who were members at the time of the issuance of the then current license. Such withdrawal shall not serve to bring in any new members into such entity; however, a licensee may take in new members or additional shareholders provided any additional member or shareholder meets all requirements of this article.

24-205 - License fees.

Annual license fees to be paid by licensees under the provisions of this chapter are as follows:

A. Off-premises consumption of malt beverages and wine only	\$500.00
B. Off-premises consumption of malt beverages and wine only with ancillary on-premises tastings of same	\$750.00

C. On-premises consumption of malt beverages and wine only	\$500.00
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Article 3 - Excise Taxes

24-301 - Malt beverages and wine—Wholesale.

There shall be imposed and levied on each wholesale dealer selling malt beverages or wine within the city an excise tax at the rates set forth in Section 24-302 of this article and in the following manner:

- A. Each wholesale dealer who has sold malt beverages or wine within the city shall file a report on the tenth day of each calendar month, itemizing for the preceding calendar month the exact quantities of all such alcoholic beverages, listed by size and type of container, for the month sold within the city. Each wholesale dealer shall then remit to the city on the tenth day of the month next following the calendar month in which such sales were made the amount of excise tax due in accordance with this article.
- B. No decal, stamp, or other identifying marking shall be required on such alcoholic beverages sold within the city.
- C. The excise tax provided for in this section shall be in addition to any license tax, license fee, or other charges which may now or in the future be imposed upon the business of selling such alcoholic beverages at retail or wholesale, within the corporate limits of the city.
- D. Failure to make a timely report and remittance shall render a wholesale dealer liable for penalty equal to a fifteen (15) percent of the total amount due during the first thirty (30) day period following the date such report and remittance were due, and the further penalty of fifteen (15) percent of the amount of such remittance for each successive thirty (30) day period or any portion thereof during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable in an amount equal to fifty (50) percent of the amount of the remittance which would be required under an accurate and truthful report. Such failure to make a timely report shall also constitute grounds for revocation of the business license issued by the city to the wholesaler.

24-302 - Excise tax rates.

The rate of excise taxes levied and imposed on the sale of alcoholic beverages within the city pursuant to this article shall be as follows:

- A. Malt beverages - wholesale in containers of less than fifteen and one-half (15 ½) gallons - .4166 cents per ounce.
- B. Malt beverages - wholesale in bulk containers of fifteen and one-half (15 ½) gallons - six dollars per container, and a like rate for fractional parts or multiples thereof.
- C. Wine - wholesale - sixty cents (\$0.60) per gallon.

Article 4 - Miscellaneous Regulations

24-401 - Wholesale deliveries.

Malt beverages or wine shall only be delivered to or received at the premises of a retail licensee in the city by a vehicle owned and operated by a wholesale dealer licensed by the city.

24-402 - Reporting requirements for restaurants.

- A. Each licensee for sale of alcoholic beverages for on-premises consumption operating as a restaurant shall, as a condition of maintaining such license, file with the city clerk within thirty (30) days after the end of each calendar quarter:
 - 1. A sworn statement on forms approved by the city of the licensee's retail sales during the preceding calendar quarter. Such statements shall reflect the licensee's total dollar sales amounts for the applicable calendar quarter, the total sales amounts for sales of malt beverages and wine, and total dollar sales for food items.
 - 2. Certified copies of the licensee's state of Georgia Department of Revenue Sales and Use/Tax Monthly Reports as filed with Georgia Department of Revenue for each month during the applicable calendar quarter.
- B. Any sale of a food or beverage containing any alcoholic beverage shall be deemed to be a sale solely of malt beverages or wine as the case may be, and no such sale shall be included as food sales in the quarterly reports. The fact that the sale of food during any calendar quarter exceeds sales of alcoholic beverages shall not be conclusive on the issue of whether the licensee is meeting the requirements of operating a restaurant as herein defined; however, the failure of the food sales to exceed the sale of alcoholic beverages shall be prima facie evidence that the principal business of the licensee is not that of serving food as required to meet the definition of a restaurant.
- C. Such quarterly statements shall be confidential in nature and shall not be open for public inspection except as may be required by Georgia law. Such forms shall be used solely by the city manager for determination of whether or not the licensee remains qualified to hold its retail license for sale of alcoholic beverages for on-premises consumption in accordance with the provisions of this chapter. Failure to timely file such statements shall be a violation of a city ordinance punishable in the manner provided in Section 1-109 of this code and a basis for the revocation of the license granted under this chapter. If, after appropriate notice and hearing, the judge of the city's municipal court finds that a licensee's violation of this section is not wilful and the licensee otherwise meets the requirements of a restaurant as provided in this chapter, the judge shall have the option of imposing a probationary period on the licensee, not to exceed six months, and any further violations of this article shall be a basis for revocation of such license.

24-403 - Requirements for permanent employees of licensees for on-premises consumption.

- A. A licensee under this chapter shall be responsible for the conduct of his employees while such employees are acting within the scope of their employment.
- B. Managerial employees and bartenders of licensees for on-premises sale of alcoholic beverages must obtain an annual permit for such employment from the city.
- C. An application for such permit on a form and with fingerprints and other such exhibits as may be prescribed by the city shall be filed with the city within fourteen (14) calendar days next following commencement of such employment, together with payment of a nonrefundable processing fee in the amount of thirty-five dollars (\$35.00) to cover the costs of investigation and issuance of the permit.
- D. Upon approval of the permit application, the city shall issue to the applicant a permit containing the permit number, photograph of the applicant and other identification information deemed appropriate by the city.
- E. To qualify for issuance of such permit, applicant shall not have been convicted, pled guilty or nolo contendere to any felony or to any other offense related to the sale, manufacture or use of alcoholic beverages or any Georgia Controlled Substance, as that term is defined in O.C.G.A. Section 16-13-21, sex crimes or crimes against children; provided, however, that if the applicant has had any such conviction and has successfully completed five years of any probation or parole imposed upon said conviction then this disqualification shall be removed.

- F. Employees must renew such employment permits annually and display them at all times when engaged in transactions involving alcoholic beverages. No licensee shall permit an employee to work at his licensed premises unless such employ shall have been issued a current valid permit pursuant to this section.

24-404 - Requirements for temporary employment of outside persons.

- A. It shall be unlawful for a licensee to knowingly employ in any premises licensed for the sale of alcoholic beverages by the drink hereunder, any temporary outside person in any capacity whatsoever, including performers, entertainers, or musicians, who have been convicted in any jurisdiction of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in narcotics, sex offenses, or any charge relating to the manufacture, sale or use of alcoholic beverages. A conviction occurring more than five years prior to the period of employment shall not be considered a disqualification. The term "conviction," as used in this section and Section 24-403 of this chapter, shall include an adjudication of guilt, a plea of guilty or nolo contendere or a forfeiture of a bond.
- B. No licensee hereunder shall employ any person under eighteen (18) years of age in his establishment; however with permission of the city, underage persons who are a part of a professional entertainment troupe may entertain in such premises when accompanied by their parents, legal guardian or professional agent, but shall not remain in the premises except for the time necessary for scheduled entertainment.

24-405 - Permitted attire for employees and customers.

No licensee for on-premises consumption of alcoholic beverages shall permit any person to appear on the licensed premises attired in such manner as to expose any portion of the body to view between the top of the areola of the breast and that point which is fourteen (14) inches above the center of the kneecap; provided, however, nothing contained herein shall prohibit the licensee from permitting bona fide customers to their establishment to appear in what are commonly referred to as "bermuda shorts," or other short pants or tennis outfits.

24-406 - Prohibited activities for on-premises consumption licensees.

The following activities, conduct conditions or practices shall be prohibited on the premises licensee:

- A. Cover charges in any form, except when collected to offset costs of entertainment provided for the period of time of the payor's presence on the premises;
- B. Dance floors shall not exceed ten (10) percent of the licensed premises gross square footage.
- C. Beverage containers for individual serving larger than twenty-four (24) ounces;
- D. Less than twenty-five (25) food items maintained and available from the licensee's menu;
- E. Special events unrelated to food service, such as lingerie shows, wet tee shirt or heterosexual bikini contests, or mud wrestling;
- F. Contests of skill or chance in which the prize is alcohol or money;
- G. Events providing drink price discounts for special groups;
- H. Pole dancing; or
- I. Male or female reviews.
- J. Dispensing alcoholic beverages shall be limited to one point of sale per story of the licensed premises elevation.

24-407 - Public consumption of alcoholic beverages.

It shall be unlawful for any person to drink or furnish any drink of an alcoholic beverage within any public street, building or other public property within the city, except as otherwise provided in this chapter.

Article 5 - Enforcement

24-501 - Enforcement.

By acceptance of any license issued pursuant to the provisions of this chapter, the licensee will be deemed to have agreed that law enforcement officers of the city shall have the right to enter the premises of the licensee at any time and without a warrant for purposes of determining compliance with this chapter.

24-502 - Production of records.

In conjunction with any application for a license, or in conjunction with any license which has been issued under the provisions of this chapter, or in conjunction with the revocation, suspension or cancellation of any such license, or in conjunction with any hearing contemplated by this article, or in conjunction with the collection of any fee or excise tax levied hereunder, the mayor and council shall have the right to subpoena all or any part of the records, books, documents, reports or invoices of any licensee for the purpose of auditing the records of such licensee, securing compliance by such licensee with the provisions of this chapter or proving or disproving a violation of any provision of this chapter by a licensee.

24-503 - Suspension or revocation of licenses.

- A. No license which has been issued or which may hereafter be issued by the city to any licensee hereunder shall be suspended or revoked, except for due cause as hereinafter defined, and after a hearing and upon a prior five-day written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge upon which such hearing shall be held.
- B. Due cause for the suspension or revocation of such license shall consist of the violation of any laws or ordinances regulating alcoholic beverages, or violation of regulations made pursuant to authority granted for the purpose of regulating alcoholic beverages, or for the violation of any state or federal law or city ordinance other than traffic ordinances.
- C. Violation of any of the provisions of this chapter by a licensee hereunder shall subject such licensee to revocation of the license, as provided herein.
- D. When any license for the manufacture or sale of alcoholic beverages is revoked, all signs indicating that such beverage may be manufactured, sold or consumed shall be removed from the licensed premises, both outside and inside.
- E. In the event the city council revokes or suspends any license for the sale of alcoholic beverages granted under this chapter, no new license shall be granted by the city for the sale of alcoholic beverages at the same location for the period of six months next following the date of such revocation or suspension.
- F. The mayor of the city is authorized to suspend any license issued under this chapter in emergency situations, such as civil disorders or natural disasters, or in any situation that the mayor deems such immediate suspension necessary for the protection of the health, safety or welfare of the citizens of the city. Said suspension may be made effective immediately and shall remain in force until the mayor determines the emergency is over or until the next regular meeting of the mayor and council, or a meeting called prior to the next regular meeting, at which time the council shall determine if such emergency still exists.

- G. When a license is suspended or revoked, the city shall not be required to refund any portion of the license fee or excise tax to the holder of such license.
- H. Written notice of the city council's decision to suspend or revoke any license issued hereunder, with the reasons therefor stated, shall be mailed or delivered to the holder of such license within ten (10) days following such decision.
- I. Any holder of a license issued hereunder aggrieved by such suspension or revocation shall, upon written request delivered to the city clerk within thirty (30) days of such license holder's receipt of the aforesaid notice, be afforded a hearing before the city council within the thirty (30) days of delivery of such request, with an opportunity to present evidence and cross-examine opposing witnesses.
- J. Whenever the state of Georgia shall revoke any license to manufacture or sell alcoholic beverages, the city license to manufacture or sell such product shall thereupon be automatically revoked without any further action on the part of the city.

24-504 - Seizure of contraband.

Alcoholic beverages owned, possessed or stored contrary to the provisions of this chapter are declared to be contraband and shall be seized and destroyed by the city.

24-505 - Penalty.

The violation of any provision of this chapter shall, upon conviction thereof in the municipal court of the city, be punishable as provided in Section 1-109 of this code, and the license of any licensee so convicted shall, in addition to all other penalties provided in this section, be subject to suspension or revocation.