

## Chapter 4 ALCOHOLIC BEVERAGES<sup>1</sup>

### ARTICLE I. IN GENERAL

#### Sec. 4-1. Definitions.

In this chapter, the following words shall have the indicated meanings:

*Alcohol* shall mean and include ethyl alcohol, hydrated oxide of ethyl or spirits of wine from whatever source or by whatever process produced.

*Alcoholic beverages* shall mean and include, but are not limited to, malt beverages, vinous liquors and spirituous liquors, as defined herein.

*Brewer* means a manufacturer of malt beverages.

*Brewpub* means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in the O.C.G.A., § 3-5-36. As used in this subsection, the term "eating establishment" means an establishment which is licensed to sell spirituous liquors, malt beverages, or vinous liquors and which derives at least fifty (50) per cent of its total annual gross food and beverage sales from the sale of prepared meals or food; provided, however, that when determining the total annual gross food and beverage sales, barrels of malt beverages sold to licensed wholesale dealers, as authorized pursuant to subparagraph (D) of paragraph (2) of O.C.G.A. § 3-5-35, or to the public for consumption off the premises, as authorized pursuant to subparagraph (D) of paragraph (2) and paragraph (4) of O.C.G.A. § 3-5-36, shall not be used.

*Brown bagging* shall mean the bringing of alcoholic beverages into business establishments licensed for consumption on the premises for the purpose of drinking the same at any such establishment.

*Building code* shall mean and include all building, plumbing and electrical codes and any other similar technical code of the city.

*Church* shall mean any permanent building where persons regularly assemble for religious worship.

*Church property* shall mean property on which a church is located, which includes all contiguous property in the tract which directly abuts the church, but not including property which lies on the opposite side of a street or railroad right-of-way which separates it from the property on which the church is located.

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

*Distance*. Unless otherwise defined herein, distances shall be measured by the most direct route of travel on the ground: (1) in a straight line from the front door of the structure from which Alcoholic Beverages are sold or offered for sale; (2) to the front door of the building of a church, government-owned alcoholic treatment center or a retail package store; or, (3) to the nearest property line of the real property being used for school of educational purposes. OCGA § 3-3-21; Ga. Rules & Regs. Rule 560-2-2-.12. Distance as used herein when considering the location of a retail package store or establishment offering consumption on the premises, and a residence, shall be

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from the property line of a retail package store or establishment offering consumption on the premises closest to a residence and the property line of a residence closest to a retail package store or establishment offering consumption on the premises.

*Malt beverages* shall mean fermented beverages made in whole or in part from malt, or any similar fermented beverage, and containing not more than six (6) percent alcohol by volume.

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

- (a) In the case of spirituous liquors, any person engaged in distilling, rectifying, or blending any spirituous liquors; provided, however, that a vintner that blends wine with spirituous liquors to produce a fortified wine shall not be considered a manufacturer of spirituous liquors.
- (b) In the case of malt beverages, any brewer; and
- (c) In the case of vinous liquors, any vintner.

*Minor* shall mean any person who has not attained the legal age as set by the State of Georgia for the purchasing of alcoholic beverages.

*Restaurant* shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place having a seating capacity of at least Fifty (50) people, and a full-service and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. The serving of such meals shall account for at least seventy-five per cent (75%) of revenues with the serving of spirituous liquors to be consumed on the premises as only incidental thereto.

*Retailer or retail dealer* means any person, *firm or corporation* who sells alcoholic beverages, either in unbroken packages, only to customers for their personal use and not for resale.

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

*School property* shall mean property of state, county, city or church schools and such other schools as teach the subjects commonly taught in the common schools and colleges of this state, including playgrounds, athletic fields, tennis courts and other instructional areas contiguous to such property which is used by any such school for the purpose of teaching physical education, band or other subjects which constitute a part of the school's regular curriculum.

*Spirituous liquors* shall mean all beverages containing alcohol, obtained by distillation or containing more than twenty-one (21) percent alcohol by volume, including fortified wines.

*Vinous liquors* shall mean any and all wines, fortified and unfortified, produced either within or without the State of Georgia and containing not more than twenty-one (21) percent alcohol by volume.

*Wholesaler or wholesale dealer* means any person, *firm or corporation* who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

#### **Sec. 4-2. Licenses and fees required; penalty for delinquent payment; display of license; time limit for commencement of operation.**

- (a) No malt beverage, vinous liquors, spirituous liquors or any other alcoholic beverage shall be sold or manufactured in the city except under a license issued under this chapter by the city clerk.

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- (b) The requirements of this chapter shall be in addition to any other requirements for business licenses under this Code; and if other provisions of this Code conflict with this chapter, then this chapter shall control.
- (c) Licenses which may be issued under this chapter include:
- (1) *Retail:*
    - a. Malt beverages \$750.00
    - b. Vinous liquors \$750.00
    - c. Spiritous liquors \$3,500.00
  - (2) *Consumption on the premises:*
    - a. Malt beverages \$750.00
    - b. Vinous liquors \$750.00
    - c. Spiritous liquors:
      - i. Restaurants and hotels \$3,500.00
  - (3) *Any combination of the above* may be issued, provided no retail or wholesale spirituous liquor establishment shall hold any consumption-on-the-premises license for the same location.
- (d) Licenses issued under this chapter shall be due and payable on the first day of January of each year, except as otherwise provided; and the license issued hereunder shall expire on December 31 of each year. A licensee may request renewal of a license for the following year by filing an application for renewal with the clerk between December 1 and December 30. Persons subject to license who fail to pay said license before expiration each year shall be subject to a penalty of twenty (20) percent of the amount due and unpaid. Persons subject to license who fail to renew said license on or before January 10 of each year shall be subject to forfeiture of the license.
- (1) A retail license issued by the city authorizes the license holder to act as a retailer or retail dealer for the particular type of alcoholic beverage(s) licensed to be sold to the ultimate consumer in unbroken packages for consumption off of the premises of the license holder only.
  - (2) A consumption on the premises license issued by the city authorizes the license holder to act as a retailer or retail dealer for the particular type of alcoholic beverage(s) licensed to be sold to the ultimate consumer for consumption on the premises of the license holder only.
- (e) Licenses shall be issued only to natural persons, corporations or limited liability companies. Partnerships shall not be issued licenses in a partnership name, but partners may be licensed individually. Anyone issued any wholesale, retail malt beverage, wine or liquor license, or consumption-on-the-premises license by the city shall be required to display said license in a prominent place on the licensed premises.
- (f) All businesses issued licenses under this chapter must, within 180 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 a written request to the Council for an extension of time not to exceed ninety (90) days, and the council may grant or deny the request.
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### **Sec. 4-3. Applications for new license.**

- (a) The provisions of this Code on general business and occupational licensing shall apply in addition to the following.
- (1) The City of Eastman shall issue no more than four licenses for the sale of spiritous liquors within the city of limits of Eastman. Anyone wishing to apply for a license for the sale of spiritous liquors shall submit the City's application, which shall include a copy of all appropriate state applications and forms, along with a city supplemental application form attached, together with the following:
- (a) Proof of planning and zoning approval and compliance;
  - (b) Proof of building code compliance;
  - (c) A legal description of the property upon which the premises is located;
  - (d) A current photograph of the applicant;
  - (e) Fingerprints for background checks to be provided as required and directed by the Chief of Police. Any additional costs charged by third party vendors associated with obtaining fingerprints shall be paid directly by the applicant;
  - (f) A letter of clearance from the clerk of the city municipal court, showing that the applicant has no criminal charges pending and/or no convictions in the past two (2) years;
  - (g) An affidavit from the city inspector, stating that the establishment complies with the distance requirements contained in this chapter (the city inspector will charge a fee of one hundred fifty dollars (\$150.00) for this affidavit);
  - (h) A cash bond conditioned upon the applicant and the applicant's employees at the licensed establishment complying with all laws, ordinances, rules, and regulations of the city governing the issuance and control or a retail or consumption on the premises spiritous liquor license. The bond shall remain in force as long as the license and its renewals are valid and subsisting and shall be for two-thousand dollars (\$2,000.00). The bond shall be forfeited to the city upon the finding of any violation pursuant to section 4-21 or the suspension or revocation of any license issued pursuant to this chapter in addition to any other fines imposed by the court. Prior to a refund of the bond, the city clerk shall check the accounts for all utilities, taxes, and licenses of the licensed premises and the licensee and may use, in his/her sole discretion, the bond to pay any unpaid utility accounts, taxes, or any outstanding license fees due and payable;
  - (i) An affidavit from the publisher of the legal organ of Dodge County, showing that the applicant has caused to be published in said legal organ, once a week for two (2) consecutive weeks, a notice, showing the name and address of the applicant, the location for which the license is sought, the type of license applied for, and the time and place the city clerk shall act on the application.
- (2) The City of Eastman shall advertise for 14 days in the legal organ of the city that applications for the sale of distilled spirits are being accepted. All applicants meeting the above requirement and submitting the required documentation shall be selected by a random drawing of applicant names by the Municipal Court Judge at a regularly scheduled council meeting. In the event, one of the four selected applicants fails to open the establishment within 180 days, they shall forfeit their license. In the event of a forfeited license, the same procedure of advertisement and random draw shall be used to fill the available license.
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Should a licensee close their business, the same procedure of advertisement, and random draw shall be used to fill the available license.

- (b) The "applicant" for a license hereunder shall be the actual owner of the proposed licensed business and may be a natural person, a corporation or a limited liability company.
  - (1) Where the applicant is a corporation, "applicant" shall be the president and secretary, and each officer must provide those items required of applicants, and in addition the corporation shall present a letter of good standing from the secretary of state.
  - (2) Where the applicant is a limited liability company, "applicant" shall include all members and the manager, if the company is manager-managed, and each member and manager must provide those items required of applicants, and in addition shall present a letter of good standing from the secretary of state.
  - (3) Partnerships shall not be issued licenses in a partnership name, but partners may be licensed individually.
- (c) All approved applications for new licenses 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. All applicants for a new license (specifically excluding transfers or renewals) shall include with their application a new applicant fee of one hundred fifty dollars (\$150.00).
- (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 other business according to the rules and regulations prescribed by the city, the acts of the general assembly, known as the "Revenue Tax Act to Legalize and Control Alcoholic Beverages and Liquors," as 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. 4-4. Sham applicant; de facto owner and/or manager.**

- (a) It shall be unlawful for any person to file, or permit to be filed, an application for license wherein a sham owner or a sham manager is named.
- (b) It shall be unlawful for any applicant to file an application for license, containing his name as owner, or the name of manager, when such person is not the de facto owner or the de facto manager, as the case may be.
- (c) It shall be unlawful for any person to permit his name to be used on an application for license where such person will not be the de facto owner of the license or the de facto manager, as the case may be.
- (d) It shall be unlawful for any person to file an application for license, or permit his name to be used in such application, where the application contains a nominal owner and a nominal manager for the purpose of avoiding the provisions of this article, restricting applicants and managers to persons without criminal records, or for any other elusive purpose.

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#### **Sec. 4-5. Age of applicants and employees.**

- (a) All applicants, including the officers of a corporate applicant, and the members (and manager if applicable) of a limited liability company applicant must be natural persons and be at least twenty-one (21) years of age.
- (b) No person shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell or take orders for any alcoholic beverages.
- (c) This Code section shall not prohibit persons under eighteen (18) years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages.

#### **Sec. 4-6. Residency required; agents.**

- (a) All applicants for licenses under this chapter and all actual owners of establishments for which licenses are sought shall be bona fide residents of Dodge County at the time of the filing of the applications and shall remain bona fide residents of Dodge County during all times that the licenses and renewals thereof are in effect, unless they comply with subsection (b) as to a registered agent.
- (b) All applications for licenses under this chapter shall name in the application one (1) or more natural persons who reside in Dodge County as the registered agent of the license holder. Such person shall be the representative of the license holder who shall be responsible for any matter relating to the license. Such person shall receive all communications, notices, services of process or other papers or documents on behalf of the license holder in connection with any matter arising out of or connected with the issuance, holding, suspension, revocation or other action with respect to any City of Eastman license. The application shall give the physical and mailing address of the person named as agent. The mailing to any such person at their mailing address of any notice required to be given under this chapter or any other law shall be sufficient notice to the license holder. If any such person named as agent shall cease to be a resident of Dodge County, another person shall immediately be appointed, in writing, in his or her place; and written notice shall be given to the clerk, stating the name and address of the new agent. The registered agent shall provide those items required in section 4-3.

#### **Sec. 4-7. Approval required.**

All applications shall be approved or disapproved by the chief of police, city manager, and city council or a designee thereof as a condition of the issuance of a license. The chief of police or his designee shall review the application and make an investigation of the applicant. In the event that the chief of police determines that the application is not in order, in view of the requirements of federal law, state law, this Code or his police department investigation, he shall so notify the city clerk. The city clerk shall notify the applicant of pursuant to this chapter.

#### **Sec. 4-8. Issuance of license to persons with prior convictions prohibited.**

No license under this chapter shall be issued, renewed or transferred to any person, partnership or corporation where any individual having an interest, either as an employee, owner, partner or principal stockholder, shall have been convicted or shall have taken a plea of nolo contendere within ten (10) years immediately prior to the filing of the application for any felony or conviction of two (2) or more misdemeanors of any state of the United States or any municipal ordinance, except traffic violations, within two (2) years; the term "conviction" shall include an adjudication of guilt or a plea of guilty, or nolo contendere, or the forfeiture of the bond in part or in whole when charged with a crime.

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#### **Sec. 4-9. Denial of license application; granting.**

- (a) A city license may be denied under this chapter on any of the following grounds:
- (1) Failure to meet state requirements for state license;
  - (2) Failure to pay required fees and taxes;
  - (3) Failure to provide required valid information, documents and the like;
  - (4) False information in the application or attached documents;
  - (5) Failure to pass review by the chief of police, city manager, and city council;
  - (6) Improper residency of applicant, owner or registered agents;
  - (7) Prior convictions as herein provided;
  - (8) Improper location which would tend to increase and promote traffic congestion and resulting hazards therefrom;
  - (9) Prior history or reputation of any building or establishment for fighting, shooting, stabbing or other violence; gambling; illegal dealing in alcoholic beverages or drugs; other violations of the law; or
  - (10) Failure to meet any other requirements in this chapter for a license of the class applied for.
- (b) Otherwise, the city clerk may issue any city license provided for in this chapter.
- (c) All decisions approving, denying, suspending, or revoking the permits or licenses shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant.

#### **Sec. 4-10. Appeals.**

Any and all appeals of the outcome of the licensing procedure will be made to the Municipal Court of the City of Eastman. All appeals of the outcome of the licensing procedure will be made to the Municipal Court of the City of Eastman. Application for appeal shall be in writing and filed with the Clerk of the Municipal Court of Eastman within fifteen (15) days of the denial of the license. Upon filing of an appeal the court shall schedule a hearing at which the applicant shall have the opportunity to present evidence and cross-examine opposing witnesses.

#### **Sec. 4-11. Regulations.**

All licenses issued under this chapter shall be subject to the rules and regulations set forth in an act of the general assembly known as the "Revenue Tax Act to Legalize and Control Alcoholic Beverages and Liquors," as amended, and those prescribed by the state department of revenue. In addition, all businesses, the applicant for the license, the manager in charge of the business, and the owner and owners thereof shall observe and obey the following regulations prescribed hereby by the mayor and council, as provided in this chapter.

#### **Sec. 4-12. Open to inspection.**

Any establishment holding a license issued under this chapter shall, at all times during the period allowable by law for the operation of the business, be open to inspection by any officer of the police department, or to any license inspector of the city or to any person designated by the chief of police. In addition, if the premises are being used after hours by employees or the owners or their agents, the premises may be inspected at this time by the designated persons in this section.

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### **Sec. 4-13. Open containers prohibited; exception.**

No bottle or other container of alcoholic beverages shall be opened or consumed by any person on the premises upon which the place of business is conducted and licensed under this chapter, whether the bottle or other container so opened or consumed is bought or obtained at that place of business or elsewhere, unless the establishment is licensed for the consumption on the premises of that particular classification of alcoholic beverage.

### **Sec. 4-14. Legal times of sale and purchase.**

- (a) *Retail liquor, packaged to go.* It shall be unlawful for any licensee or person employed by a licensee of spirituous liquor, packaged to go, to sell, offer for sale, transfer or offer to transfer to others, any spirituous liquor between the hours of 11:45 p.m., Saturday night, and 8:00 a.m. the following Monday morning, and between the hours of 11:45 p.m. and 8:00 a.m. on other days of the week; and it shall be unlawful for any person to purchase, receive or offer to receive from such a licensee, or a person employed by such a licensee, any spirituous liquor between the hours of 11:45 p.m. and 8:00 a.m. on other days of the week.
- (b) *Beer and wine packaged to go.* It shall be unlawful for a licensee or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any beer or wine, packaged to go, between the hours of 12 midnight on Saturday night and 1:00 a.m. on the following Monday morning.
- (c) *All alcoholic beverages, consumed on-premises.* It shall be unlawful for any licensee or person employed by a licensee to sell, offer for sale, transfer or offer to transfer to others any alcoholic beverage to be consumed on the premises, as defined in this article, between the hours of 11:30 p.m. on Saturday night and 10:00 a.m. on the following Monday morning, and between the hours of 11:00 p.m. and 10:00 a.m. on the other days of the week; and it shall be unlawful for any person to purchase, receive or offer to receive from a licensee, or person employed by a licensee, any alcoholic beverage to be consumed on the premises, as defined in this article, between the hours of 11:30 p.m. on Saturday night and 10:00 a.m. on the following Monday morning, and between the hours of 11:30 p.m. and 10:00 a.m. on the other days of the week.
- (d) *Dual licenses.* In the event that any establishment holds both a consumption-on-the-premises license and packaged-to-go license for alcoholic beverages, then the hours governing establishments holding a consumption-on-the-premises license shall prevail.
- (e) *Thanksgiving and Christmas.* The sale of alcoholic beverages of any kind whatsoever in the city shall be prohibited on Thanksgiving Day and Christmas Day.

#### **Sec. 4-14.1 Sunday consumption or sales on premises prohibited.**

There shall be no Sunday sales of alcohol, alcoholic beverages, or consumption on the premises.

### **Sec. 4-15. Legal hours for drinking.**

It shall be unlawful for any person, firm or corporation owning or operating a place of business licensed under this chapter for consumption on the premises to permit any person to drink any alcoholic beverage upon the business premises between the hours of 11:30 p.m. Saturday night, and 10:00 a.m. on the following Monday morning, and between the hours of 11:30 p.m. and 10:00 a.m. on the other days of the week.

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**Sec. 4-16. Possession of glass, opened bottle or other opened container of alcoholic beverage: when prohibited.**

It shall be unlawful for any person owning or operating a place of business licensed under this chapter for consumption on the premises to permit any glass containing any alcoholic beverage, or any opened and unemptied bottle or other opened container of any alcoholic beverage, to remain in or on the premises of the place of business between the hours of 11:30 p.m. Saturday night and 10:00 a.m. on the following Monday morning and between the hours of 11:30 p.m. Saturday night and 10:00 a.m. on the other days of the week. Opened liquor bottles kept behind a bar and used to prepare mixed drinks are exempt from this requirement. It shall also be unlawful for any customer or other person to have in his or her possession any opened bottle containing any alcoholic beverage in any place of business licensed under this chapter between the hours of 11:30 p.m. Saturday night and 10:00 a.m. the following Monday morning and between 11:30 p.m. Saturday night and 10:00 a.m. on the other days of the week. It is the purpose and intent of this section to assist in the enforcement of the regulations against drinking beer, wine, and other alcoholic beverages between the hours set forth in this section, and the mayor and the city council find that the regulations herein imposed are necessary for the proper regulation of the sale of alcoholic beverages.

**Sec. 4-17. Consumption of alcoholic beverages in billiard rooms.**

Alcoholic beverages may be sold by the drink for consumption on the premises of a billiard room, if the establishment derives at least seventy-five (75) per cent of its revenue from the sale of products or services other than alcoholic beverages in accordance with O.C.G.A. § 43-8-2(b)(3), and within the hours as specified for consumption on the premises. Provided further that said establishment shall pay a license fee in the same amount as is required by the State of Georgia to operate a pool table and/or billiard table, to the City, per year, per pool table and/or billiard table. Said establishment is not prohibited from operating from 6:00 a.m. until 12:00 Midnight.

**Sec. 4-18. Minors; prohibited practices; sale to same; identification required.**

- (a) It shall be unlawful for any minor to have in his possession, custody and control, or to have in any vehicle in his possession, custody and control, any malt or alcoholic beverages of any type, kind or description whatsoever within the city.
- (b) It shall be unlawful for any minor to either purchase or attempt to purchase from any person any malt or alcoholic beverages of any type, kind or description whatsoever within the city.
- (c) It shall be unlawful to sell, offer to sell or give away to any minor under twenty-one (21) years of age any malt or alcoholic beverages of any type whatsoever within the city.
- (d) Proof of identification needed to purchase alcoholic beverages and/or tobacco products. It shall be unlawful at retail establishments for any person to sell or for any person to purchase alcoholic beverages of any kind whatsoever not for consumption on premises or tobacco products in the city unless the purchaser exhibits proper identification to the seller so that the seller may verify the age of such person. For purposes of this chapter, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both and giving such person's date of birth and includes without being limited to a passport, military identification card, driver's license, or an identification card authorized by O.C.G.A., §§ 40-5-100 through 40-5-104.

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**Sec. 4-19. Duration and renewal of license.**

- (a) Duration and renewal of licenses under this chapter shall be as for business and occupational licenses generally, and no licensee shall have any vested right to the renewal of any city license.
- (b) No licenses under this chapter may be renewed if the licensee could be denied a new license under this chapter.

**Sec. 4-20. Transfer of licenses; fees.**

- (a) Licenses under this chapter may be transferred to another entity who will operate at the same location, provided that entity makes application to the city for a new license, as required in section 4-3, (except that the new licensee shall not have to provide those items listed in subsections 4-3(a)(1)(a—d) and (g) and otherwise meets the requirements set forth in this chapter.
- (b) A transfer of location shall be allowed for any license under this chapter, provided the licensee files with the city clerk the following on the new location:
  - (1) Proof of planning and zoning compliance;
  - (2) Proof of building code compliance;
  - (3) A legal description of the property upon which the new premises is located;
  - (4) An affidavit from the city inspector, stating that the establishment complies with the distance requirements contained in this chapter (the city inspector will charge a fee of seventy-five dollars (\$75.00) for this affidavit);
  - (5) An affidavit from the publisher of the legal organ of Dodge County, showing that the transferor has caused to be published in said legal organ, once a week for two (2) consecutive weeks, a notice, showing the name and address of the transferor, the name of the transferee, the location for which the license is sought, the type of license held, and the time and place the clerk shall act on the application.
- (c) An application for transfer shall be made within five (5) days of change of the location of licensee and shall be accompanied by cash or a certified check in the amount of five-hundred dollars (\$500.00). Upon receipt of an application for transfer, which meets the requirements of this section, and upon the surrender of the existing license, the city clerk may issue a license to the applicant.
- (d) Any transfer allowed under this section may be denied or revoked on the same basis as for an application or license under this chapter.

**Sec. 4-21. Fines, suspension and revocation of license.**

- (a) Any license issued under this chapter may be suspended for a definite time or may be revoked and the licensee fined if the licensee or any employee of licensee has been convicted of a felony, or of a violation of any ordinance of the city, or any state or federal law relating to the sale of alcoholic beverages or illegal substances. The forfeiture of bond or collateral or a plea of guilty or nolo contendere shall be considered a conviction for the purposes of this subsection.
- (b) Upon conviction in any court of the State of Georgia of any violation of any penal provision incorporated in this chapter, unless otherwise provided, the city judge shall issue punishment as follows:
  - (1) *First offense:* A minimum fine of five hundred dollars (\$500.00), and five (5) days' suspension of license;

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- (2) *Second offense* (within a twelve-month period of the first offense): A minimum fine of one thousand dollars (\$1,000.00), and the license shall be suspended for not less than ten (10) days:
  - (3) *Third offense* (within a twelve-month period of the second offense): Any cash bond shall be forfeited, the license shall be revoked and no new license shall be issued to any person, firm or corporation for a period of twelve (12) months at that location;
  - (4) *The above fines* shall be charged to both offenders, the purchaser and the seller, individually.
- (c) Any license issued under this chapter may be suspended for a definite time or may be revoked and the licensee fined if the city judge has determined that there is probable cause to believe that the licensee or an employee of the licensee has violated a state or federal law relating to the sale of alcoholic beverages or illegal substances. The procedure for making such determination shall be:
- (1) The chief of police, after obtaining reliable information that such a violation has been committed, shall cite the licensee to appear for a hearing on a day certain before city court and shall advise the licensee of the law believed to have been violated.
  - (2) The city court judge, after hearing evidence, shall make a determination whether there is probable cause to believe the alleged violation has been committed.
- (d) All owners or officers of establishments licensed under this chapter shall be criminally responsible for any violation of this chapter by an employee thereof, provided the municipal court may only impose a penalty as outlined under this section.
- (e) The license of any entity that has not paid a fine or fee imposed for any reason shall be void and immediately surrendered to the city if the fine or fee is not paid within thirty (30) days of imposition.

#### **Sec. 4-22. Outstanding licenses; compliance assumed.**

- (a) All licensees holding valid licenses issued under this chapter as of July 21, 1988, shall be deemed to have complied with all requirements as to the application and issuance of a license under this chapter. Renewals and transfers of licenses at the same location shall also be deemed in compliance. Transfers to new locations must comply with all requirements as set forth in this chapter.
- (b) Any establishment holding a consumption-on-the-premises license prior to the above date shall be eligible to obtain other consumption-on-the-premises licenses for the same location.
- (c) Any new license or location transfers issued after the above date must comply with all requirements as set forth in this chapter.

#### **Sec. 4-23. Sale of alcoholic beverages on election days.**

The sale of alcoholic beverages in the city shall not be authorized on any election days during the time periods that election polls are open.

#### **Sec. 4-24. Distance requirements from schools, churches, and other facilities.**

- (a) No license controlled by this chapter shall be issued to any person, firm or corporation to sell or offer to sell spiritous liquors, alcohol, alcoholic beverage, distilled spirits, wine or malt beverages within one hundred (100) yards of any church property, as defined in this chapter, any facility licensed as an alcoholic treatment center, or skilled nursing facility, or within two hundred (200) yards of any school building, educational

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building, school property or college campus. This restriction shall not apply to any location for which a new license is applied for the sale of distilled spirits, wine, or malt beverages for consumption on the premises was lawful at such location at any time during the thirty six (36) months immediately preceding such application. Nor, shall alcoholic beverages for consumption on the premises be sold within 100 yards of any housing authority property, meaning any property containing 300 housing units or fewer owned or operated by a housing authority created by the "Housing Authorities Law."

- (b) The school building or educational building referred to hereinabove shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects, commonly taught in the common schools and colleges of this state, are taught.
- (c) The distances referred to hereinabove are to be measured pursuant to O.C.G.A. § 3-3-21, and any rules or regulations promulgated thereunder by the state revenue commissioner, and as further defined in Sec. 4-1, Definitions.
- (d) The provisions of this section shall not apply at any location for which a license has been issued prior to the adoption of this section, nor to the renewal of such license.
- (e) The location of a new retail package liquor licensed place of business or the relocation of an existing retail package liquor licensed place of business engaged in the retail package sales of distilled spirits shall not be authorized within five hundred (500) yards of any other business licensed to sell package liquor at retail, as measured by the most direct route of travel on the ground; provided, however, that this limitation shall not apply to any hotel licensed under this chapter. This restriction shall not apply to any location for which a new license is applied for if the retail sale of distilled spirits was lawful at such location at any time during the twelve (12) months immediately preceding such application.
- (f) No license controlled by this chapter shall be issued to any person, firm or corporation to sell or offer to sell spiritous liquors, alcohol, alcoholic beverage, distilled spirits, wine or malt beverages within Fifty (50) yards of a residence, said distance being measured from the property line of a retail package store or establishment offering consumption on the premises closest to a residence and the property line of a residence closest to a retail package store or establishment offering consumption on the premises. The provisions of this section shall not apply at any location for which a license has been issued prior to the adoption of this section, nor to the renewal of such license.

#### **Sec. 4-25. Brown bagging prohibited.**

Brown bagging shall be unlawful at all business establishments.

#### **Sec. 4-26. Obscene, lewd or indecent entertainment on premises where alcoholic beverages are offered for sale.**

- (a) It is unlawful for a person to perform any acts in a public place that are in violation of O.C.G.A. § 16-6-8 regarding public indecency.
- (b) A licensee is guilty of permitting obscene, lewd or indecent entertainment when having control of the business establishment's premises, which it knows or has reasonable cause to know is being used by any person to appear on the premises in such manner or attire as to expose to view portions of the pubic area, anus, anal cleft, vulva or genitals, or any simulation thereof, or used by any female to appear on the premises in such manner or attire as to expose to view any portion of the breast at or below the areola thereof, or to employ any device or covering which is intended to give the appearance of or simulate that portion of the

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breast described herein, it permits such activity or fails to make reasonable and timely effort to halt or abate such activity or use.

- (c) Performing acts constituting public indecency as set forth in O.C.G.A. § 16-6-8 is a violation of state law and shall be punished as provided therein.
- (d) Permitting obscene, lewd or indecent entertainment as set forth in subsection (b) of this section is a violation and shall be punished in the municipal court of the city as provided under section 4-21 of this chapter.

#### **Sec. 4-27. Unlawful conduct and reporting to law enforcement.**

- (a) *Generally.* It shall be unlawful for the holder of any license issued under the provisions of this chapter to permit any disturbance of the peace or obscenity or any lewd, immoral or improper entertainment, conduct or practices in the licensed premises or to operate the business carried on the licensed premises in such manner as to constitute a nuisance.
- (b) *Disturbances.* It shall be unlawful for any licensee, or licensee's agent or employee, to fail to report to the police department any disturbance which occurs immediately outside the licensed premises or in the parking facilities, of which any of them have knowledge.
- (c) *Availability of telephone and surveillance system.* It shall be the requirement that every licensed premises have a telephone and have such telephone available during the hours of operation. Failure to have a telephone shall constitute grounds for suspension or revocation of all licenses. Each licensed premises shall also be required to have an operational camera surveillance system, with a functional recorder storing video footage a minimum of 30 days, which monitors both the interior and exterior of the establishment.
- (d) *Illegal drugs or narcotics.* It shall be the duty and responsibility of the licensee, or licensee's agent or employee, to report to the police department any usage or possession of illegal drugs or narcotics on a licensed premises.
- (e) *Assistance to law enforcement officers.* It shall be unlawful for any licensee, or licensee's agent or employee, to fail to assist any law enforcement officer in the performance of such person's duty while said officer is on a licensed premises.

#### **Sec. 4-28. Prohibited types of entertainment, attire and conduct in establishments with alcoholic beverage licenses.**

- (a) *Prohibited.* The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcoholic beverages for consumption on such premises within the City of Eastman:
  - (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing, as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals.
  - (2) Live entertainment whereby any person appears in the manner described in subsection (1) of this section or where such persons (or person) perform(s) acts of or acts which simulate any of the following:
    - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act which is prohibited by law.
    - b. The caressing or fondling of the breasts, buttocks, anus or genitals.
    - c. The displaying of the male or female pubic hair, anus, vulva or genitals.

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- (3) The holding, promotion, sponsoring, or allowance of any contest, promotion, special night, event, or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the conduct described in subsections (1) and (2) above; provided, however, that nothing contained in this section shall apply to the premises of any mainstream performance, house, museum, or theater which derives less than twenty (20) per cent of its gross annual income from the sale of alcoholic beverages.
  - (b) *Penalty.* Violation of any provision of this section shall constitute an offense hereunder with maximum punishment not to exceed a fine of one thousand dollars (\$1,000.00) or imprisonment for sixty (60) days or both. Jurisdiction over violations of this section shall be in the City of Eastman Municipal Court and procedures for enforcement shall be as provided in O.C.G.A. tit. 15, ch. 10, art. 4.

**Sec. 4-29. Alcohol or alcoholic beverages on city property.**

- (a) Except as set out herein below, it shall be unlawful for any person to sell, give away, drink or possess any alcoholic beverages upon property owned by the City of Eastman, Georgia.
- (b) Pursuant to a policy proposed by the city manager and approved by the city council, alcohol shall be allowed at the following:
  - (1) *Magnolia Theater and Outdoor Amphitheater*
  - (2) City approved Main Street events
- (c) The city council may delegate to any entity managing the above-named city properties the power to allow or forbid alcoholic beverages, and to approve events, pursuant to this ordinance. The city may place whatever conditions or limitations on such delegation as it deems appropriate.
- (d) Notwithstanding the foregoing, possession of alcohol and sale by the drink of alcohol may be allowed on any city property for a special event upon application and subsequent approval by the City Council. Said application shall be submitted to the city clerk at least fifteen (15) days prior to the event in question and be reviewed and approved or denied by the city manager, chief of police, and city council. Upon receipt of any application under this subsection (d), the city clerk shall immediately forward the application and any other documentation submitted to the city manager and the chief of police for review. The city manager shall review the application and, after consultation with the chief of police, sign the same with his approval or rejection. The application will then be submitted to the city council for approval or rejection at the next scheduled meeting. No special event under this subsection (d) may be approved for more than seven (7) consecutive calendar days. The city manager may place any special restrictions concerning alcohol on city property as he deems in the best interest of the city, and in the management of city properties.

The applicant shall supply the following information:

- (1) The name of the special event;
  - (2) The city property desired to be included in the exemption from the general prohibition against alcohol on city property;
  - (3) The name of the board or committee making the request and attach a copy of a letter requesting the exemption with the signatures of a majority of the members of the board or committee applying;
  - (4) The proposed date(s) of the special event, to be at least fifteen (15) days after the application is submitted;
  - (5) A description of how the special event will benefit the City of Eastman;
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- (6) Whether the special event will require a pre-purchased ticket or not;
  - (7) A description or drawing describing or depicting the specific use of the city property for the special event, including locations of any and all temporary structures that will be placed on the property;
  - (8) Whether or not alcohol will be sold by the drink, distributed, or simply allowed on the property;
  - (9) If alcohol will be sold by the drink, the applicant shall also submit copies the corresponding license or licenses permitting the sale of alcohol by the drink or, if no license exists, the corresponding appropriate application for a license to authorize the sale of alcohol by the drink;
  - (10) Whether or not security will be provided and a description of the security detail to be provided for, if any; and
  - (11) Any other information requested by the city manager or his/her designee.

**Sec. 4-29.1. Restaurant district.**

- (a) There is hereby established a "restaurant district" within the city wherein open containers of alcoholic beverages shall be permitted as provided herein.
  - (b) The restaurant district shall consist of the area described below :
    - (1) All sidewalks, parking areas, and public spaces along Main Street, College Street, Oak Street, Griffin Street, Anson Avenue, and 5<sup>th</sup> Avenue.
  - (c) The following regulations shall apply to this section:
    - (1) Any establishment licensed to dispense alcoholic beverages by the drink for consumption on the premises is authorized to dispense alcoholic beverages in a clear plastic cup for removal from the premises, provided, however, that no establishment shall dispense to any person more than one (1) such alcoholic beverage at a time for removal from the premises.
    - (2) In accordance with this Code of Ordinances, it shall be unlawful for any person to remove an open container of alcoholic beverage from the restaurant district as described in this section.
    - (3) No container in which an alcoholic beverage is dispensed and removed from the licensed premises shall exceed sixteen (16) fluid ounces in size. No person shall hold in possession on the streets and sidewalks, in parks and squares, or in other public places within the restaurant district any open alcoholic beverage container containing alcohol which exceeds sixteen (16) fluid ounces in size or which is not in a clear plastic cup issued by a business authorized to sell alcohol by the drink for consumption on the premises.
    - (4) It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass or to possess in an open can, bottle, or glass any alcoholic beverages on the streets, sidewalks, rights-of-way, and parking lots, whether public or private.
    - (5) Consumption of alcoholic beverages described in this section shall be limited to the hours of 11:00 a.m. through 11:45 p.m. on Mondays through Saturdays.
    - (6) Subsection (a) above does not apply to schools, churches, daycare facilities, or anywhere private property owners or tenants do not allow it. A business may decline to allow an open container of alcoholic beverage on the premises by posting a sign that states "Outside Drinks Not Allowed" in a conspicuous place on their property.
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- (7) It shall be unlawful for any person to drink or attempt to drink or to transport or attempt to transport any alcoholic beverages in an open container in any part of a motor vehicle within the restaurant district. This section does not limit the enforcement of section 14-5 or any state law regulating the possession of alcoholic beverages within motor vehicles.
  - (8) No person under the age of twenty-one (21) may consume of any alcoholic beverage at any time under this section.
- (d) Any person violating any of the requirements of this section shall be guilty of a misdemeanor, punishable by a fine up to one thousand dollars (\$1,000.00) and/or twelve (12) months in jail.

## ***ARTICLE II. SPIRITUOUS LIQUORS***

### **Sec. 4-30. Scope of article.**

In addition to the business and occupational license requirements of this Code and article I of this chapter, the following sections shall apply to the licensing and sale of spirituous liquor in the city, and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

### **Sec. 4-31. Posting of chapter provisions.**

All holders of spirituous liquor licenses shall keep a copy of this chapter posted in the licensed premises and shall thoroughly familiarize themselves and thoroughly instruct each employee of the establishment with respect to the terms hereof.

### **Sec. 4-32. Posting of signs prohibiting sales to minors.**

The holder of any spirituous liquor licenses shall post in a conspicuous place in the licensed premises a sign printed in letters at least four (4) inches high reading: "Sale of Alcoholic Beverages to Minors Prohibited," and specify age of minors.

### **Sec. 4-33. Limitation on sale or transfer of business and license.**

It shall be unlawful and shall call for immediate revocation of all licenses involved, both of seller and purchaser, for any spirituous liquor licensee to purchase the business or license of any other such licensee in excess of two (2) and attempt to operate the purchased business in addition to the businesses operated by the purchaser. In the event of a bona fide sale of any business under this article to persons other than other such licensed dealers, full disclosure of the persons involved, the purchase price, and any other information as is required by this Code for a new license shall be filed with the city clerk as a condition to any sale. In addition to the revocation of the license of any person, firm or corporation violating the provisions of this section, that person, firm or corporation, and/or its officers and agents, shall be subject to punishment in the municipal court as for other violations of this Code.

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#### **Sec. 4-34. Limitation on types of establishments permitted for consumption on the premises.**

No spirituous liquors may be sold by the drink for consumption on the premises unless the business or proposed business to be licensed is a bona fide restaurant, hotel, or private club.

- (1) *Restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place having a seating capacity of at least Fifty (50) people, and a full-service and sanitary kitchen and dining room equipment and having employed therein a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests. The serving of such meals shall account for at least seventy-five per cent (75%) of revenues with the serving of spirituous liquors to be consumed on the premises as only incidental thereto.*
- (2) *Hotel shall mean a building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such hotels shall have a minimum of fifty (50) rooms available for hire. Hotels shall be licensed to serve liquor by the drink in any dining room with meals or operate a lounge in which drinks are served. A lounge shall be a separate room or building connected with and a part of the hotel. There shall be no additional license fee for a lounge. Hotels shall have the privilege of granting franchises for operation of any licensed establishment herein and the holder of the franchise shall be included in the definition of hotel hereunder. Motels meeting the same qualifications set out herein for hotels shall be classified in the same category as hotels.*
- (3) *Private club shall mean a nonprofit corporation or association organized under the laws of this state, which:*
  - a. Has been in existence at least one (1) year prior to the filing of its application for a license to be issued pursuant to this chapter.
  - b. Has at least 25 regular dues-paying members.
  - c. Owns, hires or leases a building or space within a building for the reasonable use of its members with suitable kitchen and dining room space and equipment and sufficient number of employees for cooking, preparing and serving meals for its members and guests.
  - d. Has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation, any profit from the sale of alcoholic beverages, beyond a fixed salary. "Fixed salary" means the amount of compensation paid any member, officer, agent or employee of a bona fide club as may be fixed for such person by its members at a prior annual meeting or by the governing body of the organization out of the general revenue of the club and shall not include any commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation, will not be considered to be from the sale of alcoholic beverages.
- (4) *Nightclub shall mean an establishment having a seating capacity of at least fifty (50) persons (with all booths and tables being unobstructed and open to view) and providing a band and/or other professional entertainment a minimum of twenty (20) days per month with the exception of holidays, vacations and periods of redecorating, and which shall maintain an adequate kitchen with a sufficient number of servants and employees for cooking, preparing and serving food and meals for its patrons. The principal business of such nightclubs shall be entertainment, and the serving of food and spirituous liquors shall be incidental thereto.*

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**Sec. 4-35. Requirements as to building for consumption on the premises.**

No spirituous liquor may be sold by the drink for consumption on the premises unless the building in which the business will be located is complete and a legal description and detailed plans of said building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or proposed building shall comply with all local building codes and other applicable regulations of the state revenue commissioner and the laws of the state. The proposed building shall also be subject to final inspection and approval when completed. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which said license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways, and open areas may be clearly seen by the customers therein. The seating area of such a building or portion thereof where spirituous liquor is served shall be determined by standards of the National Fire Code, with a minimum of seven hundred fifty (750) square feet and shall contain seating for a minimum of fifty (50) patrons. The maximum occupant load of such a building shall be determined by using National Fire Code standards, as amended, and shall be posted over every entrance and exit.

**Secs. 4-36—4-38. Reserved.**

***ARTICLE III. BEER AND WINE***

**Sec. 4-39. Scope of article.**

In addition to the general business and occupational license requirements of this Code and article I of this chapter, the following sections shall apply to the licensing and operation of retail malt beverage or vinous liquor establishments in the city; and should any section of this article conflict with other provisions in this chapter or the general business license requirements of this Code, then this article shall control.

**Sec. 4-40. Posting of chapter provisions.**

All holders of licenses issued under this article shall keep a copy of this chapter posted in the licensed premises at all times and shall thoroughly familiarize themselves and thoroughly instruct each employee of the establishment with respect to the applicable provisions hereof.

**Sec. 4-41 Licenses and Fees Required.**

Licenses required for beer and wine sold and manufactured. No malt beverage, vinous liquors, spirituous liquors or any other alcoholic beverage shall be sold or manufactured in the city except under a license issued under this chapter by the city clerk.

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## Sec. 4-42 License application; granting or denying; renewals

*Beer, wine, or beer and wine* license may obtain the proper application form at the city hall. This application must be filled out completely and returned to the city hall, along with a certified check payable to the city, in an amount equal to the fees for the license applied for. The city council shall have 90 days to grant or deny the license and its decision shall be final. In the event that an application is denied, the license fee shall be returned to the applicant. However, the amount of money spent by the city to investigate an application may be deducted from the amount of license fees refunded to the applicant. In no event shall the city withhold an amount greater than \$100.00 as charges for investigating an application. Renewals shall be as provided in this Chapter.

## Sec. 4-43 Persons and establishments ineligible for license.

When contrary to the public interest and welfare, no license to sell alcoholic beverages of any kind shall be issued by the city to or for:

- (1) Any person determined by the city by reason of such person's business experience, financial standing, trade associations, personal associations, record of arrest or reputation in any community in which he has resided is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- (2) Any person who has been convicted under any federal, state or local law of any felony or crime involving moral turpitude within ten years immediately preceding the filing of application for such license.
- (3) Any person convicted under any federal, state or local law of a misdemeanor involving moral turpitude including, but not limited to, those involving *alcoholic* beverages, gambling or tax law violations if such conviction tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- (4) A location not suitable in the judgment and discretion of the city because of traffic congestion, general character of the neighborhood or by reason of the effect which such an establishment would have on the adjacent and surrounding properties or on the neighborhood.
- (5) A location at which a previous *alcoholic* beverage license has been revoked or suspended and where, in the judgment of the city, the problems which have arisen from the operation of an *alcoholic* beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of *alcoholic* beverages be permitted at such location.
- (6) Which the granting of such license would constitute a violation of state law or regulations.
- (7) Any person who is an official of or employee of the city.
- (8) Any person to operate a restaurant or club. Consumption on the premises sales shall be made in no other places or establishments.
- (9) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the county. The licensee shall file the name of such agent, along with the written consent of such agent with the application.

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(10) A license application may be denied to any applicant for any *alcoholic* beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs or where it appears that the application is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

a. Before the city shall deny any application for a license or shall revoke any existing license, the applicant or licensee, as the case may be, shall be given notice in writing from the city clerk to show cause before the city council at a time and place specified therein not less than three days nor more than ten days from the date of service of the notice, why such application for license should not be denied or why such license should not be revoked, as the case may be, stating the grounds therefor and, at the appointed time and place, the applicant or licensee shall have an opportunity to show cause, if any exists, why such application should not be denied or such license revoked, after which the city shall take such action as it, in its judgment and discretion, shall deem warranted under the facts. The hearing on a revocation herein provided for need not be at a regular meeting of the city council but may be at such time and place as shall be fixed in the notice. All decisions denying, approving, suspending or revoking any permit, license or application shall be in writing with the reasons therefor stated and mailed or delivered to the applicant. In addition, at any hearing as provided herein, the party afforded the hearing shall have the opportunity to present evidence and cross examine opposing witnesses.

b. Notwithstanding anything in this chapter to the contrary, the sale of *alcoholic* beverages in the city is a privilege and not a right and the issuance of a license hereunder shall not create any property rights in the license holder

#### **Sec. 4-44. Advertisements for beer and wine.**

All establishments engaged in the sale of beer or wine shall may advertise in the following manner:

(1) Each establishment shall be limited to one exterior or window sign advertising the sale of a particular brand or brands of *beer*, malt *liquor* or *wine*. This one sign shall not exceed four feet by six feet in size and may be single or double face in structure. The use of neon type signs is prohibited. Flashing signs are prohibited. A second sign advertising the name of business will be allowed. *Beer* and *wine* advertising will not be allowed in such second sign.

(2) No establishment selling *beer* or *wine* may advertise these products by referring to them as "*beer*," "malt *liquor*," or "*wine*." However, they may refer to their products as "beverages," "*alcoholic* beverages," "canned or bottled drinks" and other such terms.

#### **Sec. 4-45. Revocation of license; hearing; examination of stock.**

•(a) Any retailer who violates the regulations, local, state or federal, shall at the option of the city council have such retailer's local license revoked and at such time such retailer shall discontinue the sale of *beer* and *wine*.

(b) The retailer shall have the right to appear before the city council in such retailer's own behalf should such license be challenged by the city.

(c) The city reserves the right to examine the stock of *beer* and *wine* of any licensed business operated within the city at any time.

#### **Sec. 4-46. Location of establishments.**

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The location of establishments shall be as set forth in Section 4-24.

**Sec. 4-47. - Retail business zoning.**

All licenses issued must be for retail businesses whose buildings or outlets lie within the commercial zone.

**Sec. 4-48 --- 4-50 Reserved**

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**ARTICLE IV. RETAIL SALES RESTAURANTS BEER & WINE**

**Sec. 4-51. - Purpose.**

This article has been enacted in accordance with a plan designed for the purposes, among others, of promoting the health and general welfare of the community, to establish reasonable standards for the regulation and control of the licensing and sale of on-premises consumption of malt beverages and *wine*, as defined herein; to protect those of minor age in the community; and to preserve certain residential areas with reasonable considerations to the character of the areas and peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining stability of neighborhood and property values. The business of selling *beer* and *wine* by restaurants for consumption on the premises is declared to be a privilege granted by this city and is not a right.

**Sec. 45-52. - Consumption sales only.**

Persons holding a license to sell alcoholic beverages for consumption on the premises shall not sell *alcoholic* beverages by the package.

**Sec. 4-53. - Qualifications of applicants.**

All applicants for licenses and all applications for renewal must attach to their applications evidence of their legal status in the state: all corporations must include proof of registration with the state's secretary of state's office; all businesses must include their business license. No license, whether original or renewal, shall be issued to any person, partnership or corporation organized for pecuniary gain where the owner or operator of same, or any individual having over 50 percent interest, general or limited, or a stockholder whose interest exceeds 50 percent, directly or indirectly, beneficial or absolute shall have been convicted or shall have taken a plea of *nolo contendere* for any felony or misdemeanor involving moral turpitude of any state or of the United States within two years immediately prior to the filing of the application or application for renewal.

**Sec. 4-54. - Regulations as to employees; permit.**

The following regulations regarding employees shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises: An employee shall meet the same character requirements as set forth in the general requirements for the licensee, except for the residency requirements.

**Sec. 4-55. - Application contents.**

PART II - CODE OF ORDINANCES  
Chapter 4 - ALCOHOLIC BEVERAGES  
ARTICLE IV. EXCISE TAXES

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(a) All applications for licenses, both original applications or applications for renewal, in addition to other requirements as contained in this article, must be submitted to the city clerk or city manager and must be accompanied by a full and complete statement under oath of information relative to any and all interests, as determined in **Sec. 4-43**, in establishments which sell beer and wine at retail for consumption on the premises. The application or application for renewal shall include:

(1) The names and addresses of all persons and/or entities interested in the ownership of the business applying for a license to sell *beer* and *wine*, together with the interest of each person or member of his immediate family in any other business licensed to sell *beer* or *wine*;

(2) The ownership of the land and building where the business is to be operated and the location of the building;

(3) Payment in cash or its equivalent in the amount of the fixed license fee;

(4) A complete set of fingerprints of the applicant.

(b) Any change in any relationship herein declared must be filed with the city manager or city clerk when the change is made, and failure to so file within a period of 30 days after the change is made, shall be grounds for suspension or revocation by the council.

**Sec. 4-56 - Penalty.**

(a) Any person who acquires a license or a renewal thereof in violation of this article by any misrepresentation or fraudulent statement, or who, after acquiring a license is found to have violated any of the provisions of this article, shall be deemed guilty of an offense and upon conviction shall be punished as provided for by the charter of the city. Each day's continuance of a violation shall be considered a separate offense.

(b) Any untrue or misleading information contained in, or material omission left out of an original, renewal, or transfer application for a license shall be cause for the denial thereof and, if any license has been granted under these circumstances, these shall be cause for revocation.

(c) The city council may revoke or suspend a license or impose a fine against the licensee for any violation of this article. Such fine may be imposed by the city council in the maximum amount of \$500.00 for the first violation of this article, \$750.00 for the second violation, and \$1,000.00 for the third violation. Such revocation or suspension shall be for a maximum of 24 months, the period to be determined at the discretion of the council. A total of three separate and unrelated violations shall constitute grounds for permanent revocation.

**Sec. 4-58 . - Term of license.**

(a) Licenses shall be issued as of the beginning of the year or of the date of beginning of operation, whichever date is later and shall terminate on December 31 of each year.

(b) Any licensee making proper application, with all supporting documents, for a license to operate during the following calendar year and having filed the application prior to November 1 shall be permitted to continue to

operate pending final approval or disapproval of the licensee's application for the following year if final approval or disapproval is not granted prior to January 1.

**Sec. 4-59. - Lighting of premises; sanitary facilities.**

(a) Each building in which the licensee's place of business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located, so as to reveal all of the outside premises of the building.

(b) All premises for which a license for consumption on the premises shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passageways and open areas may be clearly seen by customers therein.

**Sec. 4-60. - Transferability of license; transfer of location.**

(a) Licenses shall not be transferable except as otherwise provided herein. In the case of the death of any person holding a license or any interest therein, the same may, in the discretion of the city manager, be transferred to the administrator, executor, or a lawful heir of the decedent upon application of same for license transfer. The executor, administrator, or lawful heir shall have 30 days from the deceased's date of death within which to apply for a license transfer.

(b) Nothing in this section, however, shall prohibit one or more partners in a partnership holding a license to withdraw from the partnership in favor of one or more partners who were partners at the time of the issuance of the license.

(c) Should the location of the premises be changed, the licensee shall apply for a transfer of location to the city council and shall comply with the provisions set forth governing new licenses.

(d) Should a transfer of location be approved, there shall be no pro rata return of any license fee or business tax and the new location shall be considered as a new license hereunder.

**Sec. 4-61. - Sales restricted to premises.**

No licensee shall sell or deliver any alcoholic beverages to any person except in the licensee's place of business.

**Sec. 4-62. - Procedure when license is denied by state.**

In the event the applicant is denied a license for consumption on the premises by the state, upon proof of that refusal, he shall be entitled to a refund of the license fee or business tax less the investigative fee as required plus an additional charge of \$25.00 to cover the clerical costs for granting a license. This refund may be made by the city manager without the necessity of any action by the council.

**Sec. 4-62. - Purchases from city-licensed wholesaler.**

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No liquor shall be possessed or sold or held for sale for consumption on the premises except liquor purchased from a wholesaler licensed to make sales in the city.

**Sec. 4-64. - Granting or refusal, suspension or revocation of permit or license.**

(a) The granting or refusal and the suspension or revocation of a permit or license shall be in writing, with the reasons therefor stated and shall be mailed or delivered to the applicant.

(b) Upon application within ten days of the date of decision any applicant not granted a license may request a hearing before the city council at which time the applicant may respond to and challenge such decision, to present witnesses under oath, evidence, and cross examine opposing witnesses.

(c) Whenever the state shall revoke any permit or license, for consumption on the premises, the city license to deal in that product shall automatically become invalid without any action by the city manager or any municipal officer.

(d) Except as provided for herein, no license which has been issued or which may hereafter be issued by the city to any person under this article shall be suspended or revoked except for due cause as defined in this section and after a hearing and upon prior ten days' written notice to a holder of a license of the time, place and purpose of a hearing and a statement of the charge upon which the hearing shall be held. The licensee shall have an opportunity at this hearing to respond to and challenge such charges, to present witnesses under oath, to confront and cross examine opposing witnesses under oath and to have a verbatim written transcript made upon his own initiative and expense.

(e) Due cause for suspension or revocation of a license, or for the imposition of a fine against the licensee shall consist of the violation of any laws or ordinances regulating the business, or violation of regulations made pursuant to authority granted for the purpose of regulating the business, or for violation of any state or federal law involving moral turpitude, or for the violation of any city ordinance except traffic violations.

(f) All hearings shall be conducted before the city council.

(g) In the event of revocation or suspension, no refund or any portion of the license fee or business shall be returned.

**Sec. 4-65. - Gambling; disorderly conduct.**

No gambling, slot machines, or boisterous or disorderly conduct shall be permitted in the licensee's place of business.

**Sec. 4-66. - Prevention of evasion; records; inspections.**

(a) Upon demand by the city clerk or city manager, it shall be the duty of any licensee to allow these city officials or their designee, during business hours, inspection of all portions of the place of business for the purpose of enabling the city officials or their designees to ascertain and gain any information as may be necessary for determining the percentage of gross receipts from the sale of prepared food and the percentage of gross receipts

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from the sale of *beer* and *wine*. Upon demand by these city officials, it shall also be the duty of any licensee to furnish the city officials during regular business hours at the licensee's place of business, all books of account, invoices, papers, reports and other memoranda containing entries showing amounts of purchase, sale receipts, inventory, copies of sales tax returns to the state, copies of the state and federal income tax reports, and other information from which the correct percentage of gross receipts from the sale of prepared food as opposed to *beer* and *wine* can be obtainable.

(b) It shall be the duty of any licensee of the city to secure, preserve, maintain and keep for a period of three years the records and documents enumerated and referred to in subsection (a) of this section.

(c) It shall be unlawful for any licensee or for any employee of the licensee to fail or refuse to perform any duty herein imposed upon the licensee to obstruct or interfere with any city official in obtaining information necessary for determining the aforesaid percentage of sales.

**Sec. 4-67. - Promotions prohibited.**

(a) Definitions. As used in this section, the phrase "customarily charged" means the price regularly charged for such *alcoholic* beverage during the same calendar week.

(b) No licensee or employee or agent of a licensee shall engage in any of the following practices in connection with the sale or other disposition of *alcoholic* beverages for consumption on the premises:

(1) The giving away of any alcoholic beverage in conjunction with the sale of any other *alcoholic* beverage;

(2) The sale of two or more *alcoholic* beverages for a single price, including the sale of all such beverages a customer can or desires to drink at a single price;

(3) Selling, offering to sell or delivering to any person any *alcoholic* beverage at a price less than one-half the price customarily charged for such *alcoholic* beverage, provided, nothing contained herein shall be construed to prohibit reducing the price of a drink by up to one-half the price customarily charged;

(4) Requiring or allowing the purchase of a second or subsequent *alcoholic* beverage at the same time another *alcoholic* beverage is purchased or before the first such beverage has been consumed, by any one person;

(5) Increasing the volume of *alcoholic* beverage contained in a drink without proportionately increasing the price customarily charged for such beverage.

**Sec. 4-68. - Prohibited hours of operation.**

(a) No license holder shall sell, give away or otherwise dispense *beer* and *wine* for consumption either on or off the premises between the hours of 11:30 p.m. 10:00 a.m. on the following morning and on Sundays, election days during the times that polls are open, and any other days prohibited by state law.

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(b) The prohibition against the sale of *alcoholic beverages* on election days shall apply only within the territorial boundaries for which the election day is being held.

**Sec. 4-69. - Closing, clearing of premises.**

All owners, managers, operators, representatives, agents or employees of a holder of an *alcoholic* beverage license shall cease the sales, offer to sell, give, dispense, or distribute any *alcoholic* beverages on or from the premises for which a license has been issued by the city and/or the state as of 11:30 p.m. each day of operation.

**Sec. 4-70. - Employees.**

(a) No licensee shall employ on the premises where *beer* and *wine* are sold under this article any person under the age of 18 years to dispense, serve, sell, or take orders for any *alcoholic* beverages, nor shall any licensee employ any individual who has been found guilty or has pleaded guilty or nolo contendere to any felony or misdemeanor involving moral turpitude of any state or of the United states within two years immediately prior to the date of employment. Employment of such persons subjects the licensee to a suspension or revocation of the license.

(b) Beer and wine for consumption on the premises shall be served only by employees of the establishment.

**Sec. 4-72. - Location of premises.**

The proximity of the establishment to church, school, skilled nursing facility, housing authority property, or residence shall be governed by section 4-24.

**Sec. 4-73. - Sales outside of licensed premises.**

It shall be unlawful for any sale to be made outside of the building, premises or place of business licensed for sales.

**Sec. 4-74. - Application of Code.**

All provisions of article II of this chapter, except those in conflict herewith, are applicable to this article.

**Sec. 4-75 -4-79 --Reserved**

**ARTICLE IV. EXCISE TAXES**

**Sec. 4-80.--- Levied.**

(a) Except as provided in subsection (b) of this section, there is hereby levied and imposed upon each wholesale dealer selling malt beverages within the city an excise tax in the amount of \$0.004166 per ounce of malt beverages sold by such wholesale dealer within the corporate limits of the city.

(b) All malt beverages sold in or from a barrel or bulk container, and being commonly known as tap or draft beer, shall not be subject to the excise tax provided for in subsection (a) of this section; but in lieu thereof, there is hereby imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15½) gallons sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof. *Beer.*

• Containers	Case Rate	Draft	Rate
6 oz.	\$1.20	1⅓ gal.	\$0.436
7 oz.	1.40	2¼ gal.	0.871
8 oz.	1.20	⅓ bbl.	1.50
<u>10</u> oz.	1.00	¼ bbl.	3.00
12 oz.	1.20	½ bbl.	6.00
<u>14</u> oz.	1.40		
<u>16</u> oz.	1.60		
32 oz.	1.60		

- (c) There is hereby levied and imposed upon each wholesale dealer selling wines within the city an excise tax computed at the rate of eighty cents (\$0.80) per wine gallon on all wine sold by such wholesale dealer within the corporate limits of the city, and at a like rate for fractional parts thereof.
- (d) There is hereby levied and imposed upon each wholesale dealer selling spirituous liquors within the city an excise tax computed at the rate of twenty-two cents (\$0.22) per liter or pro rata portion thereof upon all spirituous liquors for retail sale within the city. This excise tax shall apply only to wholesale dealers of spirituous liquors for retail sales and shall not apply to holders of a spirituous liquor consumption-on-the-premises license issued by the city.

**Sec. 4-81. Report required.**

Each wholesale dealer who has sold alcoholic beverages within the city shall file a report by the tenth day of each month itemizing for the preceding calendar month the exact quantities of all malt beverages or wines by size and type of container for the month sold within the city.

**Sec. 4-82. Remittance.**

Each wholesale dealer shall remit to the city on the tenth day of the month next succeeding the calendar month in which sales of malt beverages, wine or spirituous liquors were made, the amount of excise tax due in accordance with the provisions of this article.

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**Sec. 4-83. Stamps, decals not required.**

No decal, stamp or other identifying marking shall be required on malt beverages or wines sold within the city.

**Sec. 4-84. Taxes cumulative.**

The excise taxes provided for by the provisions of this article shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling malt beverages, wines or spirituous liquors at retail or wholesale, within the corporate limits of the city.

**Sec. 4-85. Penalty for delinquency.**

- (a) The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) per cent of the total amount due during the first thirty-day period following the date such report and remittance were due, and a further penalty of ten (10) per cent of the amount of such remittance for each successive thirty-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 for a penalty equal to fifty (50) per cent of the amount of the remittance which would be required under an accurate and truthful report.
- (b) Such failure to make a timely report or remittance, or the filing of a false or fraudulent report, shall also constitute grounds for the revocation of the business license issued by the city to said wholesale dealer.

**Sec. 4-86. Penalty for violations.**

In addition to being punishable as required in this Code of Ordinances, any first violation of this article by a wholesale dealer of malt beverages and wine shall be deemed a sufficient ground for a fifteen- to ninety-day suspension by the mayor and city council of the license issued to the violator by the city. Other violations of this article by wholesale dealer shall be deemed a sufficient ground for a permanent revocation by the mayor and city council of the license issued to the violator by the city.

**Sec. 4-87. Brewpubs.**

- (a) No person shall be permitted to own or operate a brewpub without first obtaining a proper alcohol license from the city pursuant to the same procedures as are set forth in article I of this chapter. Each brewpub license holder shall comply with all other applicable state and local license requirements.
- (b) In addition to any authorizations provided by state law, brewpubs shall be authorized to sell growlers or other packages of wine and malt beverages for consumption on the premises and off the premises, provided they have the appropriate license for each activity.

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- (c) Except as set forth above in this section, a brewpub may operate subject to all of the other provisions of this chapter, as is appropriate according to the licensing of the brewpub.

**Secs. 4-88--89.--- Reserved.**

## ***ARTICLE V. SALES TAX ON MIXED DRINKS***

### **Sec. 4-90.-- Imposition and rate of tax.**

There is hereby imposed and levied upon every sale of a mixed drink purchased in the city a tax on the purchase price of said drink. The rate of sales tax collected shall be three (3) per cent. Every licensee is hereby authorized and directed to collect the tax herein imposed from the purchaser of mixed drinks sold within licensee's licensed premises. Such licensee shall furnish such information as may be requested by the city treasurer to facilitate the collection of this tax.

### **Sec. 4-91. Determination; returns; payment.**

- (a) All amount of such cases shall be due and payable to the city treasurer monthly on or before the tenth day of the month following the sale of said mixed drink.
- (b) On or before the tenth day of the month following the month of sale of the mixed drink, the return for the preceding monthly period shall be filed with the city treasurer showing the gross revenues from sale of mixed drinks, the amount of tax collected or otherwise due for the related period, and such other information as may be required by the city treasurer.

### **Sec. 4-92. Collection fee allowed licensees.**

Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers and Consumers Sales and Use Tax Act," approved February 20, 1951, (O.C.G.A. tit. 48, ch. 8), as now or hereafter amended.

### **Sec. 4-93. Deficiency determinations.**

- (a) If the city manager is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any person, such treasurer may compute and determine the amount required to be paid upon the basis of any information within such treasurer's possession or that may come into such treasurer's possession.
- (b) The city manager shall give to the licensee written notice of such treasurer's determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the licensee at licensee's address as it appears in the records of the city treasurer. Service by mail is complete when delivered by

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certified mail with return receipt signed by the licensee, any partner of the licensee, any officer of the licensee or manager of the licensee.

- (c) Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the tenth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period shall last expire.

**Sec. 4-94. Determination if no return made.**

If any licensee fails to make a return, the city manager shall make an estimate of the amount of the gross receipts of the licensee. The estimate shall be made for the periods in respect to which the licensee fails to make the return and shall be based upon any information which is or may come into the possession of the city treasurer. Written notice shall be given in the manner prescribed in subsection 4-6(b).

**Sec. 4-95. Penalty for delinquency.**

- (a) The failure to make a timely report and remittance shall render a licensee liable for a penalty equal to ten (10) per cent of the total amount due during the first thirty-day period following the date such report and remittance were due and a further penalty of ten (10) per cent of the amount of such remittance for each successive thirty-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 licensee making such report liable for a penalty equal to fifty (50) per cent of the amount of the remittance which would be required under an accurate and truthful report.
- (b) Such failure to make a timely report or remittance, or the filing of a false or fraudulent report shall also constitute grounds for the revocation of the alcohol license issued by the city to said licensee.

**Sec. 4-96. Collection of tax.**

At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the city treasurer may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

**Sec. 4-97. Duty of successors or assignees of licensee to withhold tax from purchase money.**

- (a) If any licensee liable for any amount under this section sells the business or quits the business, licensee's successors or assigns shall withhold a sufficient amount of the purchase price to cover such tax until the former owner produces a receipt from the city treasurer showing that such former owner has paid or a certificate stating that no amount is due.
- (b) If the purchaser of a business fails to withhold a sufficient amount of the purchase price as herein required, such purchaser shall be personally liable for the payment of the amount required to be withheld by such purchaser to the extent of the purchase price.

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**Sec. 4-98. Tax credit.**

Whenever the amount of any tax or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this section, it may be offset by the city manager. If the licensee determines that such licensee has overpaid or paid more than once, which fact has not been determined by the city treasurer, licensee will have three (3) years from the date of payment to file claim in writing stating the specific ground upon which the claim is founded. Claim shall be audited. If the claim is approved by the city manager, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid, or such person's administrators or executors.

**Sec. 4-99. Confidentiality.**

The city treasurer shall maintain all tax returns , subject to the requirements of Georgia law, as confidential documents and shall not permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this chapter, except in the case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, and assignees if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest and penalties.

**ARTICLE VII. SALES OFF PREMISES FOR CATERED FUNCTIONS**

**Sec. 4-100. 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:

*Authorized catered function* means a function held at a location within the city for which an event permit has been issued in accordance with this section.

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

*Licensed alcoholic beverage caterer* means any retail dealer who has been licensed by the State of Georgia pursuant to Article 2 of Chapter 4 (sale of distilled spirits), Article 2 of Chapter 5 (sale of malt beverages), or Article 2 of Chapter 6 (sale of wine) of Title 3, Alcoholic Beverages, of the Official Code of Georgia, and who also holds a valid local license from a Georgia municipality or county.

*Person* means any individual, company, corporation, association, partnership, or other legal entity.

**Sec. 4-110. Licensed alcoholic beverage caterers eligible for off-premise licenses; application; fee.**

- (a) Any person holding a valid current alcohol license from a Georgia municipality or county which authorizes the licensee to sell distilled spirits, malt beverages or wine, by the drink for consumption on the premises, or

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by the package for consumption off the premises, may be issued an off-premise license as a licensed alcoholic beverage caterer. Upon issuance of the license, the licensee shall be authorized to sell or distribute in exchange for compensation distilled spirits, malt beverages or wine by the drink off premises in connection with an authorized catered function in conjunction with food service.

- (b) A licensed alcoholic beverage caterer may only sell that which is authorized by his state or local alcoholic beverage license. For example, if the alcoholic beverage caterer possesses a valid license to sell malt beverages, he may only sell malt beverages at the authorized catered event or function.
- (c) An alcoholic beverage caterer shall make application for an off-premise license as provided in subsection (a) of this Code section with the city clerk and shall pay to the City of Eastman an annual license fee in an amount of five hundred dollars (\$500.00). This fee amount shall remain in effect until modified or amended by subsequent resolution adopted by the city council.
- (d) Each off-premises catering license, authorized herein, shall be valid through December 31 of the year for which they are issued.

#### **Sec. 4-120. Event permits.**

- (a) In order to distribute or sell distilled spirits, malt beverages, or wine at an authorized catered function, a licensed alcoholic beverage caterer shall be required to:
    - (1) Apply to the City of Eastman for an event permit. Each application shall require payment of a fee of twenty-five dollars (\$25.00). When the licensed alcoholic beverage caterer is domiciled in a local political subdivision other than the City of Eastman, the caterer shall pay to the City of Eastman an event permit fee of fifty dollars (\$50.00) as authorized by O.C.G.A. § 3-11-3 (or such fee as may be authorized by any future amendment or revision thereto); and
    - (2) Provide satisfactory reports to the Georgia State Revenue Commissioner on forms provided by the Department of Revenue stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by the commissioner; and
    - (3) Caterers licensed by the city shall maintain a record of all alcoholic beverages transported for each event, and shall make report and remittance of such taxes with their regular monthly reports to the city. Caterers licensed by a jurisdiction other than the city shall maintain a record of all alcoholic beverages transported into the city for the event, and shall pay an excise tax to the city covering all such beverages at the rate provided by this chapter. Failure to report and remit the tax within seven (7) days of the conclusion of the event shall be grounds for denial of subsequent permits to the caterer for similar events; and
    - (4) Maintain original local event permits and all documents required by the Department of Revenue in the vehicle transporting the alcoholic beverages to the catered function at all times.
  - (b) No event shall be permitted for longer than one (1) day. After expiration of the event, the alcoholic beverage caterer shall apply for a new event permit in the same manner as the original period.
  - (c) When applying for a permit, the licensed alcoholic beverage caterer shall use the form provided by the city clerk, and shall be required to provide the following:
    - (1) Name of caterer with proof of proper licensing;
    - (2) Date(s) of event;
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- (3) Time (hours) of event;
  - (4) Location (address) of event;
  - (5) Host or sponsor of event;
  - (6) Whether facility is private or public;
  - (7) Security and parking enforcement plans and personnel;
  - (8) Other information the city deems necessary to review a request for such permit.
  - (9) An affidavit from the city engineer stating that the location of the proposed sale or distribution of alcohol complies with all distance requirements governing the same. A one hundred fifty dollars (\$150.00) fee shall be paid for said affidavit.
- (d) The application shall be signed by the licensed alcoholic beverage caterer and the event host or sponsor. If the event host or sponsor is not the owner of the property at which the event will be held, then the owner of the property, or the owner's authorized agent, shall sign the application consenting to the distribution of alcoholic beverages at that location.
  - (e) An event permit may be refused by the city manager or his designee for any one (1) of the following reasons:
    - (1) Inadequate parking or enforcement personnel at the facility designated;
    - (2) Criminal record of host or caterer permit holder;
    - (3) Previous complaints on location or of applicant;
    - (4) Previous damage to facility by applicant or permit holder;
    - (5) Failure to furnish any requested data shall automatically serve to dismiss the application with prejudice.
  - (f) As a condition of permit issuance, alcoholic beverage caterers licensed to sell alcoholic beverages by the drink by jurisdictions other than the city shall be provided a copy of the city's alcoholic beverages ordinances, and shall indicate, by signature, that they have received such ordinances and acknowledge the applicability of such ordinances to their operations.
  - (g) No event permit will be issued for an event at any location with respect to which any alcohol license has been denied or revoked within the past twelve (12) months.
  - (h) Except as set forth above in this section, an off-premises permit holder must comply with all other provisions set forth in this chapter.

#### **Sec. 4-130. Non-profit organizations.**

- (a) A valid non-profit organization recognized under subsection (c), (d), or (e) of 26 USC 501, known as the United States Internal Revenue Code may apply for a temporary permit for the sale or distribution of alcohol for a special event or festival.
  - (b) The application shall be made in the name of the non-profit organization and the names of the person or persons who will be responsible for the sale or distribution of alcoholic beverages during the special event or festival. The application shall contain the name of the special event or festival, the proposed location of the sale or distribution of alcoholic beverages; the dates for the special event or festival; a statement of understanding and agreement to fully comply with all local, state and federal regulations concerning the sale and distribution of alcoholic beverages, and any other information as may be requested by the city manager
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or his or her designee. The non-profit organization shall submit an application fee of twenty-five dollars (\$25.00) along with said application. A copy of the non-profit organization's 501(c)(3) determination letter from the IRS must be submitted along with the application or by-laws and corporate charter from the secretary of state's office.

- (c) No permit under this section shall be authorized for more than 1 (1) calendar day.
- (d) The non-profit organization and persons named on the application who are permitted under this section shall:
  - (1) Comply with all laws and regulations of the City of Eastman, State of Georgia, and United States of America concerning the sale and distribution of alcoholic beverages;
  - (2) Post a sign at the location(s) where alcoholic beverages will be sold or distributed that reads "Sale of Alcoholic Beverages to Minors Prohibited" and specify the age of minors.
  - (3) Obtain an affidavit from the city inspector stating that the location of the proposed sale or distribution of alcohol complies with all distance requirements governing the same. A one hundred fifty dollars (\$150.00) fee shall be paid for said affidavit. The city engineer shall file said affidavit with the city clerk.
- (e) A permit under this section is subject to approval by the city manager, chief of police, and city council and may be refused for any of the reasons listed for denial or refusal of other alcohol licenses within this Code of Ordinances.

#### **Sec. 4-140. Violations.**

- (a) It shall be unlawful for a food caterer to distribute or sell distilled spirits, malt beverages, or wine off the premises of the food caterer's business without a license issued pursuant to this article.
- (b) It shall be unlawful for a licensed alcoholic beverage caterer licensed under this article to distribute or sell distilled spirits, malt beverages, or wine off premises except in connection with an authorized catered function within the scope of the event permit.
- (c) It shall be unlawful for a licensed alcoholic beverage caterer to distribute or sell distilled spirits, malt beverages, or wine during any hours in which the sale of alcoholic beverages by the drink for consumption only on the premises is not permitted.
- (d) It shall be unlawful for a licensed alcoholic beverage caterer to employ any person under twenty-one (21) years of age who, in the course of such employment, would dispense, serve, sell, or handle alcoholic beverages. It is the intent of this subsection to prevent any person employed by such caterer, or any other employee, to knowingly violate any prohibitions contained in O.C.G.A. § 3-3-23, relating to furnishing alcoholic beverages to, and purchase and possession of alcoholic beverages by, a person under twenty-one (21) years of age.
- (e) It shall be unlawful for any non-profit organization or any person acting on behalf of a non-profit organization to sell or distribute alcoholic beverages without first being permitted as required herein.
- (f) Any person violating the provisions of this article shall be guilty of a misdemeanor and shall be tried upon citation returnable to the municipal court.

#### **Sec. 4-150. Rules and regulations.**

In an emergency or time sensitive matter, the city manager shall be authorized to promulgate rules and regulations to implement and carry out the provisions of this chapter.

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**Sec. 4-160. Revocation of permit.**

Any license or permit issued under this article may be immediately revoked by the chief of police, city manager, fire chief, or chairman of the city council for due cause for a violation of this article, any other ordinance, or state or federal law which results in an emergency situation in which continued operation of the premises by the licensee or permittee endangers the health, welfare or safety of the public.