

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF SENOIA, GEORGIA, AT CHAPTER 6, ALCOHOLIC BEVERAGES, BY DELETING THE PRESENT CHAPTER IN ITS ENTIRETY AND ADOPTING IN LIEU THEREOF NEW REGULATIONS GOVERNING THE MANUFACTURE, POSSESSION, SALE, TRANSFER, OR DISTRIBUTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF SENOIA; PROVIDING FOR THE LICENSING OF PERSONS AND ENTITIES ENGAGED THEREIN; PROVIDING SANCTIONS FOR VIOLATIONS OF THESE REGULATIONS AND PROVISIONS OF STATE LAW PERTAINING THERETO; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF SENOIA, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SENOIA, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. The Code of Senoia, Georgia is hereby amended at Chapter 6, ALCOHOLIC BEVERAGES, by deleting the present Chapter in its entirety and enacting in lieu thereof a new Chapter 6, to provide as follows:

“Chapter 6 ALCOHOLIC BEVERAGES”¹

¹Editor’s note(s)—Ord. No. 15-06, § 1, adopted September 21, 2015 repealed ch. 6, arts. I—VII, §§ 6-1—6-3, 6-10—6-35, 6-50—6-60, 6-70—6-81, 6-90—6-94, 6-98—6-112, 6-120, in its entirety; and enacted a new ch. 6 to read as set out herein. Former ch. 6 pertained to similar subject matter, and was derived from Ord. No. 15-01, § 1, adopted April 20, 2015 .

Cross reference(s)—Businesses, ch. 18; traffic and vehicles, ch. 66; zoning, ch. 74.

State constitution reference(s)—Use of proceeds of state alcoholic beverage tax, art. III, § IX, para. VI.

State law reference(s)—Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; furnishing to, purchase of or possession by persons under 21 years of age, use of false identification, O.C.G.A. § 3-3-23; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under 21 years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; treatment of alcoholics and intoxicated persons, O.C.G.A. § 37-8-1 et seq.; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

ARTICLE I. GENERAL PROVISIONS

Sec. 6-1. Purpose of provisions.

This chapter is enacted in furtherance of the police powers of the city to promote the health and general welfare of its citizens; to regulate and control the licensing and sale by the package and by the drink of malt beverages, wine, and distilled spirits; to establish reasonable regulations and ascertainable standards for licensees which will ensure the public peace; to protect schools, churches, and residential areas from the negative secondary effects attributable to establishments that sell malt beverages, wine and distilled spirits; and to ensure that only qualified persons obtain licenses for the sale, manufacture or distribution of malt beverages, wine and distilled spirits.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-2. Definitions.

For the purpose of this chapter, the following definitions shall apply:

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

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

Bar means any premises at which a retailer licensed pursuant to O.C.G.A., tit. 3 or this chapter to sell alcoholic beverages derives 75 percent of more total annual gross revenue from the sale of alcoholic beverages for consumption on the premises.

Bed and breakfast means a structure, located within a single-family residential zoning district, that is operated by the owner or lessee thereof, who occupies the premises as their principal dwelling, as a place of overnight sleeping accommodations for hire, which traditionally includes provision of the breakfast meal in the cost of the sleeping room.

Bouncer means an individual primarily performing duties related to verifying age of admittance, security, maintaining order, or safety, or a combination thereof, in a bar.

Brewpub means any eating establishment in which malt beverages are manufactured, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the premises and solely in draft form.

Craft malt beverages, as defined by the Brewers Association, Boulder, Colorado (the trade organization for the craft beer/micro brewing industry), are malt beverages produced by a small, independent brewer who follows traditional brewing processes using select, sometimes non-traditional, ingredients to produce a distinctive product.

Craft brewers produce very limited annual quantities, much less than traditional breweries which produce millions of barrels per year.

Disciplinary action means any citation or arrest arising out of a violation of any law, rule, regulation, resolution, or ordinance of a governmental entity relating to the manufacture, distribution, sale, or possession of alcoholic beverages against a licensee, an employee of a licensee, or any person holding a financial interest in the license of the licensee on the premises or place of business of any licensee.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than 24 percent alcohol by volume, including, but not limited to, all fortified wines.

Eating establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines, and which derives at least 50 percent 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 O.C.G.A. § 3-5-36, paragraph (2), subparagraph (D), or to the public for consumption off the premises, as authorized pursuant to O.C.G.A. § 3-5-36, paragraph (2), subparagraph (D), shall not be used.

Growler means a bottle, container or vessel made of glass, ceramic, or similar durable material, with a capacity of at least a capacity of at least 32 ounces (1 qt.) and not exceeding 64 ounces (2 qt.) that is designed for and especially intended to be filled with a craft malt beverage from a keg by a licensee, or employee of a licensee, holding a retail consumption dealer or retail package dealer license to sell malt beverages issued pursuant to this chapter, but not holding a license to sell distilled spirits, by the drink or package.

Hotel means any building or structure kept, used, maintained, advertised and held out to the public as a place where a minimum of 50 sleeping accommodations are offered for adequate pay to travelers and guests, and food is actually served and consumed in a restaurant as defined in this section, having an adequate and sanitary kitchen; said sleeping accommodations and restaurant being conducted on the same premises. Hotels may grant franchises for the operation of a restaurant and lounge on their premises, and the holder of such franchise shall be included in the definition of hotel hereunder. Lounges may be located separately from restaurant facilities in hotels provided there is a commonality of ownership of the restaurant and lounge.

Lounge means a separate room adjacent to and under common ownership with a restaurant, hotel, or located in a private club in which wine, malt beverages and distilled spirits may be sold by the drink and consumed on the premises. Except in the case of a private club or hotel, as herein defined, a lounge shall be licensed under this chapter only if operated in common with and as a part of a restaurant, as defined herein.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product, or any combination of such products in water, containing not more than 14 percent alcohol by

volume and including ale, porter, brown, stout, lager beer, small beer, and strong beer. The term does not include sake, known as Japanese rice wine.

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

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

Off-site farm winery tasting room means an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine can be given free of charge or for a fee. The off-site farm winery tasting room license classification created by this chapter is limited to farm wineries, or an affiliate, licensed by the state.

An off-site farm winery tasting room, upon licensure and payment of the appropriate license fees, shall, notwithstanding any other provision of this chapter to the contrary (including sections 6-20, 6-21, 6-70, 6-90, and 6-91), be authorized:

- (1) To offer wine samples and to make retail sales of its wine and the wine of any other Georgia farm winery, both for consumption on the premises and in closed packages for consumption off the premises and
- (2) To make sales of distilled spirits, malt beverages, and wines not produced by a farm winery for consumption on the premises, provided that any alcoholic beverage sold pursuant to this subsection (2) shall be purchased by the winery from a licensed wholesaler at wholesale prices.

An off-site farm winery tasting room shall also be authorized to operate as a bona-fide dining establishment kept, used, maintained, advertised, and held out to the public as a place where at least one regular meal per day is served at least three days per week, excluding periods for holidays, vacations, and renovation.

For the purposes of this chapter, upon application, a certain location may be designated by the mayor and council as a special entertainment district pursuant to O.C.G.A. § 3-6-21.2. Such designation is made solely for the purpose of allowing Sunday sales in an off-site farm winery tasting room.

On-premise consumption dealer means any person who sells, at retail only to consumers and not for resale, distilled spirits, wine or malt beverages for consumption on the premises.

Package dealer means any person engaged in selling, at retail only to consumers and not for resale, any distilled spirits, wine or malt beverages in unbroken packages.

Person means and includes any individual, partnership, corporation or association.

Powdered alcohol means a powdered or crystalline substance that contains any amount of alcohol for direct use or reconstitution.

Premises when used in conjunction with package sales, means the floor space on and from which the package sale of alcoholic beverages is conducted; when used in conjunction with an eating establishment, hotel, or private club means that floor space on and from which the sale of alcoholic beverages by the drink for consumption on the premises is conducted. Premises may include outdoor serving or dining areas, except when located on public property.

Private club means any nonprofit association organized under the laws of this state which:

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this chapter;
- (2) Has at least 75 regular dues-paying members;
- (3) Owns, hires, or leases a building or space within a building for the reasonable use of its members, which building or space:
 - a. Has suitable kitchen and dining room space and equipment; and
 - b. Is staffed with a sufficient number of employees for cooking, preparing, and serving meals for its members and guests; and
- (4) Has no member, officer, agent, or employee directly or indirectly receiving, in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

Regular prepared meal means a meal which is prepared on the premises according to the order of the customer given to a server at the table, booth, or bar where the customer is seated and served by the server at said table, booth, or bar.

Restaurant or eating establishment means a bona-fide eating establishment kept, used, maintained, advertised and held out to the public as a place where at least one regular prepared meal per day is served at least three days per week, excluding periods for holidays, vacations, and renovation, and where the principal business is the serving of prepared meals which, excluding the sale of alcoholic beverages, account for at least 50 percent of the total annual gross sales of the business. For purposes of this chapter only, the term "restaurant" shall also include a dinner theatre where at least one prepared meal is served to patrons in conjunction with the production of mainstream theatrical or musical events, in a structure or building located within a commercial zoning district having capacity for seating at tables at least 100 persons and meeting all state and local requirements as a place of public assembly.

Wine means any alcoholic beverage containing not more than 24 percent alcohol, by volume made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term does not include cooking

wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Wholesaler means any person who sells alcoholic beverages to other wholesale dealers, to package dealers, or to on-premise consumption dealers.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-3. Compliance with chapter.

No person shall sell, offer for sale, or distribute, any alcoholic beverages at wholesale, by the package, or for consumption on the premises within the city without first having complied with the provisions of this chapter. No person shall keep, possess, or store at such person's place of business within this city any alcoholic beverages for which said person does not hold a valid and current state and city license to sell such alcoholic beverages. No person shall manufacture, use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol. Any person violating this section shall be cited to appear before the municipal court and upon conviction sentenced to a fine, not to exceed \$1,000.00, or upon failure to pay the fine, to confinement for six months. In addition thereto, notice of such violation shall be given the state revenue commissioner, as require by O.C.G.A. § 3-3-2.1.

(Ord. No. 15-06, § 1, 9-21-2015)

Secs. 6-4—6-9. Reserved.

ARTICLE II. LICENSES

Sec. 6-10. License required.

- (a) No person shall engage in the manufacture, sale, transfer or distribution of alcoholic beverages in the city without first having obtained a license therefore from the city and be in possession of a valid state license, provided that wholesalers and distributors (possessing a valid state license) maintaining no fixed place of business, warehouse or other facility in the city may make sales and deliveries to licensed package dealers and on-premise consumption dealers without obtaining a city license.
- (b) No person licensed for the sale of a particular class of alcoholic beverages may sell other classes of alcoholic beverages without obtaining the required license therefor.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-11. Qualifications of applicants.

- (a) No license shall be granted under this chapter to any applicant who is not a citizen or resident legal alien of the United States.
- (b) Corporations shall apply for a license in the name of the corporation, and the license shall be issued to the corporation. Partnerships shall apply for a license in the name of one of the partners, and the license shall be issued in the name of the applicant. In the case of corporate applicants whose stock is closely-held and not publicly traded, the majority stockholder(s) must meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. Where the applicant is a corporation whose stock is publicly traded, an officer of such corporation, or in lieu of an officer, an agent involved in the active management of the local business establishment to be licensed, shall meet the requirements of individual applicants under this subsection at the time application is made and at all times during which the license is in effect. If the applicant is a partner in a partnership, the requirements of this section shall apply to all partners at the time of application, and at all times during which the license is in effect.
- (c) In addition to meeting all qualifications for a license under State law, all applicants for licenses, whether original or renewal, must attach to their applications evidence of their good character. In addition to meeting state qualification standards, no license, whether original or renewal, shall be issued to any person, partnership or corporation organized for pecuniary gain if any individual having an interest either as owner, partner or stockholder, directly or indirectly, beneficial or absolute, or such person's spouse shall have been convicted of or shall have taken a plea of guilty or nolo contendere, to, once, within five years immediately prior to filing, or twice, within ten years immediately prior to the filing of said application, of any felony or of any violation of any law or administrative regulation regulating the sale, manufacture or distribution of alcoholic beverages, gambling or narcotics. Where the application, whether original or renewal, is for a license to sell alcoholic beverages for on-premise consumption, conviction of an offense or the taking of the plea of guilty or nolo contendere once, within five years immediately prior to filing, or twice, within ten years immediately prior to the filing of said application, to any sex offense shall also disqualify the applicant for license under this section. No license, whether original or renewal, shall be issued to any person, partnership or corporation where an individual having an interest as owner, partner or stockholder, directly or indirectly, beneficial or absolute, shall have been convicted of or shall have taken a plea of guilty or nolo contendere to, once within five years immediately prior to the filing of said application, or twice within ten years immediately prior to the filing of said application of the offense of driving a motor vehicle under the influence of intoxicating liquor or drugs. The restrictions of this paragraph as to stockholders shall apply only to stockholders of privately owned corporations and to stockholders of publicly owned corporations who hold in excess of ten percent of outstanding stock.

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- (d) On-premises consumption licenses shall be issued only to applicants who meet the definition of a hotel, restaurant, private club, or farm winery tasting room.
 - (e) Applicants for renewal licenses must meet all qualifications of applicants for original licenses. Loss of qualifications during the term of a license shall be grounds for revocation or for a denial of renewal.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-12. Classification of licenses.

Licenses under this chapter are classified as follows:

- (1) Wholesale: malt beverages/wine;
- (2) Wholesale: distilled spirits;
- (3) Brewpub: A brewpub license shall only issue to an eating establishment in conjunction with a retail consumption dealers license for malt beverages, which in addition to craft beer manufactured on the premises shall offer for sale commercially available canned or bottled malt beverages; such license may issue to the eating establishment in conjunction with a retail consumption dealers license for distilled spirits, wine, or combination thereof; provided, however, a brewpub licensee shall not sell alcoholic beverages by the package for consumption off the premises, including the sale of growlers;
- (4) On-premise consumption: malt beverages;
- (5) On premise consumption: wine;
- (6) On premise consumption: distilled spirits;
- (7) Retail package: distilled spirits/malt beverages/wine;
- (8) Private clubs: malt beverages/wine;
- (9) Private clubs: distilled spirits;
- (10) Ancillary license: alcohol beverage caterer;
- (11) Ancillary license: malt beverage and wine tastings.
- (12) Off-site farm winery tasting room.
- (13) Manufacturers (distillery, brewery, winery).

Note: A brewpub is classified separately as it has to also be an eating establishment and has different State regulations on the sale of product. A microbrewery is classified as a brewery.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 20-03 , § 1a, 7-6-2020)

Sec. 6-13. Application submission; basic information.

- (a) Every applicant for a license under this chapter shall make written application to the city manager on forms furnished by the city. The applicant shall answer all questions on the application, under oath, and shall supply all information and furnish all certificates, affidavits, bonds and other supporting data or documents as required by this chapter.
- (b) Each application shall state the name and address of each applicant, the place where the proposed business is to be located; the type license applied for, whether for malt beverages, wine or distilled spirits, and whether for wholesale, package sale or on-premise consumption. The application shall also contain a beginning balance sheet showing the proposed original capitalization of the business and its source. If an applicant is a corporation, the application shall state the names of all officers and stockholders of the corporation and the percentage ownership of each. If the applicant is a partnership, the application shall state the names of all partners therein, whether general or limited. All applications shall include the names of all persons that have or will have a direct or indirect beneficial interest in the business for which the license is sought. Each application shall also contain such additional information as the city manager prescribes, shall be verified, under oath, as true by the applicant before filing and shall be accompanied by a nonrefundable application fee of \$1,500.00 to cover the cost of investigating the applicant and processing the application. If granted, the application fee shall apply against the license fee.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-14. Same; accompanying information; review of application.

- (a) In order to demonstrate the location meets all distance prohibitions imposed by State law, each application for a license to sell alcoholic beverages shall be accompanied by a scale drawing of the premises for the proposed business (including outside areas where alcohol will be served), showing its location with respect to all streets within 600 feet in every direction. Such drawing shall also depict the distance from the premises to each church building, school building, educational building, school ground, college campus, governmentally owned and operated alcohol treatment center and housing authority property. All such distances shall be measured by the most direct route of travel on the ground.
- (b) Licensees for the package sale of alcoholic beverages shall be subject to regulation as to all distances from land uses imposed by State law, and no package store for the sale of distilled spirits at retail shall be located within 1,500 linear feet of any other business licensed to sell packaged distilled spirits at retail, as measured by the most direct route of travel on the ground. Licensees for the retail sale of alcoholic beverages for consumption on the premises *only* shall not be subject to local regulation as to distances from churches, schools, and colleges, but shall meet state

distance requirements from governmentally-owned and operated alcohol treatment centers and housing authority property.

- (c) In reviewing an application, the city manager may utilize the chief of police and other city officials with respect to matters within their areas of expertise. All applicants shall furnish such additional data, information and records as may be requested of them by the city manager, chief of police or other city officer such as would be useful in determining whether to approve or reject such application. Copies of all Form ATT-I 7, Personnel Statements, filed with the state shall be submitted with the application. By filing an application, the applicant agrees to produce for oral interrogation any person who is to have a beneficial interest in the business for which the license is sought or who is to be employed by such business. The failure to provide requested data, information and records or to make those persons specified available for interrogation within a reasonable time shall be grounds for denial of an application.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-15. Ownership of premises.

Unless the applicant will own the premises from which the business will be conducted, the application shall also disclose the name of every person owning a beneficial interest in the premises and shall state the amount of rental to be paid, the manner in which the rental is to be determined, and to whom and at what intervals the rent is to be paid. The applicant shall also attach a copy of the proposed lease with the verified statement of the applicant that such lease contains the entire agreement between the parties. No license shall be issued to an applicant who leases premises under a variable rent system whereby the landlord shares in the profits from the sale of alcoholic beverages.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-16. Limitations on number of licenses held.

- (a) No person shall have an interest in more than two alcoholic beverage licenses, within the city, regardless of the degree of such interest.
- (b) (1) For purposes of this section, a person shall be deemed to have a beneficial interest in a license when he or she:
- a. Holds a license to sell either by the package or for on-premise consumption.
 - b. Has any ownership interest, whether legal, equitable or other, in or control over a package or on-premise consumption license.
- (2) Under the de minimis concept, a person who owns less than five percent of the shares of a corporation which has more than 35 shareholders or whose stock is

publicly traded shall not, on the fact of stock ownership alone, be deemed to have a beneficial interest in a license held by a corporation.

- (3) With regard to this section, a person will not be deemed to have an interest in more than one alcoholic beverage business when separate distilled spirits, malt beverage and wine licenses are held by the same licensee at the same business premises conducted as a single operation.
- (c) Nothing contained in this section is intended to prohibit the child of the holder of an alcoholic beverage license from also owning such a license if such child is emancipated and holds no business or financial interest or vested interest in the parent's business operation.
- (d) No person shall have, own or enjoy any ownership interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage license unless a full description of such interest shall have been furnished to the city at the time of making application for the license. It shall be the continuing duty of an alcoholic beverage licensee to report to the city manager, in writing, within ten days, any change in any interest in such licensee's business. Failure to report such change in interest shall be grounds for suspension or revocation of the license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-17. Sale, distribution and other dealing in alcoholic beverages within the city by officials and employees; exemptions.

- (a) No member of the mayor and council shall hold any interest, directly or indirectly, in any establishment licensed by the city to sell, distribute, or otherwise deal in alcoholic beverages. Any member holding or having a beneficial interest in any alcohol license issued by the city at the time of that person's election or appointment to office shall divest himself or herself thereof within 60 days. For purposes of this section, a member shall be deemed to have or hold a beneficial interest if the license is issued in the name of the person's spouse, child, parent or sibling, or in a partnership or corporation in which such person owns more than ten percent controlling interest.
- (b) No officer or employee of the city, whose official duties involve issuance and regulation of alcoholic beverage licenses or the enforcement of alcoholic beverage laws, shall hold any interest, direct or indirect, in any alcoholic beverage license issued by the city or in any establishment licensed by the city to engage in the sale or distribution of alcoholic beverages. The city manager, upon advice and consent of the mayor and council, may exempt officers and employees of the city from the provisions of this section, upon written finding that such officer or employee's involvement, direct or beneficial, in any business licensed by the city to engage in the sale or distribution of alcoholic beverages would pose no conflict of interest or interference with the performance by the officer or employee of his or her official duties for the city.

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- (c) No officer or employee of the city shall be permitted to engage in employment with any person, firm or corporation licensed by the city to sell or distribute alcoholic beverages. The city manager may, in writing, exempt those officers or employees from the prohibition of this section, upon finding that such employment would pose no conflict of interest or interference with the performance by the officer or employee of his or her official duties for the city; provided, however, no certified police officer shall be permitted employment by any establishment that deals in alcoholic beverages without first obtaining the written consent of the chief of police.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-18. Standard for new license at existing location.

An application for a new license for an existing licensed location shall be subject to all the requirements for the granting of an original application for a new license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-19. Location restrictions; wholesalers' and manufacturers' licenses.

No manufacturer's or wholesalers' license shall be issued except for premises located within a zoning classification permitting warehousing and/or light manufacturing and meeting all requirements of the city zoning and developmental ordinances; provided, however, brewpubs, and small manufacturers who specialize in a craft product and that provide for tastings, on-premise and off-premise sales in accordance with State law shall be considered a commercial retail business and may locate in any commercially-zoned premises.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 20-03 , § 1b, 7-6-2020)

Sec. 6-20. Location restrictions: package sales.

- (a) All package stores for the sale of distilled spirits by the unbroken package shall be located on lots or tracts with frontage either Georgia Highway 16 or Georgia Highways 74 & 85. A distilled spirits package store may be located within a commercial development meeting the requirements of this section. All distilled spirits package stores shall have a minimum square footage of heated area for display and storage of inventory of 5,000 square feet.
- (b) Licenses for the package sale of malt beverages and/or wine *only* will be issued only for premises located within a commercial zoning classification under the city zoning ordinance. Except for those licensees who operate a bed and breakfast, or as a specialty wine shop under this chapter, package sales of malt beverages and/or wine shall be conducted *only* in conjunction with the business operation of a supermarket, convenience store, general merchandise department store, or drugstore, meeting the requirements of this section.

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- (c) All premises at which the package sale of alcoholic beverages is authorized shall meet all requirements of the city's zoning and developmental ordinances, as well as minimum building, fire and life safety codes.
- (d) For the purpose of subsection (b), "supermarket" shall mean a grocery retailer carrying a full selection of food and grocery items, including fresh produce and meats, and having a minimum wholesale inventory of \$50,000.00 in food and grocery items, exclusive of malt beverage, wine, and tobacco products. A "convenience store" shall mean a retail store carrying a limited selection of canned, packaged or prepared food and grocery items and at which gasoline is regularly available for sale (provided that no service or mechanical work is performed on motor vehicles), and provided further, that the minimum wholesale value of the inventory of food and grocery items maintained on the premises for sale to the public is no less than \$25,000.00, exclusive of malt beverages, wine, and tobacco products. A "drugstore" shall mean a retail store at which prescription drugs and medications are dispensed under the control of a State-licensed pharmacist, and which sells at retail various personal health-related items and drugs for which prescriptions are not required. A "general merchandise department store" shall mean a retail store with floor space open to the public in excess of 25,000 square feet and an inventory with minimum wholesale value of not less than \$100,000.00, exclusive of malt beverages, wine, and tobacco products.
- (e) For the purpose of this section, specialty "wine shop" shall mean a store exclusively for the retail sale of package wine and no other alcoholic beverages. Wine shop can also provide specialty items, including food, and other related merchandise. Said store shall be located in the General Commercial (GC) or Historic Town (HT) zoning districts and meet all other requirements of this Chapter, unless otherwise specified, maintain an exclusive Employer Identification Number from the Internal Revenue Service and an occupational tax certificate from the city. A wine shop established in accordance with this section may:
- (1) Sell and serve only wine by the drink for consumption on the premises.
 - (2) Sell only wine by the package.
 - (3) Nothing in this subsection shall prohibit a wine shop from serving food provided it meets all of the requirements for restaurants in the General Code of Ordinances and is properly permitted by the city.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-21. Location restrictions; on-premise restrictions; package sales; delivery for consumption off-premises.

- (a) Licenses for the sale of alcoholic beverages for on-premise consumption shall only be issued in conjunction with an eating establishment, hotel, private club or farm winery tasting room on premises located within a commercial zoning classification(GC or HT) and meeting all requirements of the city zoning and

developmental ordinances; provided, however, a bed and breakfast, licensed for operation in a residential zoning district, shall be eligible for a license for the on-premises consumption of beer and wine only by its registered guests and invitees. The license shall identify those portions of the premises where alcoholic beverages may be sold and consumed.

- (b) An on-premise consumption dealer may sell beer or wine by the package for carryout purposes only: (i) on any day and at any time when the sale of package beer or wine for carryout purposes is otherwise not prohibited by law; and (ii) at any licensed location which is not within distances to grounds or buildings where the sale of alcoholic beverages for carry out purposes is otherwise prohibited by law. No additional license is required for an on-premise consumption dealer to engage in package sales under this section.
- (c) Delivery of packaged malt beverages and wine for off-premises consumption within the boundaries of the city.
 - (1) For purposes of this subpart, all terms defined in O.C.G.A. § 3-3-10 shall have the same meaning when used herein.
 - (2) A packaged goods retailer, with an "on-premise" consumption license shall be permitted to engage in delivery operations without obtaining a separate license from the city; provided, all delivery operations shall be conducted in strict conformity to the requirements of O.C.G.A. § 3-3-10 and any regulations promulgated by the commissioner of revenue.
 - (3) In addition to any authorization provided by state law, on-premise license holders can provide for delivery of malt beverages (beer) and wine, by the sealed package only, within the boundaries of the city, upon filing a written letter of intent with the city clerk. No fee shall be imposed on the licensee to file such letter.
 - (4) The delivery of any packaged distilled spirits, except by the holder of a retail package liquor store, is prohibited.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 18-02, § 1, 6-18-2018 ; Ord. No. 20-06 , § 1, 11-16-2020)

Editor's note(s)—Ord. No. 20-06, § 1, adopted Nov. 16, 2020, changed the title of § 6-21 from "Location restrictions; on-premise consumption; package sales" to read as herein set out.

Sec. 6-22. Indebtedness to city.

No license shall be issued to any applicant if any person holding a beneficial interest in the business to be licensed owes any delinquent taxes or assessments to the city.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-23. Investigation of application; issuance.

Every application filed pursuant to this chapter shall be thoroughly investigated by the chief of police, who shall make a formal written report and recommendation to the city manager. The city manager shall review the chiefs report and make such further investigation as he or she deems appropriate.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-24. Considerations for granting of licenses.

It shall be the duty of the city manager to issue or refuse to issue a license to any applicant. In determining whether or not any application shall be granted and a license issued, the city manager shall consider all mandated standards of this chapter and the following information in the public interest and welfare:

- (1) If the applicant and/or any holder of an interest in the license has ever violated any federal, state, county or municipal law, ordinance or administrative regulation regarding alcoholic beverages, their possession, sale, manufacture, distribution, handling, or dealing therein;
- (2) The manner in which the applicant and/or any holder of an interest in the license has conducted any business within the city as to the necessity for excessive police intervention;
- (3) The reasonably anticipated effect on the immediately surrounding neighborhood for which the license is sought as to traffic congestion, noise and/or light pollution;
- (4) Whether the applicant and/or any holder of an interest in the license has ever had any alcoholic beverage or business license suspended or revoked by any state or any political subdivision thereof, or whether any alcoholic beverage business with which the applicant and/or any holder of an interest in the license has been associated has been cited for a violation of the laws or regulations of any state or any local ordinance pertaining to alcoholic beverages, and the outcome of such proceedings.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-25. Grant of application; notice of denial.

- (a) All applications for alcoholic beverage licenses meeting this chapter shall be granted by the city manager for a period expiring on the last day of December of the current calendar year, unless some specific cause regarding location, traffic or environmental conditions or the specific causes set out in section 6-24 justifies a refusal. In the event of denial for location, traffic or environmental conditions, the applicant shall be entitled to file a new application of like kind for a different location without the loss of any part of the application fee. The city manager's

review of an application shall be completed within 45 days of submission of a completed application, including all documents sought during the course of the investigation of the application. In the event the city requests additional documents during the application review period, the 45 day review period shall be stayed until production of the additional documents is completed.

- (b) In the event the city manager denies an application for a license, the applicant shall be provided notice in writing of the denial, and a listing of the reason(s) therefor. The applicant shall have the right to appeal that denial, in writing, no more than ten days following receipt of the denial notice. A hearing shall be held before the mayor and council in not less than 30 days from the date of the written notice of appeal. Within ten days from the date of the conclusion of the hearing, the mayor and council shall notify the applicant, in writing, of its decision and the reason(s) therefor. Aggrieved applicants, whose application is denied by the city manager and affirmed by the mayor and council, may petition the superior court of the county for writ of certiorari.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-26. False information in application.

Any material omission from, or untrue or misleading information in, an original, renewal or transfer application for a license hereunder shall be cause for the denial or refusal of a license, or for the revocation of a license previously granted. Any failure to notify the city manager of the change in any relationship as specified in section 6-16(d) within ten days after such change is made shall likewise constitute due cause for cancellation, revocation or suspension of a license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-27. License fees.

- (a) There is hereby imposed a license fee, payable at the time of issuance of the license and each annual renewal license, as follows:

| | |
|---|------------|
| Wholesale: malt beverages/wine | \$1,500.00 |
| Wholesale: distilled spirits | 5,000.00 |
| Brewpub' | 1,000.00 |
| On-premise consumption: malt beverages* | 500.00 |
| On-premise consumption: wine | 500.00 |
| On-premise consumption: distilled spirits | 4,000.00 |
| Retail package: malt beverages/wine <i>only</i> | 1,500.00 |
| Retail package: distilled spirits/malt beverages/wine | 5,000.00 |
| Private club: malt beverages/wine | 2,500.00 |
| Private club: distilled spirits | 2,500.00 |
| Ancillary Tasting | 450.00 |

| | |
|---|----------|
| Ancillary Alcohol Beverage Caterer | 100.00 |
| Event Permit (each day of each event) | 25.00 |
| Off-site farm winery tasting room: wine by package | 1,500.00 |
| Off-site farm winery tasting room: on-premise consumption wine | 500.00 |
| Off-site farm winery tasting room: on-premise consumption malt beverages | 500.00 |
| Off-site farm winery tasting room: on-premise consumption distilled spirits | 4,000.00 |
| Manufacturer's license (distillery, brewery or winery) | 5,000.00 |

* When a brewpub license is issued in conjunction with an on-premises consumption: distilled spirits license, the combined fee will be \$5,000.00; with an on-premises consumption for malt beverages and wine only, the combined fee will be \$1,500.00.

- (b) The license fees imposed by this section are regulatory fees intended to offset the city's cost in administering and enforcing this chapter. In addition thereto, licensees are subject to payment of an occupational tax to the City in accordance with Chapter 18 of this Code.
- (c) When a license is issued on or after July 1 the license fee for that year is prorated by one-half.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 20-03 , § 1c, 7-6-2020)

Sec. 6-28. Payment of license fee; renewal.

All alcoholic beverage licenses are annual licenses that run from January 1 to December 31 of each year. Holders of existing licenses may apply to the city manager for renewal for the next calendar year between October 1 and November 1 of the current year by filing a renewal application in proper form, submitting required information for an updated criminal history, and tendering the required fee. Renewal license fees for the following year are due by December 15 and shall be past due if not paid by that date. After December 15, there shall be imposed a penalty of ten percent of the amount of the license, which license fee and penalty must be paid, in full, before a renewal license is issued. Persons failing to obtain a valid renewal license by January 1 shall be prohibited from engaging in the sale and distribution of alcoholic beverages.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-29. Privilege nature of license.

- (a) All licenses issued under this chapter shall constitute a grant of privilege to carry on or conduct a business covered by such license during the term of the license, subject to the terms and conditions imposed by the City Charter, this chapter and other

applicable ordinances of the city and the Constitution, laws and regulations of the state and United States of America applicable thereto.

- (b) All licenses issued under this chapter shall have printed on the face the following words:

"THIS LICENSE IS A PRIVILEGE CONDITIONAL ON THE HOLDER MEETING ALL STANDARDS FOR SUCH LICENSE AND OPERATING REGULATIONS APPLICABLE THERETO SET OUT IN CITY ORDINANCES AND GEORGIA LAW. FAILURE TO MEET SUCH STANDARDS OR TO COMPLY WITH SUCH OPERATING REGULATIONS SHALL SUBJECT THE HOLDER TO THE LICENSE BEING REVOKED FOLLOWING NOTICE AND HEARING."

- (c) All licenses shall be conspicuously posted in the place of business.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-30. Transferability of licenses.

- (a) [*Transferability of licenses.*] Licenses issued pursuant to this chapter shall not be transferable except as otherwise provided in this section.
- (b) *Death.* In case of the death of any person owning a license, or any interest therein, the same may, with the approval of the city manager and subject to the terms of this chapter, be transferred to the personal representative of the deceased person, or to the devisees or heirs at law of the deceased person, if such devisees or heirs meet the qualifications contained in this chapter. The license of a deceased person shall be held by his personal representative only for the time necessary to complete administration of his estate and to dispose of the license or interest therein. One transfer may be made by the personal representative of a deceased license holder to a person meeting the qualifications of this chapter.
- (c) *Partnerships.* Nothing in this section shall prohibit a partner in a partnership holding a license to withdraw from the partnership and to assign his interest to one or more of the partners who were partners at the time of the issuance of the license. Such withdrawal, however, shall not serve to bring any new ownership into the partnership, unless such new owner shall apply for a license and comply with all provisions of this chapter, and then only upon the approval of the city manager.
- (d) *Increased capitalization.* A partnership or corporation holding a license may take on additional partners or shareholders, as the case may be, where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanded facilities of the business or for building new facilities and where it further appears that the other partners or shareholders will not receive any of the additional capital investment. Such additional partner or new stockholder must apply for a license and meet all requirements of a licensee, including approval by the city manager, before he shall be permitted to acquire such interest.
- (e) *Transfer of locations.* Should a transfer of location be approved, there shall be no new license fee, but the new premises must meet all location requirements as for a

new license. Fees relating to construction permits and inspections for the new location shall be imposed.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-31. Suspension and revocation; grounds and procedure.

- (a) Except as provided in section 6-33 and 6-34, no license which has been issued or which may hereafter be issued pursuant to this chapter shall be suspended or revoked except for due cause and after hearing, upon not less than three days prior written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held.
- (b) "Due cause" for the purposes of this section shall include, but not be limited to:
- (1) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his or her employees or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws;
 - (2) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his or her employees or any person holding an interest in the license for any sex offense when the business is licensed for on-premise consumption;
 - (3) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages;
 - (4) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor, any act which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented;
 - (5) Failure to meet or maintain any standard prescribed by this chapter as a condition or qualification for holding a license;
 - (6) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance, or administrative regulations involving alcoholic beverages, gambling, narcotics, or disorderly conduct, including any sexual offense, under state law or local ordinances with respect to businesses licensed for on-premise consumption. With respect to this section, it shall be rebuttably presumed that the violation was done with the knowledge or consent of the licensee; provided, however, such presumption may be rebutted only by evidence which precludes every other reasonable hypothesis save that such licensee did not know, assist or aid in such

occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.

- (c) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by statutory overnight delivery. If by statutory overnight delivery, the notice shall be addressed to the licensee at its street address as it appears in the records of the city. The burden shall be on the licensee to provide notice, in writing, of any change of street address for service of notices and process. In the case of service by statutory overnight delivery of any notice required by this chapter, the service is deemed complete at the time of deposit with the statutory overnight provider.
- (d) The hearing shall be conducted by the mayor and council. Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney or his or her designee shall present the city's case and bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross-examine all witnesses offered by the city, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.
- (e) The mayor and council shall make its final determination within ten days of the completion of the hearing. The decision shall be placed in writing and contain the mayor and council's findings of fact, conclusions of law, and decision as to penalty, if any. Such penalty may include one or more of the following: revocation of the license; suspension of the license for no more than 12 months; imposition of a probationary period not to exceed 12 months, and/or a civil penalty not to exceed \$5,000.00. Where a probationary period is imposed which exceeds the term of the current license, the mayor and council may provide provisional conditions for a renewal license.
- (f) The mayor and council's decision shall be personally served upon the licensee or mailed by first class mail to the licensee's attorney and city attorney within ten days of the close of the hearing.
- (g) The mayor and council may impose a fine, not to exceed \$1,000.00, for each violation of this chapter and may condition reinstatement or renewal of the license on the licensee posting a performance bond, in an amount not to exceed \$5,000.00. A second or subsequent violation, which occurs within three years from the date of the first violation may constitute grounds for suspension, revocation, and/or non-renewal of the license.
- (h) It shall be the duty of the chief of police to report to the commissioner of revenue, in the format designated by the commissioner and in accordance with rules and regulations promulgated for that purpose, any disciplinary action as defined in this chapter and O.C.G.A. § 3-3-2.1 against a licensee, the licensee's employee, or person

holding a financial interest in the license. Such report shall be made promptly after issuance of a citation or arrest and in no case more than 45 days thereafter.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-32. No refunds following suspension or revocation.

In the event a license issued hereunder is suspended or revoked, the licensee shall not be entitled to a refund of any portion of the application or license fees previously remitted.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-33. Emergency suspension; violation involving licensed business.

- (a) The city manager has authority to suspend a license for a short-term period not to exceed ten days. The city manager's decision shall be in writing, with the term of the suspension and the reasons therefor stated, and shall be mailed or delivered to the licensee as provided in section 6-31(c).
- (b) A short-term suspension by the city manager must be for an emergency cause. "Emergency cause" for the short-term suspension of a license shall consist of a third or subsequent violation by the same licensee or the licensee's employees or agents on the same premises within a two year period of any state or federal laws, administrative regulations of the state or city ordinances regulating such business holding a license, including those prohibiting gambling, regulating the sale, manufacture, distribution, handling, dealing in, and possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in an unlawful manner, and the manufacture, sale, or distribution of any controlled substance which puts the city and the health and safety of its citizens at such risk that an immediate suspension is necessary until a hearing as provided for in section 6-31 can be held.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-34. Emergency suspension; all alcoholic beverage licenses.

The mayor and council is authorized to suspend the sale of alcoholic beverages under all licenses issued pursuant to this chapter during any state of emergency declared by the governor, any local emergency as defined by O.C.G.A. § 36-69-2 or for any other serious situation in which the mayor and council deems such emergency suspension necessary for the protection of the health and welfare of the citizens of the city. Such suspension may be made effective immediately and shall remain in force until the mayor and council determines the emergency is over or until the next regular meeting of the mayor and council, at which time the suspension shall cease unless the same is extended by affirmative action of the mayor and council.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-35. Acceptance and consideration of application after rejection and/or revocation.

When any license to engage in package sales of alcoholic beverages is denied by the city manager, or a license is revoked for cause, no new application shall be accepted from the same applicant for a license within 24 months from the time of such rejection or revocation. Submission of a new application at the same premises by another applicant which application shows the applicant previously rejected or revoked as a holder of an interest in the desired license shall be cause for rejection of the new application.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-36—6-49. Reserved.

ARTICLE III. REGULATIONS FOR ALL ESTABLISHMENTS AND OTHER PROPERTY OPEN TO PUBLIC

Sec. 6-50. New buildings; expiration of license for failure to commence or operate business.

- (a) Where a building in which a licensee proposes to operate under the provisions of this chapter is, at the time of application for such license, not in existence, or not yet completed, a license may be issued for such location, provided the plans and specifications for the proposed building are filed with the city manager and show a compliance with the other provisions of this chapter and applicable ordinances of the city. No sales shall be allowed in such establishment until it has been completed in accordance with plans and specifications and is in conformity with all other provisions of this chapter and applicable ordinances of the city. If the building is not completed during the year in which the licensee fee was paid, the amount of fee paid shall apply to the year in which the building is completed and the business commences.
- (b) All holders of licenses hereunder must open for business within six months after issuance of said license; failure to do so shall serve as an automatic forfeiture and cancellation of such license unless an extension of the time is granted by the city manager before the expiration of the six-month period for good cause shown. No refund of the license fee shall be made in the event of such forfeiture.
- (c) Any holder of a license hereunder who shall begin the operation of the business authorized in the license, but who shall thereafter cease to operate the business as authorized in said license for six months, shall thereupon forfeit such license, which license shall be automatically cancelled without the necessity of any further action of the city unless an extension of time is granted by the city manager before the

expiration of the six-month period for good cause shown. No refund of license fee shall be made in the event of such forfeiture.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-51. Inspection authority of city.

The city reserves the right to inspect all premises from which alcoholic beverages are licensed to be sold, and related areas, at all reasonable times. Refusal to consent to inspection, upon reasonable demand, shall be grounds for suspension or revocation of the license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-52. Reserved

Sec. 6-53. Employees.

- (a) No licensee under this chapter shall permit any person under the age of 18 within his employment to sell or dispense alcoholic beverages; provided, however, this provision shall not prohibit employees under the age of 18 who are employed in supermarkets, convenience stores, general merchandise department stores, or drugstores from handling or carrying sealed packages of alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities so long as such employees under age 18 do not sell any alcoholic beverage. No person under the age 21 shall work as a "bouncer" in a "bar" as such term is defined in this chapter.
- (b) No licensee under this chapter shall permit any person to sell, dispense, serve or take orders for alcoholic beverages while that person is currently serving a sentence, including probation or parole, based upon a conviction in any state or federal court or the United States or in any foreign country for any felony, or any misdemeanor ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, gambling, sexual offenses, or crimes of moral turpitude. No licensee shall employ within its business for the purpose of selling or dispensing alcoholic beverages any person convicted within five years immediately prior to the application for employment of any felony or within two years immediately prior to the application for employment of any misdemeanor or ordinance violation relating to the manufacture, sale, use or distribution of alcoholic beverages or narcotics or controlled substances, gambling, sexual offenses, or a crime of moral turpitude. This provision shall not prohibit employees who have been convicted or have a criminal history, when employed in supermarkets, convenience stores or drugstores, from handling or carrying alcoholic beverages either within the licensed premises or to customers' vehicles when parked adjacent thereto as a part of employment responsibilities.

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- (c) It shall be the duty of the licensee to ascertain that all employees are eligible for employment under this chapter. The city reserves the right to obtain fingerprints from and conduct a criminal history check of any licensee's employees at any time. Upon request by the city, the licensee shall cause the employee to appear at the city police department and shall pay the requisite fee in the amount of \$25.00.
 - (d) It shall be the duty of the licensee to train all employees whose duties shall include the sale, dispensing, serving or taking of orders for alcoholic beverages in the requirements of this chapter, applicable state laws and regulations, and the licensee's policies. Each licensee shall establish written policies, a copy of which shall be posted within the licensed premises, governing the sale and dispensing of alcoholic beverages in accordance with state law and this chapter. Licensees shall impose meaningful disciplinary sanctions for employees who fail to meet the standards of law as violations by employees may constitute grounds for revocation, suspension or denial of a license under this chapter. The degree of training, supervision and discipline of employees by the licensee may be considered by the hearing officer in determining action on any license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-54. Days and hours of operation.

- (a) No retail package dealer licensed to make package sales of distilled spirits shall operate its business before 8:00 a.m. or after 11:30 p.m. or at any time prohibited by State law. No retail package dealer of malt beverages and/or wine only shall furnish, sell or offer for sale any packaged malt beverages or wine at any time not expressly authorized by state law. Sales are permitted on Mondays through Saturdays between the hours of 6:00 a.m. and 11:30 p.m. Sales are permitted on Sundays between the hours of 12:30 p.m. and 11:30 p.m. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open.
- (b) No on-premises consumption licensee shall furnish, sell or offer to sell any alcoholic beverages at any time when sales are prohibited by state law. Sales are permitted on election days; provided, however, it shall be unlawful for any person to sell alcoholic beverages within 250 feet of any polling place or of the outer edge of any building within which such polling place is established during the hours the polls are open.
- (c) No licensee for on-premises consumption shall furnish, sell or offer to sell any alcoholic beverage between the hours of 2:55 a.m. and 9:00 a.m. on Mondays through Saturdays, or between the hours of 2:55 a.m. and 12:00 midnight on Sundays; provided, however, in any licensed eating establishment which derives at least 50 percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment and in any licensed hotel which derives at least 50 percent of its total annual gross income

from the rental of rooms for overnight lodging, alcoholic beverages may be sold for consumption on premises on Sundays from 11:00 a.m. until 12:00 midnight.

- (d) Notwithstanding subpart (b) above, in any year in which December 31st (New Year's Eve) falls on a Sunday, every establishment licensed to sell alcoholic beverages for consumption on the premises, including bars, shall be authorized to sell alcoholic beverages for consumption on the premises only between the hours of 11:00 a.m. and 12:00 midnight.
- (e) A distillery, a brewery, and a domestic farm winery tasting room located within a special entertainment district within the city, shall be authorized to sell its product on the same days and within the same hours as a retail package dealer.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 18-03 , § 1, 6-18-2018)

Editor's note(s)—An amendment to § 6-54 relating to Sunday sales was approved by the voters at an election held on Nov. 6, 2018.

Sec. 6-55. Furnishing to, purchase of, or possession by persons under twenty-one years of age of alcoholic beverages; use of false identification.

- (a) Except as otherwise authorized by law:
 - (1) No person knowingly, directly or through another person, shall furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any person under 21 years of age.
 - (2) No person under 21 years of age shall purchase, drink, sell or possess alcoholic beverages.
 - (3) No person under 21 years of age shall misrepresent such person's age in any manner whatsoever for the purpose of obtaining any alcoholic beverage.
 - (4) No person knowingly or intentionally shall act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
 - (5) No person under 21 years of age shall misrepresent his identity or use any false identification for the purpose of purchasing or obtaining any alcoholic beverage.
- (b) The prohibitions contained in subsection (a) shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, at a religious ceremony, or when the parent or guardian of the person under age 21 gives the alcoholic beverage to such person when possession is in the home of the parent or guardian while such parent or guardian is present.
- (c) It shall be the duty of every person seeking to purchase or possess alcoholic beverages from a licensee within the city to furnish, upon request, proper

identification showing that the person is 21 years of age or older. For purposes of this section, "proper identification" means any document issued by a governmental agency containing a physical description of the person, such person's photograph, and giving such person's date of birth, and includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized by O.C.G.A. § 40-5-100.

- (d) It shall be a violation of this chapter for any licensee or licensed alcoholic beverage caterer, or any agent, officer or employee thereof, to fail to check the proper identification of any patron when selling or otherwise furnishing or providing any alcoholic beverage, which failure results in an alcoholic beverage being sold or served to an underage person, or to have in such underage person's possession while on the licensee's premises or at a catered event, any alcoholic beverage.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-56. Open containers.

- (a) As used in this section, "open container" means any container, containing alcoholic beverages, which is immediately capable of being consumed from or the seal of which has been broken.
- (b) No person shall possess an open container of any alcoholic beverage within the passenger compartment of a motor vehicle. Sealed containers of alcoholic beverages may lawfully be transported in any part of a vehicle. Resealed containers shall be placed in a locked glove box, locked trunk or locked storage container for transport.
- (c) No person shall possess an open container of any alcoholic beverage while walking, standing or otherwise occupying any public street, road, or highway, sidewalk adjacent thereto, public parking lot, park or other publicly owned properties of the city; provided that where the mayor and council has, by resolution, approved a public building, location, facility, or event as one where alcoholic beverages may be consumed, including any limitation as to date(s) and hours, this section shall not apply to the otherwise lawful possession and consumption of alcoholic beverages at the location or for the event so designated.
- (d) No person shall possess an open container of or consume any alcoholic beverage on the premises of any retail package dealer, including parking lots adjacent thereto.
- (e) No person shall enter or leave the premises of any dealer licensed to sell or dispense alcoholic beverages for on-premise consumption with an open container of any alcoholic beverage; provided, however, any restaurant which is licensed to sell wine for consumption on the premises may permit a patron to remove one unsealed bottle of wine, per patron, for consumption off the premises if the patron has purchased a meal and consumed a portion of the bottle of wine with such meal on the restaurant's premises. The partially consumed bottle of wine shall be recorked or securely sealed by the licensee or its employees and placed in a bag or other container, with a dated receipt for the wine and meal attached to the bag or

container. If the licensee charges a recorking fee, such fee shall not exceed \$3.00 per bottle of wine. If transported in a motor vehicle, the bag or container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of the motor vehicle.

- (f) The prohibition of subsections (c) and (e) shall not apply within the boundaries of any special entertainment district within the city. A special entertainment district, the boundaries of which shall be designated as an overlay on the official zoning map by amendment of the zoning regulations of the city by the mayor and council, is intended to encourage economic development and provide additional incentive to establishments licensed to sell alcoholic beverages for consumption on-premises, including but not limited to restaurants and eating establishments, to locate within the district boundaries. Patrons purchasing an alcoholic beverage from a licensed consumption retailer within the district are permitted to move between establishments with open containers, provided, however, all alcoholic beverages shall be in plastic cups, no greater than 16 ounces. No person shall possess within the district or bring any alcoholic beverages into the district that was purchased outside the district.

(Ord. No. 15-06, § 1, 9-21-2015 ; Ord. No. 18-04, § 1, 7-16-2018 ; Ord. No. 21-04 , § 1, 6-7-2021)

Sec. 6-57. Brown-bagging.

- (a) For the purpose of this chapter:

- (1) "Brown-bagging" means the bringing, taking or carrying of any alcoholic beverage into a business lawfully operating with the city, but not licensed for the consumption of alcoholic beverages on the premises, or the taking of any alcoholic beverage into premises licensed for the sale of alcoholic beverages during such times the sale or consumption of such beverages is prohibited by law; provided that bringing an alcoholic beverage into a house, apartment, room or other unit designed for private residential occupancy for consumption by the residents and invited guests thereof shall not fall within this definition.
- (2) "Brown-bagging" shall include the following prohibited acts:
 - a. Any person who brown-bags;
 - b. Any person participating in consumption of any alcoholic beverage being brown-bagged;
 - c. Any person who consumes an alcoholic beverage on any premises lawfully operating in the city, except for those premises licensed for on-premises consumption of alcoholic beverages or otherwise exempted from the definition of brown-bagging by virtue of the private residential character of the occupancy.
 - d. Any employee of the business establishment in whose presence brown-bagging knowingly or with reckless indifference occurs.

(b) Brown-bagging is prohibited within the city.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-58. Temporary permits for non-profit civic organizations.

The mayor and council, upon application by a bona fide nonprofit civic organization, may authorize such organization to sell alcoholic beverages for consumption only on the premises of the event for a period not to exceed one calendar day, in accordance with the provisions of O.C.G.A. § 3-9-2, regulations of the Georgia Department of Revenue, and such conditions as the mayor and council may reasonably impose, including limitations on the time for selling such beverages. No more than six such permits shall be issued to the same organization in any one calendar year. Permits issued under this section shall be valid only for the date, time(s) and place specified. Organizations permitted under this section shall be subject to all state and local laws and regulations governing the sale of alcoholic beverages for consumption on the premises.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-59. Purchases to be made only from licensed wholesalers.

Package dealers in alcoholic beverages and on-premise consumption dealers shall not buy nor accept deliveries from any person other than a wholesaler, dealer or distributor licensed by the Georgia Department of Revenue. A brewpub licensee may manufacture on the licensed premises not more than 10,000 barrels of malt beverages in a calendar year solely for retail sale in its eating establishment; notwithstanding the foregoing, a brewpub licensee may sell up to a maximum of 5,000 barrels annually of such malt beverages to licensed wholesale dealers, provided, however, under no circumstances, shall a brewpub licensee sell directly to any person holding a retail consumption dealer's license or a retailer's license for the purpose of resale.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-60. Storage of alcoholic beverages at retail.

All package dealers and on-premise consumption dealers and off-site farm winery tasting rooms shall store all alcoholic beverages on the premises for which the license was issued and at no other place. All stock shall be available at all times for inspection by any duly authorized representative of the city. Except for licensed brewpubs, any alcoholic beverages found in any licensee's stock which was not sold or distributed by a wholesaler licensed in accordance with laws of the state to make sales and deliveries in the city shall be subject to immediate confiscation. No licensee shall keep, possess or store at such licensee's place of business any alcoholic beverage for which such licensee does not hold a valid and current state and local license to sell such alcoholic beverage.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-61. Manufacturers.

- (a) It shall be unlawful to operate as an alcoholic beverage manufacturer within the City of Senoia without first obtaining a license from the city and paying such fees and taxes as required by law and this ordinance.
- (b) Notwithstanding any other provision to this chapter 6, tastings and direct-to-consumer sales, whether on-premises or off-premises, from the license premises of the manufacturer shall be permitted in strict accordance with state law and regulations of the Georgia Department of Revenue, as from time to time amended. A licensed brewer may furnish or sell growlers directly to consumers in accordance with State law and regulations.
- (c) Notwithstanding any other provisions of this Code, a licensed manufacturer may operate and sell or furnish its product directly to consumers on Sundays between the hours of 12:30 p.m. and Midnight without having to satisfy any food sales requirements.

(Ord. No. 20-03 , § 1d, 7-6-2020)

Secs. 6-62—6-69. Reserved.

ARTICLE IV. ADDITIONAL REGULATIONS FOR PACKAGE DEALERS

Sec. 6-70. Merchandise restrictions.

- (a) Except as provided in section 6-20(b), no retail package dealer of distilled spirits (standalone package store) shall operate such business in connection with any other business or establishment. A retail package dealer of distilled spirits shall carry a minimum inventory of distilled spirits equaling or exceeding \$500,000 at all times.
- (b) Beverages containing no alcohol may be dispensed through the use of vending machines, but no beverage alcohol shall be dispensed through an unattended vending machines or device; and the attendant shall remain on the premises where alcoholic beverages are consumed during all hours of operation.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-71. Merchandise and sales restrictions.

- (a) Where packaged malt beverage or wine sales only are licensed, no licensee shall sell or offer to sell any firearms, ammunition, or weapons of any character.
- (b) During those hours and on those days when alcoholic beverages are not permitted to be sold, it shall be the duty of the licensee to remove all alcoholic beverages from its shelves or otherwise secure the inventory in such manner as to notify customers that these products are not available for sale at that time.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-72. Sale or delivery to unlicensed premises.

Except as authorized by this chapter, no package dealer shall make or allow to be made any deliveries of alcoholic beverages beyond the boundaries of the premises covered by the license.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-73. Name of licensee to be displayed.

All premises licensed for the sale of alcoholic beverages shall have printed on the front window thereof, in uniform letters not less than four nor more than eight inches in height, the name of the licensee in uniform letters, and a telephone number at which the licensee can be contacted by police during times when the establishment is closed.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-74. Prices to be conspicuously displayed.

Each package dealer of alcoholic beverages shall conspicuously display within the interior of the licensed premises not less than four copies of a printed price list of the alcoholic beverages offered for sale or, in lieu thereof, shall place the price of each item on the container or on the shelf where the container is exhibited for sale.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-75. Portable signs prohibited.

No licensee for the package sale of alcoholic beverages shall be permitted to utilize a lighted portable sign outside the building.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-76. Coin-operated devices on premises.

No package dealer in alcoholic beverages shall permit any slot machines, juke boxes, pinball machines, video games, or coin-operated machines operated for amusement purposes on its premises.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-77. Premises to have glass front.

With the exception of off-site farm winery tasting rooms, each establishment licensed for the package sale of alcoholic beverages shall have an open glass front and

shall be well lighted for clear vision from the outside. No signs or advertising shall be posted on the glass which will obstruct the view.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-78. Purchase delivered in paper bag or wrapped.

All alcoholic beverages, except prepackaged beer, purchased in a package store must be put in a paper or plastic bag or otherwise wrapped in an opaque cover before delivery to the purchaser.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-79. Sale of certain containers unlawful.

It shall be unlawful to sell or offer for sale any malt beverage in any single container, single can or single glass bottle which shall be smaller than 8 ounces in size.

(Ord. No. 15-06, § 1, 9-21-2015)

Secs. 6-80. Growlers.

A licensee (who does not sell or offer for sale distilled spirits, either by the drink or by the package), other than a brewpub, may offer craft malt beverages for sale, either for consumption on-premises or by the package, in a specialized vessel called a "growler" for off-premises consumption. All craft malt beverages shall be purchased by the licensee in kegs from a licensed wholesaler for resale in growlers. Growlers shall be filled from tapped kegs, by the licensee or an employee of the licensed facility, upon the customer's order, and may not be pre-filled or available in a cooler for later sale or delivery. All growlers shall be sanitized by the licensee or its employees and securely sealed, on premises, with a tamper-proof plastic cap. The licensee shall comply with all federal, state and local packaging and labeling laws regarding alcoholic beverages. Samples, not to exceed one ounce, are restricted to craft malt beverages dispensed from a tapped keg to be sold in growler form. No single customer shall be served more than four samples in a 24-hour period. No samples of bottled or packaged malt beverages shall be allowed.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-81. Prohibition on nudity; live adult entertainment.

The following types of entertainment, attire and conduct are prohibited upon the premises of any establishment licensed to sell, serve, dispense or distribute alcoholic beverages for consumption on such premises:

- (1) The employment or use of any person, in any capacity, in the sale or service of alcohol beverages while such person is unclothed or in such attire, costume or

clothing, as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.

- (2) Live entertainment where any person appears in the manner described in subsection (1) or where such person(s) perform(s) acts of or acts which stimulate 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; or
 - c. The displaying of the male or female pubic hair, anus, vulva or genitals.
- (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); provided, however, that nothing contained in subsection (2) shall apply to the premises of any mainstream performance house, museum or theatre which derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.

(Ord. No. 15-06, § 1, 9-21-2015)

Secs. 6-82—6-89. Reserved.

***ARTICLE V. ADDITIONAL REGULATIONS FOR ON-PREMISE
CONSUMPTION***

Sec. 6-90. Sales by package prohibited.

With the exception of an off-site farm winery tasting room, no distilled spirits may be sold by the package from premises licensed for on-premises consumption of distilled spirits; provided that this provision shall not prohibit the serving of a single can or bottle of malt beverage or wine to any patron for consumption on the premises where such sale is otherwise lawful. On-premise consumption dealers, other than brewpub licensees, who are also licensed to sell malt beverages, wine, or malt beverages and wine by the package for consumption off the premises, may sell beer or wine by the package for carryout purposes:

- (1) On any day or at any time when the package sale of beer or wine is not otherwise prohibited by law, and
- (2) At any location which is not within distances to grounds or buildings where the sale of alcoholic beverages by the package is otherwise prohibited by law.

Notwithstanding the foregoing, a restaurant that holds an on-premises consumption license for wine may allow a patron to remove a partially consumed bottle of wine which was:

- (1) Purchased, and partially consumed in conjunction with a meal purchased from the licensee and consumed on the premises;
- (2) Securely resealed with tamper resistant tape by the licensee; and
- (3) Placed in a bag or container that is secured in such a manner that it would be visibly apparent if the container has been subsequently opened or tampered with, along with an affixed, dated receipt indicating the terms of purchase.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-91. Other mercantile businesses prohibited.

An on-premise consumption licensee shall not operate such business in connection with any other establishment, except a bed and breakfast, specialty wine shop, eating establishment, hotel, private club, or farm winery tasting room, as defined in this chapter; provided, however, that licenses for consumption of distilled spirits, malt beverages and wine for consumption on the premises may be issued to the same licensee. Promotional products, such as logo'ed shirts, hats, glasses, cups, and similar items may be offered for sale or given free of charge for advertising purposes. When not operated in connection with an eating establishment, food and snacks may be offered to customers without charge.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-92. Premises to be well lighted.

The exterior of each building in which alcoholic beverages are sold for on-premises consumption shall contain sufficient lighting so that all sides of the buildings and all entrances thereto are clearly visible at all times when the premises are open for business. Also, the lounge and restaurant area, including all tables, booths, and other areas where customers are served, and all passageways for customers shall be sufficiently well illuminated so that they may be viewed by those in the premises.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-93. Disturbances, obscenities on premises.

No licensee shall permit any disturbance of the peace, obscenity or public indecency on its premises.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-94. In-room sales in hotels.

Licenses obtained by hotels shall include the right to serve alcoholic beverages by the drink to registered guests in the lounge or restaurant area, as well as to deliver alcoholic beverages in unbroken packages to registered guests' rooms when such beverages have been ordered by such guests and/or to provide a cabinet or other facility in a hotel guest's room which contains alcoholic beverages for which licensed, and which is provided upon written request of the guest, and which is accessible by lock and key only to the guest, and for which the sale of the alcoholic beverages contained therein is final at the time requested, except for a credit which may be given to the guest for any unused and unopened portion. All alcoholic beverages sold or distributed under this section shall be obtained by the hotel directly from a licensed wholesaler or distributor and shall be stored on the premises of the hotel until sold or served.

(Ord. No. 15-06, § 1, 9-21-2015)

Secs. 6-95—6-97. Reserved.

ARTICLE VI. ANCILLARY LICENSES AND REGULATIONS

Sec. 6-98. Alcohol caterers; event permit for catered functions.

(a) As used in this section, the term:

- (1) "Licensed alcoholic beverage caterer" means any person, other than a private club licensee, who holds a valid license from the state and any county or municipality in this state wherein the caterer's place of business is located which authorizes the licensee to sell off-premises, by the drink on the premises where sold or delivered, wine, malt beverages or distilled spirits.
- (2) "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.

(b) Any person who holds a valid license from the county or municipality wherein his place of business is located, which authorizes the licensee to sell distilled spirits, malt beverages, or wine by the package or by the drink for consumption on the premises may apply to the city manager for a license to distribute distilled spirits, malt beverages, or wine by the drink off-premises within the city at authorized catered functions for which an event permit has been issued. Applications shall be supported by evidence of required licenses in good standing and tender of the annual licensing fee.

(c) Any person licensed by the city as an alcoholic beverage caterer may apply to the city manager for an event permit to sell distilled spirits, malt beverages or wine, by the drink off-premises within the city at authorized catered functions. Applications shall be supported by tender of the event permit fee.

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- (d) The event permit application shall include the name of the caterer, together with his license number; the date, time and duration of the event; the name and address of the event host or sponsor, and, if different, the address of the location where the event will be held. 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. Each event permit shall require payment of a \$25.00 fee; provided, however, if the caterer does not maintain a place of business within the city, in addition to the above fee, there is hereby levied an excise tax upon the total quantity of alcoholic beverages brought into the city for such event. At all times during which an authorized catered function is taking place, or alcoholic beverages are being transported within the city, the licensee shall maintain the original off-premises license and event permit in the vehicles used for transporting the alcoholic beverages. No event permit shall be issued for more than three consecutive days and a full permit fee shall be assessed for each day of the event.
- (e) The licensed alcoholic beverage caterer shall provide such personnel as needed to handle all beverage alcohol served or dispensed at the catered event. This shall include bartending, dispensing, serving, providing, or furnishing of alcoholic beverages. Employees of a licensed alcoholic beverage caterer shall be 21 years of age or older in order to handle beverage alcohol at such catered event. Only when the sale of beverage alcohol is authorized on Sunday by state law and local ordinance shall the sale of alcohol be allowed on Sunday by a licensed alcoholic beverage caterer.
- (1) Any person violating any of the provisions of O.C.G.A. § 3-114 regulating off-premises consumption sales by licensed alcoholic beverage caterers shall be tried, upon citation returnable to the municipal court, for a violation of this chapter, and, if convicted, punished in the manner hereinafter provided.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-99. Ancillary malt beverage and wine tasting license; event regulations.

- (a) The holder of a package malt beverage license, with or without a package wine license, but in no event with a package distilled spirits license, shall be eligible for an ancillary license to provide samples and conduct tastings in conjunction with education and appreciation classes of malt beverages offered for sale to customers under the conditions set forth in this section.
- (b) The holder of a package wine license, with or without a package malt beverage license, but in no event with a package distilled spirits license, shall be eligible for an ancillary license to provide samples and conduct tastings in conjunction with

education and appreciation classes of wines offered for sale to customers under the conditions set forth in this section.

- (c) Wine samples shall be available only at the customer's request and shall be limited to no more than two ounces per sample, not to exceed a maximum of eight ounces within a consecutive two-hour period, not to exceed once per day. Malt beverage samples shall be available only at the customer's request and shall be limited to no more than four ounces per sample, not to exceed a maximum of 16 ounces within a consecutive two-hour period, not to exceed once per day. Malt beverage and wine sampling is to be conducted during regular business hours only.
- (d) Tastings may be held in conjunction with beer and/or wine education and appreciation classes conducted outside of normal business hours or during normal business hours if the event is held in a separate tasting room. Tastings shall be limited to no more than two ounces of each beer or wine, and no patron shall exceed a maximum of six beer or wine products within a consecutive three-hour period, not to exceed once per day. No licensee shall conduct more than one tasting event per day, with a maximum two per calendar month. Malt beverage and wine tastings may be paired with food items.
- (e) In the event that the tasting is to benefit a charity, the name of the charity and fee shall be prominently posted at the event. Licensees shall maintain records of receipts from donors and evidence the net proceeds were paid to the designated charity. Beer or wine shall only be dispensed or poured by the licensee or its employees and no open containers shall be removed from the licensed premises.

(Ord. No. 15-06, § 1, 9-21-2015)

ARTICLE VII. EXCISE TAXES

Sec. 6-100. Taxes imposed.

In addition to the license fees required in this chapter and in addition to the excise taxes levied by the state, all licensees hereunder shall pay to the city the taxes imposed in this article.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-101. Package sales; amount and payment of the tax.

- (a) There is hereby imposed an excise tax on alcoholic beverages in the following amounts:
 - (1) On the package sale of distilled spirits and on the sale of distilled spirits to private clubs, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(2) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15½ gallons and a proportionate tax at the same rate on all fractional parts of 15½ gallons;

(3) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 per 12 ounces and a proportionate tax on all fractional parts of 12 ounces;

(4) On the first sale or use of wine, a tax of \$0.22 per liter and a proportionate tax at the same rate on all fractional parts of a liter.

(b) The excise taxes provided in subsection (a) shall be imposed upon and shall be paid by the licensed wholesale dealer.

(c) Each wholesaler responsible for the payment of the excise tax shall file a report with the city itemizing for the preceding calendar month the exact quantities of alcoholic beverages, by location, by size and type of container, sold during the preceding month in the city.

(d) The wholesale dealer shall remit the tax imposed herein to the city on the tenth day of the month following the calendar month in which the alcoholic beverages are sold or dispensed.

(e) Licensees shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-102. Distilled spirits for consumption on premises.

(a) There is imposed a sales tax on the sale of distilled spirits by the drink, which tax shall be three percent of the charge to the public, members or guests for the beverages. This tax does not apply to the sale of fermented beverages made in whole or in part from malt or any similar fermented beverage, nor to wines for which an excise tax has already been paid under section 6-101. each retail consumption licensee shall collect, report and remit the tax in the manner described in sections 6-103 through 6-105.

(b) Licensees shall purchase alcoholic beverages only from wholesalers or distributors licensed by the state. All sales must be to the establishment designated on the license. No transfers, borrowing or internal sales or transfers from one licensed retailer to another shall be permitted.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-103. Distilled spirits for consumption on premises; itemized billing by licensee; liability for payment of tax.

Every licensee shall, at the time of collecting for food and drinks served, give to the purchaser a receipt on which the price of alcoholic beverages served shall be itemized separately. Where the charges for food and drink are satisfied by credit or deferred payment, the payment of the tax to the licensee may be deferred in like manner, however, the licensee shall be liable therefor at the time and to the extent that such credits are incurred.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-104. Distilled spirits for consumption on premises; collection of tax by licensee

Every licensee or its agent is hereby authorized and directed to collect the tax herein imposed from purchasers of distilled spirits by the drink sold within its licensed premises. Such licensee or agent shall furnish such information as may be requested by the city clerk to facilitate the collection of this tax.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-105. Distilled spirits for consumption on premises; tax payment and collection procedures.

- (a) *Due date of taxes.* All taxes collected by any licensee or agent hereunder shall be due and payable to the city on or before the tenth day of every month next succeeding each respective calendar month, as set forth herein.
- (b) *Return; time of filing; persons required to file; execution.* On or before the tenth day of the month, a return for the preceding calendar month shall be filed with the city clerk in such form as the city clerk may prescribe by every licensee or agent liable for the payment of tax hereunder.
- (c) *Contents of return.* All returns shall show the gross receipts from the sale of distilled spirits by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the city clerk.
- (d) *Delivery of return and remittance.* The person required to file the return shall deliver the return, together with the remittance of the net amount of tax due to the city clerk.
- (e) *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 paying the amount due, if the amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state sales tax under the Georgia Retailers' and

Consumers' Sales and Use Tax Act, approved February 20, 1951 (Georgia Laws 1951, p. 360), as now or hereafter amended.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-106. Determinations of deficiencies or in absence of return; overpayments; delinquency and fraud.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the city clerk is not satisfied with the return or returns of the tax or the amount of the tax or the amount of the tax required to be paid to the city by any person, the city clerk may compute and determine the amount required to be paid upon the basis of any information within his or her possession or that may be made of the amount due for one or more than one calendar month.
- (b) *Estimate of gross receipts in absence of return.* If any licensee fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the period or periods in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Upon the basis of this estimate, the city clerk shall compute and determine the amount required to be paid to the city. One or more determinations may be made for one or for more than one period.
- (c) *Offsetting of overpayments.* In making a determination, the city clerk may offset overpayments, for a period or periods, against underpayments, for another period or periods, against penalties, and against the interest on underpayments. The interest on overpayments shall be computed in the manner set forth in section 3-109.
- (d) *Time within which notice of deficiency determination to be mailed.* Promptly after making his or her determination, the city clerk shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notices in section 6-32. Except in the case of fraud, intent to evade this article or authorized rules or regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period should last expire.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-107. Delinquent tax collection; duty of assignees to withhold taxes; liability; offsetting of erroneous collections.

- (a) *Action for tax; time therefor.* At any time within three years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of the state, or of the United States, to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorneys' fees, costs of collection and other legal fees incident thereto.
- (b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any licensee liable for any amount under this article sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the city clerk showing that he has been paid, or a certificate stating that no amount is due.
- (c) *Liability for failure to withhold; certificate of notice of amount due; time to enforce successor's liability.* If the purchaser of a business fails to withhold the necessary amount from the purchase price as heretofore required, the purchaser becomes personally liable for the payment of the amount required to be withheld by it to the extent of the purchase price valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the city clerk shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the city of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall begin at the time the licensee sells out his business or at the time that the determination against the licensee becomes final, whichever event occurs later.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-108. Tax credit penalty or interest paid more than once or illegally collected.

Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city under this article, it may be offset as provided in section 6-106(c). If the licensee determines that it has overpaid or paid more than once, which fact has not been determined by the city clerk, it will have three years from the date of payment to file a claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the city, the excess amount paid the city may be credited on amounts then due and payable from the licensee by whom it was paid or its administrators or executors.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-109. Failure to pay tax; penalties and interest.

- (a) *Delinquent penalty.* Any person who fails to pay the tax herein imposed to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a civil penalty of 15 percent of the tax, or amount of the tax, in addition to the tax or the amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in subsection (b).
- (b) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month, or fraction thereof, from the tenth day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
- (c) *Penalty; negligence or disregard of rules and regulations.* If any part of the deficiency for which a deficiency determination has been made is due to gross negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a).
- (d) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination has been made is due to fraud or an intent to evade any provision of this chapter or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto in addition to the 15 percent prescribed by subsection (a).

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-110. Administration and enforcement authority; recordkeeping; confidentiality of reports.

- (a) *Authority of the city clerk.* The city clerk shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.
- (b) *Rules and regulations.* The city clerk shall have the power and authority to make and publish reasonable rules and regulations, subject to the approval of the mayor and council, not inconsistent with this article or other laws of the city and the state, or the constitution of the state or the United States for the administration and enforcement of the provisions of this article and the collection of the taxes hereunder.
- (c) *Records required from licensee: form.* Every licensee for the sale of alcoholic beverages in the city shall keep all invoices relating to each purchase of alcoholic beverages and such other records, receipts, invoices and other pertinent papers in such form as the city clerk may require.
- (d) *Authority to require reports; contents.* In the administration of the provisions of this article, the city clerk may require the filing of reports by any person or class of

persons having in such person's or persons' possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The reports shall be filed with the city clerk and shall set forth the price charged for each sale, the date or dates of sales, and such other information as the city clerk may require.

- (e) *Wholesaler records.* Every distributor, wholesale dealer and manufacturer required to make reports under this article shall keep accurate and complete records of all sales of distilled spirits, malt beverages and wine to any package dealer or on-premise consumption dealer and of all reports made to the city for a period of four years from the time the tax to which they relate becomes due or the date the tax is paid, whichever is later, which records shall be made available for inspection by the city clerk or the city manager at all reasonable times and places.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-111. Examination of records; audits.

The city clerk or any person authorized in writing by the city may examine the books, papers, records, financial reports, equipment and other facilities of any licensee liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the licensee, to ascertain and determine the amount required to be paid. In the event a city audit discloses a deficiency of more than three percent over what has been returned and remitted, the licensee shall reimburse the city for all costs of the audit, including but not limited to, accountant's fees and out of pocket expenses, the value of time expended by city employees in the investigation, including reasonable cost of overhead, and all attorney's fees and costs of collection if action must be instituted by the city.

(Ord. No. 15-06, § 1, 9-21-2015)

Sec. 6-112. Unlawful retail sales.

No person shall sell at retail by the package or for consumption on the premises within the city any alcoholic beverage on which the taxes imposed by this chapter have not been paid.

(Ord. No. 15-06, § 1, 9-21-2015)

Secs. 6-113—6-119. Reserved.

ARTICLE VIII. VIOLATIONS; PENALTIES

Sec. 6-120. Violations; penalty.

- (a) Any person found guilty of or entering a plea of guilty or nolo contendere to the offense of failing to pay the tax due, either in whole or in part, shall, upon

conviction thereof, be ordered to tender the tax found due and be assessed a fine not to exceed \$1,000.00 for each such offense. Each such person shall be guilty of a separate offense for each and every day during which any portion of the amount due remains unpaid. Any person found guilty of or entering a plea to violating any other provision of this article shall be deemed guilty of an offense and shall be subject to a fine not to exceed \$1,000.00, imprisonment not to exceed six months, or both such fine and imprisonment.

- (b) Any act which may be construed as a subterfuge in an effort to circumvent any of the provisions of this article shall be deemed a violation of the rule or regulation attempted to be circumvented and, upon conviction, subject to the penalties set forth above.

(Ord. No. 15-06, § 1, 9-21-2015)”

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Senoia, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter. The city attorney is directed and authorized to direct the codifier to make necessary minor, non-substantive corrections to the provisions of this Code, including but not limited to, the misspelling of words, typographical errors, duplicate pages, incorrect references to state or federal laws, statutes, this Code, or other codes or similar legal or technical sources, and other similar amendments, without necessity of passage of a corrective ordinance or other action of the Mayor and Council. The city clerk shall, upon the written advice or recommendation of the city attorney and without the necessity of further council action, alter, amend or supplement any non-codified ordinance, resolution or other record filed in his or her office as necessary to effect similar non-substantive changes or revisions and ensure that such public records are correct, complete and accurate.

Section 5. This ordinance shall become effective immediately upon adoption on second and final reading; provided no license shall be issued for a retail distilled spirits package store before January 2, 2022. Applications may be accepted by the City on or after December 7, 2021 and processed in the order received.

First Reading: December 17, 2021

Second Reading: January 3, 2022

