

STATE OF GEORGIA  
COUNTY OF FULTON

AN ORDINANCE TO ADOPT AND APPROVE AN ORDINANCE RELATING TO  
ALCOHOLIC BEVERAGES AND PROVIDING FOR THEIR INCLUSION AND  
IDENTIFICATION IN THE FUTURE DEVELOPED CODE OF ORDINANCES FOR THE  
CITY OF SANDY SPRINGS TO BE REFERENCED IN THE FUTURE AS CHAPTER 7  
(ALCOHOLIC BEVERAGES) AS ATTACHED HERETO AND INCORPORATED HEREIN.  
LESS AND EXCEPTING FEES AS ENUMERATED THEREIN AND REPEALING  
CHAPTER 6, ALCOHOLIC BEVERAGES, CODE LAWS OF FULTON COUNTY, GA,  
PART II, CODE OF ORDINANCED AND RESOLUTIONS, SUBPART A, CODE OF  
ORDINANCES, APPENDIX A

BE IT ORDAINED by the City Council of the City of Sandy Springs, GA while in regular session on December 1, 2005 at 12:01 a.m. as follows:

SECTION 1. That the Ordinance relating to Alcoholic Beverages is hereby adopted and approved; and is attached hereto as if fully set forth herein, and;

SECTION 2. That this Ordinance shall be designated as Chapter 7 of the Code of Ordinances of the City of Sandy Springs, GA; and,

SECTION 3. This Ordinance is effective December 1, 2005; and,

SECTION 4. That this Ordinance shall become effective upon its adoption.

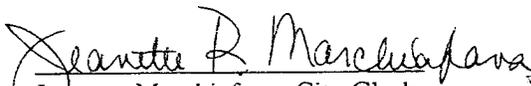
ORDAINED this the 1<sup>st</sup> day of December, 2005.

Approved:



Eva Galambos, Mayor

Attest:



Jeanette Marchiafava, City Clerk

(Seal)



## Chapter 7: Alcoholic Beverages

### ARTICLE 1: General Provisions

#### *Section 1. Sale in city; license a privilege*

- (a) Alcoholic beverages may be sold in the City under a license granted by the Mayor and City Council upon the terms and conditions provided in this section.
- (b) All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and state law.
- (c) All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled, and is subject to any further ordinances which may be enacted."
- (d) Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, City licensees are required to abide by all applicable state regulations and laws.  
State law references: Permit or license from governing authority required for wholesale or retail sales of alcoholic beverages; due process guidelines; fingerprints, O.C.G.A. § 3-3-2.

#### *Section 2. Definitions*

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

- (a) "*Alcohol*" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) "*Alcoholic beverage*" means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.
- (c) "*Beer or malt beverage*" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than six percent alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic" beer," which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than 0.1 percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.
- (d) "*Bottle house*" means any place of business open to the public or any private club which allows guests, patrons or members to bring in and consume the guest's, patron's or member's alcoholic beverages on the premises.

(e) “*Brewpub*” means any eating establishment in which beer or malt beverages are manufactured or brewed, 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. As used in this article, the term “eating establishment” means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least fifty (50) percent of its annual gross food and beverage sales from the sale of prepared meals or food.

(f) “*Distilled spirits or spirituous liquor*” means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

(g) “*Eating establishment*” means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator all of which must be approved by the health and fire departments. An eating establishment will be prepared to serve food every hour they are open and will derive as least fifty (50) percent of its annual gross food and beverage sales from the sale of prepared meals or food.

(h) “*Fortified wine*” means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. Fortified wine includes, but is not limited to, brandy.

(i) “*Governing authority*” means the Mayor and City Council of Sandy Springs, Georgia.

(j) “*Hotel*” means any building or other structure providing sleeping accommodations for hire to the general public, either transient, permanent or residential. Such hotels shall maintain a minimum of 50 rooms available for hire and have one or more public dining rooms with an adequate kitchen. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this chapter and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

(k) “*License*” means an authorization granted by the City to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

(l) “*Licensee*” means the individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation.

(m) “*Liter*” means metric measurement currently used by the United States.

(n) “*Manufacturer*” means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means: in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; in the case of malt beverage, any brewer; in the case of wine, any vintner.

(o) “*Package*” means a bottle, can, keg, barrel, or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

(p) “*Person*” means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.

(q) “*Pouring permit*” means an authorization granted by the City to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

(r) “*Retail consumption dealer*” means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

(s) “*Retail package dealer*” means any person who sells unbroken packages, at retail, only to consumers and not for resale.

(t) “*Wholesaler or wholesale dealer*” means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

(u) “*Wine*” means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine 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 “wine” 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 the point in the manufacturing process when it conforms to the definition of wine contained in this section.

### Section 3. Penalties for violation of chapter

Any person who violates any provisions of the sections in this chapter may, upon conviction, be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the City jail, unless a different penalty is set out in this chapter.

### *Section 4. Sale or possession for sale without license or beyond boundaries of premises covered by license*

It shall be unlawful for any person to sell or possess for the purpose of sale any alcoholic beverage where the person does not have a license granted by the City to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall result in a fine of not less than \$300.00 and/or 30 days in jail.

### *Section 5. Distance requirements*

(a) No person may sell or offer to sell any distilled spirit in or within 100 yards of a church building or within 200 yards of any school building, educational building, school grounds, or college campus.

(b) No person may sell or offer to sell any wine or malt beverage within 100 yards of any school building, school grounds, or college campus.

(c) As used in this section, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools and private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered.

(d) The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.

(e) For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;
- (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
- (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
- (4) To the main entrance of the church building, or to the nearest portion of the school grounds.

(f) No location which is licensed to sell alcoholic beverages on the effective date of the ordinance from which this section derives shall be denied continued operation under an existing license, nor shall any new owner of the location be denied a new license based upon the measurements set forth in this Section 5.

(g) As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the issuance of a new license to any subsequent owner of such property. Provided, however, that the distance requirements herein shall not apply at any location for which a new license is applied for if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application.

State law references: Sales of alcoholic beverages near churches, schools or college campus, O.C.G.A. § 3-3-21.

#### *Section 6. Temporary licenses for the sale of alcoholic beverages*

(a) The City Manager is hereby authorized to issue temporary licenses for the sale of alcoholic beverages, either malt beverages and wine or distilled spirits, subject to the conditions set forth in this section.

(b) Temporary licenses may be issued for such period as may be determined by the City Manager, not to exceed sixty (60) days. No such license shall be issued unless:

- (1) A written application for the same is filed with the City Manager.
- (2) An application for a permanent license, together with payment in full fee thereof, has been deposited with the City Manager.
- (3) The City Manager is satisfied that the location for the proposed license substantially complies with the provisions of the ordinance authorizing such license in Sandy Springs.
- (4) The denial of a temporary license would create undue hardship upon the applicant, such as the closing of an existing business or delaying of the opening of a new business.
- (5) There is payment of the fees prescribed by this section.
- (6) There is an agreement by the applicant that the temporary license may be revoked, with or without cause, by the City Manager at any time.

(c) The fee for issuance of a temporary license under this section shall be as follows:

- (1) Sale of distilled spirits for consumption on the premises, \$500.00;
- (2) Sale of beer and wine, package sales, \$200.00;
- (3) Sale of beer and wine for consumption on the premises, \$250.00;
- (4) Sale of distilled spirits, package sales, no temporary license permitted; and
- (5) Wholesaler's or distributor's license, \$750.00.

(d) The grant or denial of a temporary license under the provisions of this section shall not affect or have any bearing upon the grant or denial of a permanent license.

State law references: Local license required for wholesale or retail sales of wine, O.C.G.A. § 3-6-40.

*Section 7: Separate application and separate license for each location of sale*

Separate applications must be made for each location and separate licenses must be issued.

*Section 8: Application forms*

(a) All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the City Manager.

(b) The application shall include but shall not be limited to the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and residence address of the partners; if a corporation, the names of the officers; the names and address of the registered agent for service of process; the name of the manager(s); and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought. If the manager changes, the applicant must furnish the business license director and police department the name and address of the new manager and other information as requested within ten days of such change.

(c) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the City Manager and to ensure compliance with the provisions of this chapter.

Failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.

(d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

(e) In all instances in which an application is denied under the provisions of this chapter the applicant may not reapply for a license for at least one year from the final date of such denial.

(f) The City Manager shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.

#### *Section 9: Withdrawal of application*

Any license application made pursuant to this chapter may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required in this chapter.

#### *Section 10: Licensing qualifications*

(a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Where the applicant is a partnership or corporation, the provisions of this section shall apply to all its partners, officers and majority stockholders. In the case of a corporation the license shall be issued jointly to the corporation and the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this chapter. In the case of a partnership, the license will be issued to all the partners owning at least 20 percent of the partnership; or if no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed.

(c) No person shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the City Manager or his designee that such person, partners in the firm, officers and directors of the corporation have not been convicted or plead guilty or entered a plea of *nolo contendere*, and has been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment, has been convicted or has pleaded guilty or entered a plea of *nolo contendere* and has been released from parole or probation to any crime involving

moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. An applicant's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a City ordinance shall not, by itself, make an applicant ineligible for an alcohol license. Should any applicant, partner, or officer used in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or *nolo contendere* to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages, including sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be immediately revoked and canceled.

(d) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten years prior to the filing of application for such license.

(e) It shall be unlawful for any City employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the city.

(f) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of any jurisdiction within the State of Georgia previously revoked within two years prior to the filing of the application.

(g) The City Manager may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.

(h) All licensed establishments must have and continuously maintain in the City a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the city. The licensee shall file the name of such agent, along with the written consent of such agent, with the City Manager and shall be in such form as he may prescribe.

(i) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.

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

(k) The City Manager, in his discretion, may consider any extenuating circumstances which may reflect favorably or unfavorably on the applicant, application or the proposed location of the business. If in his judgment circumstances are such that granting of the license would not be in the best interest of the general public, such circumstances may be grounds for denying the application.

(l) For purposes of this chapter, a conviction or plea of guilty of *nolo contendere* shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

State law references: Governing authority shall set forth ascertainable standards pertaining to the granting, refusal, suspension or revocation of alcoholic beverage permits or licenses, O.C.G.A. § 3-3-2.

#### *Section 11: License fee scale*

Before a license may be granted, the applicant therefore shall comply with all rules and regulations adopted by the Mayor and City Council regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Mayor and City Council contained in section 12 and kept on file in the office of the City Manager.

#### *Section 12: Fees enumerated*

License fees applicable to this chapter are set out as follows:

- (a) Retail dealers of distilled spirits to be consumed on the premises, \$3,200.00 per year;
- (b) Retail dealers of beer or malt beverages to be consumed on the premises, \$650.00 per year;
- (c) Retail dealers of wine to be consumed on the premises, \$650.00 per year;
- (d) Retail dealers of beer or malt beverages and wine to be consumed on the premises, \$1,000.00 per year;
- (e) Retail dealers of beer or malt beverages sold in original packages for consumption off the premises, \$300.00 per year.
- (f) Retail dealers of wine sold in original packages for consumption off the premises, \$300.00 per year.
- (g) Retail dealers of beer or malt beverages and wine sold in original packages for consumption off the premises, \$600.00 per year.

- (h) Wholesale dealers in beer or malt beverages, whose principal place of business is in the city, \$360.00 per year.
- (i) Wholesale dealers in wine, whose principal place of business is in the city, \$360.00 per year.
- (j) Wholesale dealers in beer or malt beverages and wine, whose principal place of business is in the city, \$720.00 per year.
- (k) Any additional fixed bar at any previously licensed location for consumption of distilled spirits on the premises, \$1,000.00 per year.
- (l) Any movable bar at any previously licensed location for consumption of distilled spirits on the premises, \$1,000.00 per year.
- (m) Hotel-motel in-room service, \$100.00 per year.
- (n) Wholesale dealers in distilled spirits, \$4,500.00 per year.
- (o) Brewpub, \$750.00 per year.

The foregoing fees shall be in addition to any excise tax lawfully imposed.  
State law references: Maximum license fee, O.C.G.A. § 3-4-50.

*Section 13: Collection of fees or taxes sums due*

If any person shall fail to pay the sum due under this chapter, the City Manager or his/her designee shall issue an execution against the person so delinquent and his property, for the amount of the delinquent fee or tax.

*Section 14: Transferability of license*

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur, provided that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the City Manager.
- (c) If a license is surrendered or a licensee severs his association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined by the City Manager to be the date of severance, provided no such sale shall be authorized until such time as a new application for a license is made. The application shall indicate that no change of ownership has occurred, except as excepted in this section. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No

additional license fees shall be required during the period for which the original license was issued.

(d) Nothing in this section, however, shall prohibit one or more of the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a total of ten percent or more of any class of stock.

(e) Except as provided in subsections (a) through (d) of this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license pursuant to this chapter automatically, without the necessity of any hearing.

(f) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$300.00 and/or 30 days in jail. No license will be issued to the old or the new owner in the county for one year from the date of the violation.

(g) Should a licensee make application to the City Manager for a transfer of location and should such a transfer of a location be approved, with no change of ownership of the business, the license fee paid for the previous license shall be applied to the new location. Each applicant for a transfer of location shall pay a transfer fee in the amount of \$300.00.

#### *Section 15: Display of license at place of business*

The City alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

#### *Section 16: Expiration; non-renewability of license*

(a) All persons, firms, companies, or corporations, including limited liability corporations and professional corporations, licensed to sell alcoholic beverages in the municipal limits of the City of Sandy Springs previously registered with Fulton County, Georgia shall file a new application for a license to sale alcoholic beverages with the City of Sandy Springs no later than December 20, 2005.

(b) All licenses granted after December 20, 2005 and under this chapter shall expire on December 31 of each year, commencing December 31, 2006. Licensees shall be required to file a new application, with the requisite fee enumerated in Section 11, with the City Manager on the form provided for a new license for the ensuing year. Such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. For any applications for a new license after January 1, 2006, an application must be filed on or before November 30 of each year. Any applications received after November 30 shall pay in addition to the annual fee, a late charge of 20 percent. If a license application is received after January 1, investigative and administrative costs will be assessed as may be prescribed from time to time by the Mayor and City Council.

(c) All licenses granted under this chapter shall be for the calendar year, and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full license fee shall be paid for any license application filed after July 1 of the license year except for applications for temporary licenses under Section 6..

(d) Any person applying for a new license issued under this chapter who shall pay the required fee, or any portion thereof, after January 1, shall, in addition to the annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes.

*Section 17: Automatic license forfeiture for nonuse*

Any holder of any license under this chapter who shall for a period of three consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the three-month period, automatically forfeit the license without the necessity of any further action.

*Section 18: Suspension or revocation of license*

(a) A license may be immediately suspended or revoked by the City Manager where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter.

(b) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the City license shall thereupon be automatically revoked. The chief of police, upon notice of this revocation from the City Manager, shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.

(c) Any licensed establishment that is found to be in violation of section 35 shall be subject to immediate license revocation.

(d) The City Manager shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12-month period.

(e) The City Manager shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.

(f) The City Manager may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to him/her.

(g) An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the licensee to suspension or revocation of its license in accordance with the provisions of this chapter, when the City Manager determines to his own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues; provided, however, in the case of an employee, the City Manager must determine that the acts of the employee were known to or under reasonable circumstances should have

been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.

(h) Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city.

(i) Wherever this chapter permits the City Manager to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

(1) No suspension shall be for a period of time longer than the time remaining on such license.

(2) The following factors shall be considered on any revocation or suspension as set out above:

- a. Consistency of penalties mandated by this chapter and those set by the City Manager.
- b. Likelihood of deterring future wrongdoing.
- c. Impact of the offense on the community.
- d. Any mitigating circumstances or remedial or corrective steps taken by licensee.
- e. Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.

### *Section 19: Hearings*

(a) No license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. This provision does apply to pouring permits for employees.

(b) The City Manager shall provide written notice to the applicant or licensee of his or her order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this ordinance. Any applicant or licensee who is aggrieved or adversely affected by a final action of the City Manager may have a review thereof by appeal to the Mayor and City Council. Such appeal shall be by written petition, filed in the office of the City Manager within 15 days after the final order or action of the City Manager and in order to defray administrative costs, must be accompanied by a filing fee of \$500.00; except that the filing fee for appeals relating only to pouring permits for employees shall be \$50.00. The City Manager, at his/her discretion, may waive or reduce the filing fee amount if its determined the fee would create a hardship on the individual filing said appeal. The Mayor and City Council may, at the request of the appellant, refund the filing fee by a majority vote.

(c) A hearing shall be conducted on each appeal within 30 days of the date of filing with the City Manager unless a continuance of such date is agreed to by the appellant and the City Manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be

made at least three days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, the Mayor or each member of City Council shall sign an affidavit to be part of the record that he or she is not related to or personal friends with any owner of the licensed establishment in question in the appeal being considered and that he or she has no financial interest in the outcome of the appeal. Should the Mayor or any member be unable to sign such an affidavit, the Mayor or that member shall not serve on that appeal and the case shall be heard by the remaining members of the Mayor and City Council.

(d) The findings of the Mayor and City Council shall be forwarded to the City Manager within 15 days after the conclusion of the hearing, and it shall be the duty of the City Manager to notify the appellant of the action of the Mayor and City Council.

(e) The findings of the Mayor and City Council shall not be set aside unless found to be (1) contrary to law or ordinances, or (2) unsupported by substantial evidence on the records as a whole, or (3) unreasonable.

(f) The findings of the Mayor and City Council shall be final unless appealed within 30 days of the date of said finding by certiorari to the superior court of the county.

#### *Section 20: Notice*

For the purpose of this chapter, notice shall be deemed delivered personally, or served by certified mail within three days after the date of deposit in the United States mail.

#### *Section 21: Advertising; location requirements; signs*

(a) No outdoor advertising or signs with respect to the promotions of the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any retail package outlet, on the premises consumption dealer or in the windows of any such establishment that may be viewed from outside.

(b) No signs shall be erected anywhere in the City advertising or promoting the sale of alcoholic beverages, except that a store displaying its merchandise may, in the same manner as such other merchandise is displayed, erect a sign or signs indicating the counter on which the merchandise is displayed provided the lettering of such signs does not exceed in size the lettering of such signs on other counters where other products are sold. The name, brand or type of alcoholic beverage served and the price per serving may be provided to customers on a regular printed menu.

(c) *Sign limitations.* Retail package licensees shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed, the price of an alcoholic beverage exposed or offered for sale. No other sign may be exposed prominently within or without the retail establishment showing prices or indicating that alcoholic beverages are for sale on the premises.

(d) Alcoholic beverages may not be priced on signs, menus or any place else allowed by this Code except as to single units or unbroken package quantities.

*Section 22: Audits of licensees*

(a) If the City Manager deems it necessary to conduct an audit of the records and books of the licensee, he shall notify the licensee of the date, time and place of the audit. The City Manager may designate the city's internal auditor or other designated person to perform any audit authorized in this Code. The licensee shall cooperate with the audit or forfeit any license(s) issued under this chapter.

(b) All licensed establishments must maintain the following records for a three-year period and make them available for audit at the licensed premises:

- (1) Monthly income or operating statements.
- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly state sales and use tax reports.
- (5) Federal income tax return with all Form 1099's.

The City Manager can waive all or some of the requirements of the foregoing sentence if the City Manager finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records.

*Section 23: Retailer to purchase from licensed wholesaler only*

(a) No retailer shall purchase alcoholic beverages from any person other than a wholesaler licensed under this chapter. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(b) The City Manager or his/her designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.

*Section 24: Retail consumption dealers to store inventory only on premises*

No retail consumption dealer licensed under this chapter shall keep any beer or malt beverage or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler.

*Section 25: Addition to contents of alcoholic beverages prohibited*

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage manufacturer's container in any manner.

*Section 26: Poured alcohol to be transported by employees*

Poured alcoholic beverages will be transported from point of dispensing to the customer by permitted employees only.

*Section 27: Licensees to maintain a copy of this chapter; employees to be familiar with terms; licensee responsible for violations*

Each alcoholic beverage dealer licensed under this chapter shall keep a copy of this chapter in the licensed premises and shall instruct any person working there with respect to the terms of this chapter; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms of this chapter.

*Section 28: Employment of underage persons prohibited; exceptions*

- (a) No person shall allow or require a person in his/her employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
- (b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets or convenience stores from selling or handling alcoholic beverages which are sold for consumption off the premises.
- (c) It is unlawful for any person under the age of 18 years of age to work as an entertainer in any establishment licensed under this chapter without written consent from parents or guardian.

*Section 29: Failure to require and properly check identification*

It shall be a violation not to require and properly check identification to ensure that an underage person is not sold, served, or does not have in his possession alcoholic beverages while in a licensed establishment. Identification in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card.

*Section 30: Sales to underage persons prohibited*

No holder or employee of the holder of a license authorizing the sale of alcoholic beverages, shall do any of the following upon the licensed premises:

- (a) Sell or offer to sell any distilled spirits, wines, beer or malt beverages, or any other alcoholic beverage to any person under the age of 21 years.
- (b) The prohibition in subsection (a) of this section shall not apply with respect to the sale of distilled spirits to a person when such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is 21 years of age or older. For the purposes of this subsection proper identification means any document issued by a government agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth, including but not limited to, a passport, military identification card, driver's license, or identification card authorized under an act to require the department of public safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.

(c) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to the licensee or his employees.

(d) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.

(e) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in eating establishments, indoor commercial recreational establishments, or private clubs as defined in this chapter without being accompanied by a parent, legal guardian, or custodian and provided further that this section shall not apply to minors who are employees under the terms of this chapter.

(f) The penalty for violation of this section by an individual shall be as follows:

(1) For the first offense, a minimum fine of \$250.00.

(2) For the second offense and subsequent violations within one year, a minimum fine of \$500.00.

(g) Any licensed establishment where three or more violations of this section, or Section 3-3-23 of the Georgia Alcoholic Beverage Laws and Regulations, have occurred within any 36-month period shall be punished as follows:

(1) For the third offense within any 36-month period, suspension of license(s) for a period not to exceed 90 days.

(2) For the fourth and any subsequent violation within any 36-month period, suspension of license(s) for a period not to exceed one year. As to the penalties in subsection (g), if there is a change in a majority of the licensed establishments' owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same.

State law references: Furnishing to, purchase of, or possession by persons under 21 years of age of alcoholic beverages; use of false identification; proper identification for sale of alcoholic beverages; dispensing, serving, etc., of alcoholic beverages by persons under 21 years of age in the course of employment; seller's duty to request proper identification, O.C.G.A. § 3-3-23.

### *Section 31: Purchase or possession of alcoholic beverages by underage persons*

(a) No person under the age of 21 years of age shall purchase or possess any alcoholic beverage.

(b) No person under the age of 21 years of age shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages.

### *Section 32: Regulations as to employees and manager*

The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:

(a) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or serve in any managerial position, by an establishment holding a license under this chapter until such person has been fingerprinted or cleared by the chief of police or his designee, indicating that the person is eligible for such employment.

(b) This section shall not be construed to include volunteer groups with non-profit tax exempt status from the Internal Revenue Service whose volunteer efforts financially benefit a non-profit organization with no direct financial benefit, either by wages, tips or donations, to the individual volunteer. No volunteer under the age of 18 shall be allowed to dispense, sell, serve, take orders or mix alcoholic beverages. Employees of a licensed establishment whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s) shall also be excluded from this section.

(c) No permit shall be issued until such time as a signed application has been filed with the police department, chief of police or designee, and upon paying a fee which shall be established by the Mayor and City Council, and a search of the criminal record of the applicant completed. The application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.

(d) The chief of police or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. If there is no record of a violation of this chapter, the chief of police or his designee shall issue a permit to the person, by mail, stating that the person is eligible for employment. If it is found that the person is not eligible for employment, the chief of police or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.

(e) No person shall be granted a pouring permit unless it appears to the satisfaction of the chief of police or his designee, that such person has not been convicted or pled guilty or entered a plea of *nolo contendere* to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a City ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit.

No person shall be granted a pouring permit who has been convicted, plead guilty or entered a plea of *nolo contendere* to any federal, state, or local law for any felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit. For purposes of this chapter, a conviction or plea of guilt or *nolo contendere* shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (Ga. Laws 1968, p. 324) as amended.

Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

(f) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. As noted in subsection (k) below, the alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the police department or the City Manager's staff.

(g) No person shall be issued a permit if it is determined that the person falsified, concealed or covered up any material fact by any device, trick or scheme while making application to the police department for an alcoholic beverage pouring permit under this section. If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then 30 calendar days must elapse from the date of notification per certified mailing before a new application and fee may be resubmitted.

(h) All permits issued through administrative error can be terminated and seized by the chief of police or his/her designee, or the City Manager or his/her designee.

(i) Replacement permits will be issued within 30 days of original date, upon paying one-half of the fee charged for alcohol pouring permits. After 30 days of original application date, a new application and fee must be submitted.

(j) All permits issued under this chapter remain the property of the police department and shall be produced for inspection upon the demand of any officer or designee of the police department or employee of the business license department.

(k) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless the employee or manager has in their possession a current valid county pouring permit. For new employees, a receipt issued by the county police permit unit may be used for a maximum of 30 days from the date of its issue. Licensees are required by this chapter to inspect and verify that each employee required to do so has in their possession a valid current alcohol pouring permit.

(l) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the chief of police or his/her designee, the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers, twice annually during the month of June and again during the month of December.

(m) Any person(s) convicted of any violation(s) of this section shall receive a minimum fine of \$200.00.

*Section 33: Open area and patio sales*

- (a) Alcoholic beverage sales can be made by a licensed consumption on-premises establishment in a patio/open area type environment if the establishment has been approved to do so by the City Manager.
- (b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
- (c) The height of such structure shall be a minimum of three feet above ground level. It does not have to be solid nor does it have to restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the city's building inspection department and the city's fire department as required by their governing regulations or codes.
- (d) The only exit from this type area is to be through the licensed establishment's main premises and through an approved fire exit, not for general public use unless an emergency exists. The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
- (e) If a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the City Manager. Interior type patio/open sales areas must also meet the requirements of the city's development and fire codes.
- (f) Nothing contained in this section shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel, provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used in this subsection, do not have to conform to the standards in this section.

*Section 34: No consumption outside premises*

- (a) It is prohibited for customers to leave the premises with open alcoholic beverages, and it is the licensee's responsibility to ensure that no open beverages are sold and carried out. However, nothing in this section shall be construed to prohibit the carrying out of wine or malt beverages for consumption at a publicly owned or privately owned golf course.
- (b) It is prohibited for customers to gather outside an alcoholic beverage establishment and consume alcoholic beverages.
- (c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages.

*Section 35: Specifications of premises*

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of the building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The

completed building or the proposed building shall comply with ordinances of the city, regulations of the state revenue commissioner and the state. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building, or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein.

*Section 36: Solicitation prohibited*

No retail consumption dealers licensed under this chapter shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for herself/himself or for the others, the purchase by the patron of any drink, whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the beverage.

*Section 37: Noise from establishments prohibited*

It shall be unlawful for any establishment licensed under this chapter to make or cause to be made any loud, unnecessary or unusual sound or noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in the city, and which is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this chapter between the hours of 10:00 p.m. and 8:00 a.m.

*Section 38: Inspection of licensed establishments by the police department*

Sworn officers of the police department shall have the authority to inspect establishments licensed under the alcoholic beverages ordinances of the City during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this chapter and state law. This section is not intended to limit the authority of any other City officer to conduct inspections authorized by other provisions of this Code.

*Section 39: Establishment can be closed in cases of emergency*

The chief of police, or his designee, may immediately close an establishment licensed under this chapter in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.

*Section 40: Sale on election days*

(a) Pursuant to the delegation of authority granted to this governing authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending O.C.G.A. § 3-3-20(b)(2)(B), the sale of wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages, shall be lawful during the polling hours of any election; provided, however, nothing herein shall authorize the sale of alcoholic beverages within 250 feet of a polling place during such time as the polls are open.

(b) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

State law references: Local governing authority may authorize the sale of alcoholic beverages on election days, O.C.G.A. § 3-3-20.

*Section 41. Bring your own bottle (brown bagging) prohibited*

It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages.

*Section 42: Types of entertainment, attire and conduct prohibited*

Pusuant to The Constitution of the State of Georgia Article 3, Section 6, Paragraph VII:

(a) No person shall perform on a premise licensed hereunder acts of or acts which constitute or simulate:

- (1) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any sexual acts which are prohibited by law;
- (2) The touching, caressing, or fondling of the breast, buttocks, anus, or genitals; or
- (3) The displaying of any portion of the female breast below the top of the areola or the displaying of any portion of any person's pubic hair, anus, cleft of the buttocks, vulva, or genitals.

(b) No person shall use on licensed premises artificial devices or inanimate objects to perform, simulate, or depict any of the prohibited conduct or activities described in subsection (a) of this section.

(c) It shall be unlawful for any person to show, display, or exhibit, on licensed premises, any film, still picture, electronic reproduction, or any other visual reproduction or image of any act or conduct described in subsection (a) or (b) of the section.

**ARTICLE 2. RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES**

*Section 1: Definitions*

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

- (a) “*Applicant*” means the person, partner, firm or corporation, as owner, or other entity authorized to represent the business making application for the license.
- (b) “*Bottle house*” means any place of business open to the public or any private club which allows guests, patrons, or members to bring in and consume the guest’s, patron’s, or member’s alcoholic beverages on the premises.
- (c) “*Distilled spirits,*” as defined in this article, means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wine, as defined in O.C.G.A. § 3-1-2(9), as amended.
- (d) “*Golf club*” means a golf facility consisting of a clubhouse or a professional golf shop and a regulation or executive length golf course of at least nine holes, as recognized by the United States Golf Association, the Professional Golfers Association of America, and the Georgia State Golf Association.
- (e) “*License*” means the authorization by the Mayor and City Council to engage in the sale of distilled spirits by the drink for consumption only on the premises.
- (f) “*Licensee*” means any person, partner, firm, or corporation, as owner, holding a license to engage in the sale of distilled spirits by the drink for consumption only on the premises.
- (g) “*Owner*” means any person, corporation, or partnership or any other entity having a financial interest in the income of the business. “*Owner*” shall also include any person, corporation or partnership operating a business under a management contract.
- (h) “*Premises*” means the definite closed or partitioned-in locality, whether room, shop, or building wherein distilled spirits are dispensed for consumption on the premises by the drink.

*Section 2: Violations of article; misdemeanor*

- (a) A violation of any section of this article shall be unlawful, the penalty shall be as provided by law for misdemeanors. In addition, the license of any licensee contributing thereto shall be subject to suspension or revocation in accordance with section 6-233 of this article.
- (b) Any such violation may be tried in the Magistrates Court of Sandy Springs if no jury trial is demanded, otherwise trial shall be in the State Court of Fulton County.  
State law references: Punishment for misdemeanors generally, O.C.G.A. § 17-10-3; maximum punishments which may be imposed for violations of county ordinances, O.C.G.A. § 36-1-20(b).

*Section 3: Condition of premises; restrictive acts*

- (a) The licensed premises shall be kept clean and shall be in full compliance with all regulations of Sandy Springs governing the conditions of premises.
- (b) The Fulton County Health Department shall regularly inspect such licensed premises to determine that such licensed premises are in compliance with all Fulton County and state health rules and regulations and report any violations to the tax commissioner.
- (c) The Sandy Springs Fire Department shall regularly inspect the premises to see that they are in compliance with all Sandy Springs, Fulton County, and state fire regulations and report any violation to the tax commissioner.
- (d) The Fulton County Inspections Department shall regularly inspect the licensed premises to determine if the premises are in compliance with all technical codes of Sandy Springs and Fulton County and report any violation to the tax commissioner.
- (e) The Sandy Springs Police Department shall periodically inspect the premises to determine if the licensed premises are in compliance with all provisions of this article and report any violation to the tax commissioner.

#### *Section 4: Days allowed for sale*

The sale of alcoholic beverages is authorized on any election day, pursuant to O.C.G.A. § 3-3-20 of this article.

State law references: Sale of alcoholic beverages on Sundays, election days and Christmas Day, O.C.G.A. § 3-3-20; local authorization of Sunday sales, O.C.G.A. § 3-3-7.

#### *Section 5: Hours*

(a) No license holder shall sell, give away, or otherwise dispose of alcoholic beverages on Sunday after the hours of 2:55 a.m., or between the hours of 4:00 a.m., and 9:00 a.m. on other days, provided that this section shall not apply to private clubs. For the purpose of this section, the term "eating establishment" shall mean an establishment which is licensed to sell alcoholic beverages and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food. An eating establishment shall have a fully equipped kitchen to include stove, refrigerator, food preparation area, sink, and other items necessary for the preparation of foods.

(b) All licensed premises, including bottle houses, shall close their premises to the public and clear their premises of patrons within 30 minutes after the time set by this chapter for discontinuance of the sale of alcoholic beverages on the premises.

State law references: Sale of alcoholic beverages on Sundays, election days and Christmas Day, O.C.G.A. § 3-3-20; local authorization of Sunday sales, O.C.G.A. § 3-3-7.

#### *Section 6: Conditions for a licensee's operation*

(a) *Contents of bottles.* It shall be unlawful for licensees hereunder to add to the contents of a bottle or to refill empty bottles or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

(b) *Indication of prices.* All licensees hereunder, except private clubs, shall display in prominent places or on their menus, their current prices of alcoholic beverages by the drink. The licensee shall furnish to any customer that so desires an itemized bill of charges which shall not exceed the established price list. The City Manager, or the City Manager's designee

shall regularly inspect the records of all sales of alcoholic beverages for consumption on the premises and total sales to determine that the licensee is in compliance with this article.

(c) *Distilled spirits by drink; advertising prohibited.* No licensee hereunder shall advertise in any news media or by any other means the fact that alcoholic beverages by the drink may be purchased at such establishment; provided, however, that the licensees hereunder shall be permitted to use the words "your favorite beverages served."

(d) *Sale; location of.* It shall be unlawful for any sales to be made outside of the building, premises, or place of business licensed for such sale except as permitted herein.

(e) *Opened original packages on licensed premises prohibited.* It shall be unlawful for any person except a licensee, his/her manager, or agent in charge of licensed premises, to carry into or have in his possession on any licensed premises, any alcoholic beverages in the original package the seal of which has been broken or the original package opened, provided that this section shall not apply to private clubs.

(f) *Fingerprinting of employees.* No person may be employed by an establishment holding a license hereunder until such person has been fingerprinted by the police department and has been issued a letter of clearance by the police department indicating the person has not violated any law defined by this article. Then a letter of compliance shall be issued by the police department indicating the person is eligible for such employment. This shall include performers, entertainers, bartenders, barmaids, bouncers, and musicians engaged in temporary work, as well as regular employees.

- (1) All persons subject to the provisions of this section shall, within 48 hours after the date of their first work in an establishment holding a permit to sell alcoholic beverages by the drink to be consumed on the premises, report to the Sandy Springs Police Department for purposes of being fingerprinted.
- (2) The police department shall have a complete and exhaustive search made relative to any police record of the person fingerprinted. In the event there is a violation of laws as defined in this article, the police department shall issue a letter to the person fingerprinted stating that the person is eligible for employment.
- (3) Excluded from the provisions of this section are employees whose duties are not in any way involved with the preparation of or service of alcoholic beverages; musicians and entertainers, however, are not excluded.
- (4) Any letter of eligibility for employment issued hereunder shall expire 12 months from the date of issue. The Mayor and City Council may prescribe reasonable fees for certifying the eligibility of employment.

#### *Section 7: No sales to minors or physically or mentally incapacitated persons*

No licensee shall sell or permit to be sold alcoholic beverages to a minor, as defined in O.C.G.A. § 3-3-23, as amended, which reads as follows:

(a) Except as otherwise authorized by law:

- (1) No person knowingly, by himself or through another, shall furnish, cause to be furnished, or permit any person in his employ to furnish any alcoholic beverage to any person under 19 years of age.

- (2) No person under 19 years of age shall purchase or knowingly possess any alcoholic beverage.
- (3) No person under 19 years of age shall misrepresent his age in any manner whatever for the purpose of obtaining illegally 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 19 years of age.

(b) The prohibitions contained in paragraphs (a)(1), (a)(2), and (a)(4) of this section shall not apply to the sale, purchase, or possession of alcoholic beverages for consumption:

- (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.
- (2) At a religious ceremony.
- (3) In the home with parental consent.

(c) The prohibition contained in paragraph (a)(1) of this section shall not apply with respect to sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverage is sold is 19 years of age or older. For purposes of this subsection, 'proper identification' means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, driver's license, or an identification card authorized under O.C.G.A. tit. 40, ch. 5, art. 5 (O.C.G.A. § 40-5-100), requiring the department of public safety to issue identification cards to handicapped persons who do not have a motor vehicle driver's license. 'Proper identification' shall not include a birth certificate.

(d) Any person who is 18 years of age or older and is an active member of the regular armed forces of the United States may purchase, consume, and possess any alcoholic beverage. To purchase an alcoholic beverage, any such person must present a valid military identification card.

(e) If such conduct is not otherwise prohibited pursuant to O.C.G.A. § 3-3-24, nothing contained in this section shall be construed to prohibit any person under 19 years of age from:

- (1) Dispensing, serving, selling, or handling alcoholic beverages as a part of employment in any licensed establishment.
- (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured.
- (3) Taking orders for, and having possession of, alcoholic beverages as a part of employment in a licensed establishment.

(f) Testimony by any person under 19 years of age, when given in an administrative or judicial proceeding against another person for violation of any provision of this section, shall not be used in any administrative or judicial proceeding brought against such testifying person under 19 years of age.

(g) Nothing in this section shall be construed to modify, amend, or supersede O.C.G.A. tit. 15, ch. 11 (O.C.G.A. § 15-11-1 et seq.) (pertaining to juvenile proceedings); or to any person who is physically or mentally incapacitated due to the consumption of beverage alcohol. Nor

shall any licensee violate O.C.G.A. § 3-3-22, as amended, which provides as follows: 'No alcoholic beverage shall be sold, bartered, exchanged, given, provided, or furnished to any person who is in a state of noticeable intoxication.'

A violation of this section shall be cause for revoking such license in accordance with section 6-233 of this article.

*Section 8: Minors prohibited on licensed premises unless accompanied by parent, guardian, or custodian*

No person who holds a license to sell distilled spirits by the drink shall allow any minors to be in, frequent, or loiter about the licensed premises of the nightclub or lounge unless such minors are accompanied by a parent, legal guardian, or custodian; provided, however, that such minors shall be permitted in eating establishments or private clubs without being accompanied by a parent, legal guardian, or custodian, and, provided further, that this section shall not apply to minors who are employees under the terms of this article.

*Section 9: Employment of minor*

No licensee hereunder shall allow any minor employed by a licensee to sell or otherwise handle alcoholic beverages except as provided in O.C.G.A. § 3-3-24, as amended, which reads as follows:

(a) No person shall allow or require a person in his employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverages.

(b) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenience stores, breweries or drugstores from selling or handling alcoholic beverages which are sold for consumption off the premises.

*Section 10: Minors misrepresenting age*

It shall be unlawful for any minor to falsely misrepresent his age in any manner whatsoever where said minor's purpose is to acquire and possess alcoholic beverages.

*Section 11: Happy hour prohibited*

No holder of any license to sell distilled spirits for consumption on the premises shall engage in any one of the following practices in connection with the sale or other disposition of distilled spirits:

(a) The sale of distilled spirits during any special period of the day at prices lower than customarily charged at the premises for distilled spirits during the remainder of the day.

(b) The giving away of any distilled spirits in conjunction with the sale of any other distilled spirits.

(c) The sale of two or more distilled spirits for a single price, including the sale of all distilled spirits a customer can or desires to drink at a single price.

- (d) The sale or serving of two or more distilled spirits at substantially the same price customarily charged for one such wine or malt beverage.
- (e) Requiring or encouraging the purchase of a second distilled spirit at the same time another distilled spirit is purchased or before the first such beverage has been consumed.
- (f) The sponsoring, conducting or allowing of contests or other promotions on the premises which have as their primary purpose the increasing of the consumption of distilled spirits on the premises.
- (g) Allowing distilled spirits purchased on the premises to be removed from the premises without having been consumed.
- (h) Selling distilled spirits in pitchers or in jumbo or extra-large containers for less than the normal retail price charged for an equivalent volume of distilled spirits in a normal size glass or pitcher.
- (i) This section shall not apply to private functions not open to the public. "Private function not open to the public" shall mean any function wherein the licensee has agreed to the use of the licensee's establishment by a person, firm or organization for a set period of time for valuable consideration.

It is the intent of this section to prohibit activities typically associated with promotions referred to as "happy hour."

#### *Section 12: Conflicting interests*

No financial aid or assistance to any licensee hereunder from any wholesaler or manufacturer of wine or malt beverages or other alcoholic beverages shall be permitted.

### ARTICLE 3: RETAIL SALES OF BEER OR MALT BEVERAGES AND WINE FOR CONSUMPTION ON THE PREMISES

#### *Section 1: Type of retail establishment where permitted*

No beer or malt beverages or wine shall be sold for consumption on the premises where sold except:

- (a) In eating establishments having a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open;
- (b) At a publicly owned golf course.

These eating establishments must be located in a zoning district which permits restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel.

*Section 2: License fee and amount to defray investigative and administrative costs to accompany application*

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$300.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded, but the \$300.00 cost paid for investigation shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

*Section 3: Hours and days of sale*

(a) Beer or malt beverages and/or wine shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.

(b) No beer or malt beverage and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(c) The sale of beer and/or wine for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed establishment which derives at least fifty (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 where food is served; (ii) any licensed establishment which derives at least fifty (50) percent of its total annual gross income from the rental of rooms for overnight lodging.

(d) Beer or malt beverages and/or wine may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1, of any year.

**ARTICLE 4: RETAIL PACKAGE SALES OF MALT BEVERAGES AND WINE\***

---

\*State law references: License from county or municipality required for wholesale or retail sales of wine, O.C.G.A. § 3-6-40.

---

*Section 1: Type of retail establishment where permitted*

No beer or malt beverage and/or wine shall be sold at retail except in establishments maintaining fifty (50) percent of the floor space and storage area in a manner which is devoted principally to the retail sale of grocery products and located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use.

*Section 2: Hours and days of sale*

(a) Retail package licensees shall not engage in the sale of beer or malt beverages and/or wine except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale of beer or malt beverages and/or wine.

(b) Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(c) No retail package alcoholic beverages shall be sold on Sunday.

*Section 3: Use of tags or labels to indicate prices*

Retailers shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed the prices of all beer and wine exposed or offered for sale.

*Section 3: Quantity sale requirements*

Single cans or bottles or other containers of alcoholic beverages may be sold.

*Section 4: License fee and amount to defray investigative and administrative costs to accompany application*

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$300.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but the \$300.00 cost paid for investigation and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. As to any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article, there shall be no investigative and administrative fee.

## ARTICLE 5: WHOLESALERS

### *Section 1: Special provisions applicable to wholesale purchases*

(a) Any person desiring to sell at wholesale any alcoholic beverages in the City shall make application to the City Manager for a license to do so, which application shall be in writing on the prescribed forms, and pay any license as set by the Mayor and City Council.

(b) No person who has any direct financial interest in any license for the retail sale of any alcoholic beverages in the City shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the city.

(c) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.

(d) No alcoholic beverage shall be delivered to any retail sales outlet in the City except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.

### *Section 2: Hours and days of sale*

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m. Monday through Saturday. There shall be no sales of alcoholic beverages on Sunday.

### *Section 3: Audit and penalties*

(a) If the City Manager deems it necessary to conduct an audit of the records and books of the licensee, he shall notify the licensee of the date, time and place of the audit.

(b) Any licensee who violates any provisions of this article may, upon conviction, be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the common jail of the city, and the license may be suspended or revoked.

## ARTICLE 6: PRIVATE CLUBS\*

---

\*State law references: Sale of distilled spirits by private clubs, O.C.G.A. § 3-7-1 et seq.

---

## *Section 1: Definitions*

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

(a) “*Fixed salary*” means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

(b) “*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 article;
- (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 with:
  - a. Suitable kitchen and dining room space and equipment;
  - b. A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and
  - c. 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.

(c) “*Sports club*” means an association or corporation organized and existing under the laws of the state, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the City at least two years prior to an application for license under this chapter. Provided, however, the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

## *Section 2: Regulation of sale of alcoholic beverages*

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the City governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the city.

*Section 3: Certain organizations exempt from food establishment requirements*

Veterans organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the state income tax law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments.

*Section 4: Investigative and administrative costs*

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate check or cash in the amount of \$300.00 for distilled spirits and/or beer and/or wine to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded, but the \$300.00 cost paid for investigation and administrative cost shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

*Section 5: Hours and days of sale*

(a) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.

(b) Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

(c) The sale of alcoholic beverages for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed 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 where food is served and in any licensed establishment which derives at least 50 percent of the total annual gross income from the rental of rooms for overnight lodging.

(d) Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1, of any year.

*Section 6: Eligibility for issuance of a temporary special event license*

(a) A temporary license may be issued to any person, firm or corporation, for a period not to exceed ten days in any one year, for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.

- (b) The special event must meet the following criterion prior to the issuance of a license to sell alcoholic beverages:
- (1) The special event must be associated with and benefit the cause of a charitable or civic organization.
  - (2) The special event must receive approval from the City police department on crowd control and security measures.
  - (3) The special event must receive approval from the City department of transportation, traffic operations section, on traffic control measures.
  - (4) The location at which the special event is to take place must be properly zoned and approved by the City planning and development department.
  - (5) The premises at which the special event is to take place must be approved by the City Manager.
- (c) Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.
- (d) The chief of police or his designee may immediately revoke any temporary license for a special event if it is determined continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the City harmless from claims, demand or cause of action which may arise from activities associated with the special event.

## ARTICLE 7: HOTEL-MOTEL IN-ROOM SERVICE

### *Section 1: License*

- (a) In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer and/or wine only, 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 beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this in-room service shall also be required to obtain a consumption on the premises license and meet all of the requirements of this chapter.
- (c) No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee of \$100.00 shall be imposed to provide only beer and/or wine by "in-room service."
- (d) The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.

(e) Keys for in-room service shall only be sold to guests between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. until midnight on Sunday.

## ARTICLE 8: HAPPY HOUR

### *Section 1: Promotions and sales*

- (a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
- (1) Offer or deliver any free alcoholic beverage to any person or group of persons.
  - (2) Deliver more than two alcoholic beverages to one person at a time, however, nothing herein shall prohibit a brewpub from offering a sampler of malt beverages in containers not exceeding four ounces. Each sampler shall not exceed four different types of malt beverages.
  - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public.
  - (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public.
  - (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public.
  - (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time.
  - (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week.
  - (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
- (b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.

- (c) No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection (a) of this section.
- (d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
- (e) It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.
- (f) The police department shall have responsibility for the enforcement of this article.
- (g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.
- (h) Any person deemed guilty of violating this section may be punished by a fine not to exceed \$200.00 and/or by imprisonment not to exceed 60 days in the common jail of the city. Licensees may further be subject to revocation proceedings.

## ARTICLE 9: EXCISE TAXES

---

\*State law references: Levy of tax on sale of distilled spirits by the package authorized, O.C.G.A. § 3-4-80; authorization to levy tax on wine, O.C.G.A. § 3-6-60.

---

### *Section 1: Distilled Spirits by the Package; Rate.*

The excise tax levied on the sale of distilled spirits by the package, at either the wholesale or retail level, is hereby set at the rate of \$0.22 per liter of distilled spirits, excluding fortified wines, and a proportionate tax at like rates on all fractional parts of a liter.

*Section 2: Wine by the Package; Rate.*

The excise tax levied on the first sale or use of wine by the package is hereby set at \$0.22 per liter, and a proportionate tax at like rates on all fractional parts of a liter.

*Section 3: Method of Collection.*

The excise taxes imposed by this division shall be collected by all wholesalers selling alcoholic beverages to persons holding retail licenses for sale to the same, in the City of Sandy Springs. Said excise taxes shall be collected by the wholesalers at the time of the wholesale sale of such beverages. It shall be the duty of each wholesaler to remit the proceeds so collected to the alcoholic beverage tax and business license division of the office of Fulton County Tax Commissioner, on or before the 15<sup>th</sup> day of each month, for the preceding calendar month. This remittance shall be accompanied by a statement under oath showing the total sales of each type of alcoholic beverage, by volume and price, sold to every person holding a retail license for the sale of alcoholic beverages in the unincorporated areas of the county. Failure to file such a statement, or to remit the tax collected on or before the 15<sup>th</sup> day of each month, shall be grounds for suspension or revocation of the license provided for by this chapter, provided that the wholesalers making such remittance shall be entitled to retain 2 percent of the amounts collected as compensation for their duties under this section.

*Section 4: Failure to Pay; Grounds for Suspension or Revocation of Retail License.*

Failure to pay the taxes imposed by this Article shall be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City of Sandy Springs. In the event that any person holding a retail license shall fail to pay the taxes imposed by this division of this Article, it shall be grounds for suspension or revocation of any retail license to sell alcoholic beverages in the City. In the event that any person holding a retail license shall fail or refuse to pay to the wholesaler selling to him alcoholic beverages the tax imposed by this division, the wholesaler shall immediately report such failure to pay to the alcoholic beverage tax division and shall make no further sales of any alcoholic beverages whatsoever to said retailer until receipt of written notification to do so from the division. In such event, the tax may be collected by the City of Sandy Springs by an action at law against that retailer.

*Section 5: Levy of Excise Tax on Sale of Malt Beverages; Reporting of Sales; Payment of Tax. \**

(a) There is hereby levied and imposed upon all wholesale dealers selling malt beverages within the City of Sandy Springs a specific excise tax in the amount of \$0.05 per 12 ounces (or proportionately thereof so as to graduate the tax on bottles, cans, and containers of various sizes), and an excise tax on top or draft beer in the sum of \$6.00 for each container

sold as hereinafter specified, containing not more than 15 ½ gallons and at a like rate for fractional parts, where the beverage is sold in or from a barrel or bulk container, such beverage being commonly known as tap or draft beer, sold by each wholesale dealer within the City of Sandy Springs to be paid as follows:

On or before the 10<sup>th</sup> day of each month, each wholesale dealer selling malt beverages within the City of Sandy Springs shall file a report on forms furnished by the City of Sandy Springs or the Tax Commissioner of Fulton County disclosing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, constituting a beginning and ending inventory for the month, sold within the City of Sandy Springs. Each such wholesale dealer shall remit to the City of Sandy Springs on the 10<sup>th</sup> day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with this division.

---

\*State law references: Imposition of excise tax on malt beverages required, O.C.G.A. § 3-5-80.

*Section 6: Excise Tax in Addition to Other Fees and Taxes.*

The excise tax provided for in Section 5 above shall be in addition to any license fee, tax, or charge which may now or in the future be imposed upon the business of selling malt beverages at retail or wholesale, within the City of Sandy Springs.

*Section 7: Penalties for Late Reporting and Payment.*

The failure to make a timely report and remittance, as above provided in Sections 5 and 6, shall render a wholesale dealer liable for a penalty equal to 2 percent of the total amount due during the first 30-day period following the date such report and remittance were due, and a further penalty of 5 percent of the amount of such remittance for each successive 30-day period, or any portion thereof, during which such report and remittance are not filed. The filing of a false or fraudulent report shall render the wholesale dealer making such report liable for a penalty equal to 20 percent of the amount of the remittance which would be required under an accurate and truthful report.

*Section 8: Sales by the Drink \**

---

\*State law references: Authority to impose excise tax on sale of distilled spirits by the drink, O.C.G.A. § 3-4-131.

(a) Definitions:

The following words, terms and phrases shall, for the purpose of this division, be defined as follows:

- (1) “*Agent*” means that person designated by licensee in his application for a permit to sell alcoholic beverages by the drink in the City of Sandy Springs.
- (2) “*Alcoholic beverage*” means any beverage containing alcohol obtained by distillation including rum, whiskey, gin, and other spirituous liquors by whatever name called, but not including malt beverages, fermented wines, or fortified wines. Drink means any alcoholic beverages served for consumption on the premises which may or may not be diluted by any other liquid.
- (3) “*Licensee*” means any person who holds a permit from the City of Sandy Springs to sell alcoholic beverages by the drink.
- (4) “*Monthly*” period means the calendar month of the year.
- (5) “*Person*” means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the county is without power to impose the tax herein provided.
- (6) “*Purchase*” price means the consideration received for the sale of alcoholic beverages by the drink valued in money, whether received in cash or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also the amount for which credit is allowed by the licensee to the purchaser, without any deduction therefrom whatsoever.
- (7) “*Purchaser*” means any person who orders and gives present or future consideration for any alcoholic beverages by the drink.
- (8) “*Tax*” means the tax imposed by this division.

(b) *Penalty for violation of division:* Any person violating any of the provisions of this division shall be deemed guilty of an offense and, upon conviction thereof in the Municipal Court of Sandy Springs shall be assessed a fine of \$100.00 for each such offense. The person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this division is committed, continued, or permitted by this person, and shall be punished accordingly.

State law references: Maximum punishments which may be imposed for violations of county ordinances, O.C.G.A. § 36-1-20(b).

(c) *Rate of tax:* There is hereby imposed and levied upon every sale of an alcoholic beverage purchased by the drink in the City of Sandy Springs a tax in the amount of 3 percent of the purchase price of said beverage.

(d) *Records of sales:* Every licensee for the sale of alcoholic beverages by the drink operating a place of business in the City of Sandy Springs shall, at the time of collecting for food and drinks served, itemize separately the price of alcoholic beverages served. 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 a like manner; however, the licensee shall be liable for the tax at the time and to the extent that such credits are incurred.

(e) *Liability for payment of tax.* Every licensee or his agent is hereby authorized and directed to collect the tax herein imposed from purchasers of alcoholic beverages by the drink sold within his licensed premises. Such licensee or his agent shall furnish such information as may be requested by the Tax Commissioner to facilitate the collection of this tax. Any licensee who shall neglect, fail, or refuse to collect the tax herein provided, upon any, every, and all retail sales made by him, or his agents, or employees, of alcoholic beverages, as defined herein, which are subject to the tax hereunder imposed, shall be liable for and pay the tax himself.

(f) Due dates, returns and collection fees.

- (1) *Due date of taxes.* All taxes collected by any licensee or agent hereunder shall be due and payable to the Tax Commissioner monthly on or before the 20<sup>th</sup> day of every month next succeeding each respective monthly period, as set forth in the narrative that follows in this subsection.
- (2) *Return; time of filing; persons required to file; execution.* On or before the 20<sup>th</sup> day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Tax Commissioner in such form as the Tax Commissioner may prescribe by every licensee or agent liable for the payment of tax hereunder.
- (3) *Contents of return.* All returns shall show the gross receipts from the sale of alcoholic beverages by the drink, amount of tax collected or authorized due for the related period, and such other information as may be required by the Tax Commissioner.
- (4) *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 Tax Commissioner.
- (5) *Collection fee allowed operators.* Operators 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 said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under O.C.G.A. tit. 40, ch. 8, art. 1 (O.C.G.A. §40-8-1 et seq.), as now or hereafter amended.

*Section 9: Deficiency Determinations.*

(a) *Recomputation of tax; authority to make; basis of recomputation.* If the Tax Commissioner is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the City of Sandy Springs by any person, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One or more than one deficiency determination may be made of the amount due for one or more than one monthly period.

(b) *Interest on deficiency.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of three-fourths of 1 percent per month, or fraction thereof, from the 20<sup>th</sup> 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) *Offsetting of overpayments.* In making a determination the Tax Commissioner 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 Sections 3 and 8 of this Article.

(d) *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 negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of such deficiency shall be added thereto.

(e) *Penalty for fraud or intent to evade.* If any part of the deficiency for which a deficiency determination is made due to fraud, or an intent to evade any provisions of this regulation or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.

(f) *Notice of Tax Commissioner's determination; service of.* The Tax Commissioner, or a designated representative, shall give to the licensee written notice of the determination. The notice may be served personally or by mail; if by mail such service shall be addressed to the licensee at his address as it appears in the records of the Tax Commissioner. In the case of service by mail of any notice required by this Article, the service is complete at the time of deposit in the United States Post Office.

(g) *Time within which notice of deficiency determination to be mailed.* Except in the case of fraud, intent to evade this division, or authorized rules or regulations, or failure to make a return, every notice of deficiency determination shall be mailed within 3 years after the 20<sup>th</sup> of the calendar month following the monthly period for which the amount is proposed to be determined, or within 3 years after the return is filed, whichever period should last expire.

*Section 10: Determination of Tax if no Return Made.*

(a) *Estimate of gross receipts.* If any licensee fails to make a return, the Tax Commissioner shall make an estimate of the amounts of the gross receipts of the licensee, or as the case may be, of the amount of the total sales in the City of Sandy Springs 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 Tax Commissioner. Upon the basis of this estimate, the Tax Commissioner shall compute and determine the amount required to be paid the City of Sandy Springs adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determinations may be made for one or more than one period.

(b) *Manner of computation; offsets; interest.* In making a determination the Tax Commissioner may offset overpayments for a period or penalties, and against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c).

(c) *Interest on amount found due.* The amount of the determination, exclusive of penalties, shall bear interest at the rate of three-fourths of 1 percent per month, or fraction thereof, from the 20<sup>th</sup> day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the date of payment.

(d) *Penalty for fraud or intent to evade.* If the failure of any person to file a return is due to fraud or an intent to evade this Article or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty provided in Article 2, Section 11 of this Chapter.

(e) *Giving of notice; manner of service.* Promptly after making his determination, the Tax Commissioner shall give to the person written notice to be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

*Section 11: Penalties and Interest for Failure to Pay Tax.*

Any person who fails to pay the tax herein imposed to the City of Sandy Springs or fails to pay any amount of such tax required to be collected and paid to the Tax Commissioner, within the time required, shall pay a penalty of 15 percent of the tax, or amount of the tax, in addition to the tax or amount of the tax, plus interest on the unpaid tax or any portion thereof as set forth in Section 10(c) of this Article.

*Section 12: Collection of Tax.*

(a) *Action for tax; time for.* At any time within 3 years after any tax or any amount of tax required to be collected becomes due and payable and at any time within 3 years after the delinquency of any tax or any amount of tax required to be collected, the Tax Commissioner may bring an action in the courts of this state, or any other state, or of the United States in the name of the City of Sandy Springs to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorneys' fees, and other legal fees incident thereto.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator 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 this amount until the former owner produces a receipt from the Tax Commissioner 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 purchase price as required, he becomes personally liable for the payment of the amount

required to be withheld by him 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 Tax Commissioner shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the Tax Commissioner 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 start to run at the time the operator sells out his business or at the time that the determination against the operator becomes final, whichever event occurs the later.

(d) 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 county under this Article, it may be offset as provided in Article 2, Section 9, Item C of this chapter. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the Tax Commissioner, he will have 3 years from the date of payment to file claim in writing stating the specific ground upon which the claim is founded. The claim shall be audited. If the claim is approved by the Tax Commissioner, the excess amount paid the county may be credited on any amounts then due and payable from the person by whom it was paid or his administrators or executors.

*Section 13: Administration of Division.*

(a) The City of Sandy Springs hereby empowers the Tax Commissioner of Fulton County with authority to 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 Tax Commissioner shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this Article or other laws of the county and the State of Georgia or the constitution of this state or the United States for the administration and enforcement of the provisions of this division and the collection of the taxes hereunder.

(c) *Records required from operators; form.* Every licensee for the sale of alcoholic beverages by the drink in the City of Sandy Springs to a person shall keep such records, receipts, invoices and other pertinent papers in any form as the Tax Commissioner may require.

(d) *Examination of records; audits.* The Tax Commissioner or any person authorized in writing by the Tax Commissioner 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.

(e) *Authority to require report; contents.* In administration of the provisions of this Article, the Tax Commissioner may require the filing of reports by any person or class of persons having in such person's possession or custody information relating to sales of alcoholic beverages which are subject to the tax. The report shall be filed with the Tax Commissioner when required by the Tax Commissioner and shall set forth the price

charged for each sale, the date or dates of sale, and such other information as the Tax Commissioner may require.

(f) *Disclosure of business of operators; limitation on rule.* The Tax Commissioner or any person having an administrative duty under this division shall not make known in any manner the business affairs, operations, or information obtained by an audit of books, papers, records, financial reports, equipment, and other facilities of any licensee or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person not having such administrative duty under this division, except in the case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax required to be collected, interest, and penalties.

## ARTICLE 10: BREWPUBS

### *Section 1: Definition; licensing; excise tax; administration*

(a) *License required.* No person, firm or corporation shall be issued a brewpub license without first obtaining a retail consumption license.

(b) *Authorization of license holder.* A brewpub license authorizes the holder of such license to manufacture on the licensed premises not more than 1,500 barrels of beer in a calendar year solely for retail sale on the premises and solely in draft form.

(c) *Distribution.* Distribution of any malt beverages produced by a brewpub licensed under this article to any wholesaler is prohibited.

(d) *Excise tax.* There is hereby levied an excise tax on all beer and malt beverage produced by a brewpub at the rate of \$6.00 per one-half barrel (15 1/2 gallons) and \$12.00 per barrel (31 gallons). Such tax shall be paid to the City Manager's office no later than the twentieth day of each month for the preceding month's production. A late payment penalty not to exceed ten percent of the tax otherwise due shall be added to the amount due for any payment not received by the due date.

(e) *Administration.*

- (1) The director of financial services, or his designee, is authorized to establish procedures for administering all provisions of this article to include, but not limited to, reporting forms and requirements, or establishing procedures and schedules for conducting financial audits or inspections of the books or records of any establishment licensed under this article.
- (2) Every brewpub located within the City shall file a monthly report with the City Manager, no later than the twentieth day of each month, on such forms as the

City Manager may prescribe, setting forth all malt beverages produced during such preceding calendar month, to include beginning and ending inventories. Such report shall also indicate the total production of malt beverages during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty not to exceed \$25.00 for each deficient reporting period.

*Section 2: Severability*

If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.