

Chapter 3

ALCOHOLIC BEVERAGES*

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ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

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

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

Alcoholic beverage. All alcohol, distilled spirits, beer, malt beverage, wine, or fortified wine.

Distilled spirits. Any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume, including but not limited to all fortified wines.

Fortified wine. Any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, brandy.

License year. The 1st day of January through the 31st day of December of the year of application.

Licensee. The person holding a license to engage in the sale of alcoholic beverages.

Malt beverage. Any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, also known as Japanese rice wine.

One-time event. A private event of no more than three consecutive days' duration at which alcoholic beverages are sold and/or served by a licensed alcoholic beverage caterer or bona fide nonprofit civic organization and which is held indoors in a privately-owned or rented venue and/or outdoors in a privately-owned or rented

defined geographic area. A one-time event shall not include private events at which alcohol is served by a private individual or individuals.

Premises. A definite open, closed or partitioned locality, whether located indoors in a room, shop or building, or outdoors in a defined geographic area, as specified on the licensee's alcoholic beverage license application, wherein alcoholic beverages are sold.

Public event. An event of no more than three consecutive days' duration at which alcoholic beverages are sold and/or served by a licensed alcoholic beverage caterer or bona fide nonprofit civic organization, which is held indoors in a temporary venue and/or outdoors in a defined geographic area, and which the general public is invited to attend.

Quasi-public event. A private event of no more than three consecutive days duration at which alcoholic beverages are sold and/or served by a licensed alcoholic beverage caterer or bona fide nonprofit civic organization and which is held on public property, indoors in a temporary venue and/or outdoors in a defined geographic area; or which is held indoors in a privately-owned or rented venue and/or outdoors in a privately-owned or rented defined geographic area and which may have the effect or propensity to attract the notice of people who are not a part of such an event.

Sale by package. The sale or dispensing of alcoholic beverages in unbroken original containers for consumption in a location other than the licensed premises.

Sale by the drink for consumption on the premises. The sale or dispensing of alcoholic beverages by the drink or in broken packages for consumption on the licensed premises.

Wine. Any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. The term includes, but is not limited to, all sparkling wines, champagnes, combination of such beverages, vermouth, special natural wines, rectified wines, and like products. The term does not include cooking wine, mixed

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

(Code 1978, § 3-1; Ord. No. 2000-7, § I(1), 11-16-2000; Ord. No. 2009-05, § I, 12-3-2009; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-2. Applicability.

This chapter shall apply to all of the incorporated areas of the City only.

(Code 1978, § 3-64; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-3. Possession, consumption by minors; minimum age for admission to Class III alcoholic beverage establishment; suspension or revocation of license for chapter violations.

(a) It shall be unlawful for any person under the age of 21 years to drink or possess any alcoholic beverages.

(b) It shall be unlawful for any minor to possess any alcoholic beverages except where the minor is an agent, servant or employee of an alcoholic beverage licensee and is further engaged in the sale or disbursement of alcoholic beverage on the premises of the licensee at the time of possession.

(c) No person under the age of 21 shall be permitted to enter upon the premises or remain in any business establishment granted the privilege of a Class III on-premises consumption alcoholic beverage license unless such person is an agent, servant or employee of the Class III on-premises consumption alcoholic beverage licensee.

(d) For violation of any section of this chapter, the license shall be subject to suspension or revocation.

(Code 1978, § 3-4; Ord. No. 2002-05, § I, 1-2-2003; Ord. No. 2012-04, § I, 10-4-2012)

Secs. 3-4—3-24. Reserved.

ARTICLE II. DEALERS

DIVISION 1. GENERALLY

Sec. 3-25. Compliance with health standards.

All persons or entities engaging in the sale of alcoholic beverages within the City shall comply with the health standards of the City as prescribed by the Mayor and City Council.

(Code 1978, § 3-15; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-26. Premises to be maintained in sanitary condition; unlawful to permit disturbance of the peace, obscenity, etc.

All premises shall be kept clean and in proper sanitary condition and in full compliance with the provisions and regulations governing the conditions of premises used for storage and sale of food for human consumption. It shall be unlawful to permit any disturbance of the peace, obscenity, or any lewd or unlawful entertainment, conduct or practices.

(Code 1978, § 3-2; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-27. Sale from residence or home prohibited.

It shall be unlawful for any person to sell alcoholic beverages to any person from any private home or residence.

(Code 1978, § 3-8; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-28. Hours of sale and operation.

(a) *Hours of sale.* It shall be unlawful for any establishment, licensed alcoholic beverage caterer, or bona fide nonprofit civic organization engaged in the sale or disbursement of alcoholic beverages to sell, serve, barter, trade or give away any such beverages from and after the hour of 3:00 a.m. Monday through Saturday, or to sell, serve, barter, trade or give away such beverages after the hour of 12:00 a.m. (midnight) on Sunday. Any such establishment, licensed alcoholic beverage caterer, or bona fide nonprofit civic organiza-

tion is further prohibited from engaging in the sale of such beverages before the hour of 8:00 a.m. on any day of the week, except for Sunday. No establishment, licensed alcoholic beverage caterer, or bona fide nonprofit civic organization shall sell, serve, barter, trade or give away any alcoholic beverage during any hours on Sunday, except as provided in subsection (d).

(b) *Hours of operation.* It shall be unlawful for any establishment, licensed alcoholic beverage caterer, or bona fide nonprofit civic organization engaged in the sale of alcoholic beverages to remain open after the hour of 3:00 a.m. Monday through Saturday or to remain open after the hour of 2:00 a.m. on Sunday. Such establishments, licensed alcoholic beverage caterers, or bona fide nonprofit civic organizations that engage in the sale or disbursement of alcoholic beverages are to remain closed until 8:00 a.m. each day. In no event shall any establishment holding a Class III alcoholic beverage license remain open after the hour of 2:00 a.m. on Sunday and such establishments are to remain closed until 8:00 a.m. on Monday. All grocery and convenience type stores are exempted from the provisions of this subsection.

(c) *Sunday sales prohibited.* No alcoholic beverages shall be sold, offered for sale, dispensed, or given away, in any place of business or on any one-time event, public event, or quasi-public event premises on Sunday, except as provided in subsection (d). Every person operating a place of business solely and exclusively for the purpose of selling or dealing in alcoholic beverages shall keep such business closed on Sunday.

(d) *Sunday sale of alcoholic beverages.* The licensee of any eating establishment holding a Class I or Class II license desiring the privilege to sell or otherwise dispense distilled spirits, malt beverages, or wine on Sunday in accordance with this subsection shall, before dispensing such beverages on Sunday, file an affidavit with the City Clerk, certifying under oath that:

- (1) Such establishment holds or has applied for a current City business license to operate a restaurant, and holds or has applied for a current alcoholic beverage license, and

- (2) Such establishment, if an existing business, derived at least 90 percent (Class I) or 60 percent (Class II) of its total annual gross food and beverage sales income from the sale of prepared meals or food during the preceding calendar year or, if a new business, fully intends and expects to derive at least 90 percent (Class I) or 60 percent (Class II) of its total annual gross food and beverage sales income from the sale of prepared meals or food during the remainder of the current calendar year.

Such affidavit may be submitted at any time that the above stated conditions are met, and must be submitted annually with such establishment's alcoholic beverage license renewal application if Sunday sales authorization is to be continued.

The alcoholic beverage license of an establishment which has properly filed such affidavit will be marked to indicate authorization to dispense alcoholic beverages between the hours of 12:30 p.m. Sunday and 12:00 a.m. (midnight) Monday. Any establishment not complying with this section is hereby specifically prohibited from dispensing alcoholic beverages on Sunday.

To qualify for a Sunday sales permit, any licensed restaurant, in addition to the above requirements, shall be a bona fide public eating place which actually and regularly prepares and serves food on the premises; shall have a full kitchen facility open and operating to prepare food on the premises for consumption in the establishment, such kitchen to include at a minimum one cooking stove and/or oven or equivalent apparatus (this requirement is not met by a microwave oven and/or food rotisserie), one standard size food refrigerator and freezer, kitchen sink, and any and all food service requirements of the County health department; shall have a specific area of the establishment set aside, set up, and operating to serve prepared food on the premises; shall have a printed or posted menu from which selections for prepared food can be made; and shall provide its full food service to the public on any Sunday when alcoholic beverages are dispensed. Any holder of a Class V license operating under City Class I or Class II license for consumption on the prem-

ises shall be eligible for Sunday sales on one-time event, public event, or quasi-public event premises.

(Code 1978, § 3-9; Ord. No. 2001-8, § I(1), 2-7-2002; Ord. No. 2007-12, § I(1), 12-20-2007; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-29. Sunday and Christmas Day closing.

Except for those establishments operating in compliance with section 3-28, it shall be unlawful for any establishment engaged in the sale of alcoholic beverages to remain open on Sunday after 2:00 a.m. or on Christmas Day.

(Code 1978, § 3-10; Ord. No. 2007-12, § I(2), 12-20-2007; Ord. No. 2012-04, § I, 10-4-2012)

State law reference—Sale of alcoholic beverage on Sunday, Christmas Day, and election days, O.C.G.A. § 3-3-20.

Sec. 3-30. Operation after 2:00 a.m. on Sunday.

Any violation of this section witnessed by State, County, City or other law enforcement officials or determined to have occurred by a court of competent jurisdiction shall be sufficient reason for an immediate 30-day suspension of said alcohol licenses by the Mayor and City Council. Within the 30-day suspension period, a public hearing shall be held by the Mayor and City Council at which time the licensee shall have the opportunity to show why such license should not be permanently revoked by the Mayor and City Council. Any such violation committed by a licensed alcoholic beverage caterer whose yearly license is issued by the City and which occurs under a Class V license for consumption on the premises may be treated as a violation of the license-holder's yearly license. Any such violation committed by a licensed alcoholic beverage caterer operating under a yearly license from another State Municipality or by a bona fide nonprofit civic organization and which occurs under a Class V license for consumption on the premises may bar the licensed alcoholic beverage caterer or bona fide nonprofit civic organization from applying for and holding a Class V license for a period of two years.

(Code 1978, § 3-11; Ord. No. 2007-12, § I(3), 12-20-2007; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—Ord. No. 2012-04, § I, adopted October 4, 2012, amended § 3-30 to read as set out herein. Former § 3-30 pertained to operation after 12:45 a.m. on Sunday.

Sec. 3-31. Sale to certain persons prohibited.

No licensee shall sell or give away, or permit the sale or gift to, or the procuring for, any alcoholic beverage to any person under 21 years of age, to any person who is mentally incompetent, or to any person who is physically or mentally incapacitated due to the consumption of alcoholic beverages.

(1) *Proper identification.* It shall be the duty of the licensee to ensure that any person, acting as an employee or agent on behalf of the licensee and engaged in selling, bartering, trading, giving or otherwise furnishing of any alcoholic beverage to any consumer, request to see and to be furnished with proper identification in order to verify the consumer's age.

(2) *Punishment or suspension/revocation of business license for chapter violations.* For violation of any section of this chapter, the license of the licensee shall be subject to suspension or revocation by the Mayor and City Council. Furthermore, any person violating any section of this chapter shall be subject to any or all penalties as set forth in section 1-12, penalties to be imposed at the discretion of the Municipal Court Judge and/or penalties imposed by State law.

(Code 1978, § 3-3; Ord. No. 2000-7, § I(2), 11-16-2000; Ord. No. 2002-03, § I, 10-1-2002; Ord. No. 2012-04, § I, 10-4-2012)

State law reference—Sales to underage persons and intoxicated persons, O.C.G.A. § 3-3-22 et seq.

Sec. 3-32. Misrepresentation of age.

It shall be unlawful for any person under the age as provided in O.C.G.A. § 3-3-23 or as otherwise provided by State law to willfully misrepresent his age to any other person for the purpose of inducing such other person to dispense, sell or give to the person making such false representation, any alcoholic beverage of any kind or description.

(Code 1978, § 3-14; Ord. No. 2012-04, § I, 10-4-2012)

Secs. 3-33—3-52. Reserved.

DIVISION 2. LICENSES GENERALLY

Sec. 3-53. Mayor and City Council to prescribe application forms and request information; failure of applicant to produce persons for interrogation.

The Mayor and City Council shall prescribe forms for new or renewal applicants for a license to sell alcoholic beverages hereunder. All applicants shall furnish all data, information and records requested of them by the Mayor and City Council and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss, with prejudice, the application. Applicants, by filing an application, agree to produce for oral interrogation any person requested by the Mayor and City Council. Failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of such application.

(Code 1978, § 3-25; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-54. Factors considered in issuing licenses or in renewing licenses other than Class V.

In determining whether or not any license applied for hereunder or any renewal of any license shall be granted in addition to all provisions of this chapter and any other provisions of this Code not inconsistent herewith, the following shall be considered in the public interest and welfare:

- (1) The applicant's reputation, character, mental and physical capacity to conduct this business;
- (2) If the applicant is a previous holder of a license to sell alcoholic beverages, whether or not he has violated any law, regulation or ordinance relating to such business;
- (3) If the applicant is a previous holder of a license to sell alcoholic beverages the manner in which he conducted the business

hereunder as to the necessity for unusual police observation and inspection in order to prevent the violation of any law, regulation or ordinances relating to such business;

- (4) The location for which the license is sought as to traffic congestion, the general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values;
- (5) The number of licenses already granted for similar businesses in the trading area of the place for which the license is sought; and
- (6) Whether a person whose license has been issued under the police powers of any governmental entity has been previously suspended or revoked.

(Code 1978, § 3-5; Ord. No. 2000-7, § I(4), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—Ord. No. 2012-04, § I, adopted October 4, 2012, amended § 3-54 to read as set out herein. Former § 3-54 pertained to factors considered in issuing licenses or in renewing licenses.

Sec. 3-55. Procedure for issuance of Class V licenses for consumption on the premises.

The sale and/or serving of alcoholic beverages at a one-time event, public event, or quasi-public event shall require a licensed alcoholic beverage caterer, as defined by O.C.G.A. § 3-11-1(2) or bona fide nonprofit civic organization, as defined by O.C.G.A. 3-9-5, to obtain from the City a Class V license for consumption on the premises, as well as comply with all applicable State and Federal laws regarding events and the sale, taxation, and transportation of alcoholic beverages. All Class V licenses must be applied for and fees paid not later than 30 days from the first day of the special event. No applications for Class V licenses shall be accepted if submitted less than 30 days from the first day of the one-time event, public event, or quasi-public event.

- (1) For a one-time event, the issuance of a Class V license for consumption on the premises shall require the licensed alcoholic beverage caterer or bona fide non-

profit civic organization to make an application to the City, providing the name and address of the person or organization responsible for the staging of the proposed event; the name and address of the licensed alcoholic beverage caterer or bona fide nonprofit civic organization; the licensed alcoholic beverage caterer's license number and City of issuance, if applicable; a description establishing the private nature of the event; the date, time and location of the event, including a specific description of the premises where alcoholic beverages are to be sold and/or served; the number of persons expected to attend the event; the nature and estimated quantity of all alcoholic beverages anticipated to be sold and/or served; a description of special parking arrangements; a description of planned security arrangements; and other such information as requested.

- (2) For a public event or quasi-public event, the issuance of a Class V license for consumption on the premises shall require the licensed alcoholic beverage caterer or bona fide nonprofit civic organization to make an application to the City, providing the name and address of the person or organization responsible for the staging of the proposed event; the name and address of the licensed alcoholic beverage caterer or bona fide nonprofit civic organization; the licensed alcoholic beverage caterer's license number and City of issuance, if applicable; a description establishing the public or quasi-public nature of the event; the date, time and location of the event, including a specific description of the premises where alcoholic beverages are to be sold and/or served; the number of persons expected to attend the event; the nature and estimated quantity of all alcoholic beverages anticipated to be sold and/or served; a description of special parking arrangements; a description of planned security arrangements; and other such information as requested.
- (3) All applicants for the issuance of a Class V license for consumption on the premises

shall be required to appear before the Mayor and Council. The Mayor and Council shall have the authority to approve or reject the application. The Mayor and Council shall decide the nature of any security and/or parking arrangements, for which the person or organization staging the one-time event, public event, or quasi-public event shall be responsible. The Mayor and Council shall have the discretion to require the person or organization staging the event to designate and clearly mark the specific areas in which alcoholic beverages may be consumed, through the use of ropes, barricades, stanchions, or similar devices.

(Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—Ord. No. 2012-04, § I, adopted October 4, 2012, amended ch. 3 by adding a new § 3-55, deleting former § 3-59, license must be obtained and fees paid within 30 days of approval of application, and renumbering §§ 3-55—3-58 as §§ 3-56—3-59.

Sec. 3-56. No licenses issued to convicted persons.

No original license shall be issued to any person, partnership, or corporation organized for pecuniary gain where any individual having any interest either as owner, partner, principal stockholder, directly or indirectly beneficial or absolute shall have been convicted or shall have taken a plea of guilty or nolo contendere within five years immediately prior to the filing of said application for any felony or misdemeanor of any State or of the United States or any Municipal or County ordinance or resolution except traffic violations, excluding any period of incarceration. The term "conviction" shall include an adjudication of guilt or a plea of guilty or nolo contendere when charged with a crime, but shall not include any offenses expunged from an individual's criminal record or those offenses adjudicated under a first offender plea. Where the violation is for a misdemeanor or a violation of a Municipal or County ordinance or resolution, the City Council, after investigation, may waive same as a disqualification.

(Code 1978, § 3-6; Ord. No. 2000-7, § I(5), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—See editor's note at § 3-55.

Sec. 3-57. No license granted to any applicant who is not a citizen of the United States and a resident of the State.

The applicant for an alcohol license, whether full-year, part-year, or event license, shall be a citizen of the United States and the owner of the business or head of the organization; or if the owner of the business is a corporation, partnership or other legal entity, the applicant may be a substantial and major partner or stockholder or the manager of the business responsible for the regular operation of said business on the premises for which the license is issued. The person who will have day-to-day operating responsibility for the business or organization and who shall actively operate the business or organization on a day-to-day basis, either the applicant or a person designated by the applicant as the manager, shall be a resident of the County. This residency requirement shall apply to all licensed alcoholic beverage caterers and bona fide nonprofit civic organizations.

(Code 1978, § 3-7; Ord. No. 2000-7, § I(6), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—See editor's note at § 3-55.

Sec. 3-58. Distance from libraries, churches, schools, etc.

(a) License for on-premises consumption.

- (1) *Distance requirement.* No original license for consumption on the premises shall be issued for any location in the City unless the premises is situated at least the required distance, as set forth in this subsection, from any property line of any library, church, shrine, chapel or a mortuary, or other place used exclusively for religious services, and at least the required distance, as set forth in this subsection, from any property line of any school or college campus, at least the required distance, as set forth in this subsection, from any area zoned residential or any residence on residentially zoned property, and at least the required distance, as set forth in this subsection from any government-run alcoholic treatment center and housing authority property. If

a Class I, II, III, or IV license for consumption on the premises, or license for off-premises consumption, the distance set out shall be measured in a straight line and shall be computed from the property line of the aforesaid library, church, shrine, chapel, mortuary, other place used exclusively for religious services, school, college campus, area zoned residential, residentially zoned property, government-run alcoholic treatment center or housing authority property to the building in which is located the business for which the license is being sought. If a Class V license for consumption on the premises, the distance set out shall be measured in a straight line and shall be computed from the property line of the aforesaid library church, shrine, chapel, mortuary, other place used exclusively for religious services, school, college campus, area zoned residential, residentially zoned property, government-run alcoholic treatment center or housing authority property to the building in which the one-time event, public event, or quasi-public event is located; or, if held at an outdoor premises, to the nearest boundary of the premises, as defined in the application for a Class V license.

- (2) *License classifications.* On-premises consumption of alcohol shall be classified as follows:

- a. Class I license, restaurant with a full kitchen but without a bar. Must derive a minimum of 90 percent of income from the sales of food. No original Class I license for consumption on premises shall be issued for any location in the City unless the building in which the business is located is situated at least 25 feet from any property line of any library, church, shrine, chapel or a mortuary, other place used exclusively for religious services, any school or college campus, and from any area zoned residential; at least 120 feet from any residence on residentially zoned

- property when measured in a straight line between the nearest points of the two buildings; and 300 feet from any government-owned and operated treatment center or housing authority property.
- b. Class II license, restaurant with a full kitchen with a bar. Must derive a minimum of 60 percent of gross revenue from food sales. Must comply with required parking as detailed in the zoning ordinance. No original Class II license for consumption on the premises shall be issued for any location in the City unless the building in which the business is located is situated at least 80 feet from any property line of any library, church, shrine, chapel or a mortuary, other place used exclusively for religious services, any school or college campus, and any area zoned residential; at least 120 feet from any residence on residentially zoned property when measured in a straight line between the nearest points of the two buildings; and at least 300 feet from any government-owned and operated alcoholic treatment center or housing authority property.
- c. Class III license, nightclub, bar, tavern, etc. Any license that would not qualify as a Class I, Class II, Class IV or Class V. Must comply with required parking as detailed in the zoning ordinance. No original Class III license for consumption on the premises shall be issued for any location in the City unless the building in which the business is located is situated at least 300 feet from any property line of any library, church, shrine, chapel, mortuary, other place used exclusively for religious services, and any property line of any school or college campus; at least 200 feet from any area zoned residential and any residence on residentially zoned property when measured in a straight line between the nearest points of the two buildings; and at least 300 feet from any government-owned and operated alcoholic treatment center or housing authority property.
- d. Class IV license, billiard parlor or bowling alley. Must derive a minimum of 15 percent of gross income from food sales and a total of 60 percent of gross income from a combination of food sales and revenues from billiards and/or bowling. Must comply with required parking as detailed in the zoning ordinance. No original Class IV license for consumption on the premises shall be issued for any location in the City unless the building in which the business is located is situated at least 300 feet from any property line of any library, church, shrine, chapel, mortuary, other place used exclusively for religious services, and any school or college campus; at least 200 feet from any area zoned residential and any residence on residentially zoned property when measured in a straight line between the nearest points of the two buildings; and at least 300 feet from any government-owned and operated alcoholic treatment center or housing authority property.
- e. Class V license, public, quasi-public, and one-time events. Upon application to the City, a Class V license, for the purpose of selling beer, wine, and liquor for consumption at one one-time event, public event, or quasi-public event premises for a maximum of three consecutive days, may be issued to:
1. Any licensed alcoholic beverage caterer, as defined by O.C.G.A. § 3-11-1(2), including any Class I, II, III or IV license holder in the City, any holder of a license for consumption off the premises in the City, and any holder

of an alcoholic beverage license for consumption on or off the premises from another Municipality within the State; or

2. Any bona fide nonprofit civic organization, as defined by O.C.G.A. § 3-9-5.

No Class V license for consumption on the premises shall be issued for any location in the City unless the building or site in which the one-time event, public event, or quasi-public event is to take place is situated at least 50 feet from any property line of any library, church, shrine, chapel or a mortuary, or other place used exclusively for religious services, any school or college campus, and from any area zoned residential; at least 120 feet from any residence on residentially zoned property when measured in a straight line between the nearest points of the two buildings; and at least 300 feet from any government-owned and operated alcoholic treatment center or housing authority property.

(b) Licenses for off-premises consumption. Licenses for consumption off the premises may be issued, provided that the building in which the business is located is situated more than 150 feet from any area zoned residential or any residence on residentially zoned property or 300 feet from any school, library, church, shrine, or other place used exclusively for religious services, when measured from the portal of public entrance of such building where the license is sought to the nearest portal of any dwelling in such residential area or to the nearest portal of any residence on residentially zoned property or to the portal of any school, library, church, shrine, or other place used exclusively for religious services. Such measurement shall be made by following the public entrance of the building where the license is sought to the portal of the said nearest dwelling in any area zoned residential and any residence on residentially zoned property or the portal of any school, library, church, shrine, or other place used exclusively for religious services, whichever the case may be.

(Code 1978, § 3-16; Ord. No. 1991-2, § 1, 6-6-1991; Ord. No. 2000-7, §§ I(9), I(10), 11-16-2000; Ord. No. 2001-8, §§ I(2), I(3), 2-7-2002; Ord. No. 2002-

05, § I, 1-2-2003; Ord. No. 2005-10, § I, 10-6-2005; Ord. No. 2011-03, § I, 3-3-2011; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—See editor's note at § 3-55.

State law reference—Location restrictions, O.C.G.A. § 3-3-21.

Sec. 3-59. License fees.

The fees to be paid to the City for alcoholic beverage licenses shall be as established in the schedule of fees and charges.

(Code 1978, § 3-18; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—See editor's note at § 3-55.

Sec. 3-60. Term of license.

Except as provided in section 3-58, no license, except a Class V license for consumption on the premises, shall be issued for less than a calendar-year period, or the remainder thereof; and in case of the revocation or surrender of such license before the expiration of such calendar-year period, the holder thereof shall not be entitled to receive any refund whatsoever. When any new license, except a Class V license for consumption on the premises, is granted on or after the 1st day of July, in any year, the license fee for the remaining portion of the year shall be 50 percent of the annual license fee imposed for the entire year. A Class V license for consumption on the premises may be issued for a maximum of three consecutive days at the rate established in the City's schedule of fees and charges.

(Code 1978, § 3-17; Ord. No. 2009-05, § I, 12-3-2009; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-61. Renewal.

All licensees hereunder shall be required to apply for renewal of their licenses annually on forms prescribed by the Mayor and City Council of the City and must comply with all the provisions, except that no Class V license for consumption on the premises shall be eligible for annual renewal. Each one-time event, public event, or quasi-public event shall require a separate application and separate Class V license for consumption on the premises.

(Code 1978, § 3-20; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-62. License a grant or privilege; authority of City to deny application.

Licenses hereunder shall be mere grants or privileges and the Mayor and City Council shall have the discretion to approve or deny any application for a license to sell alcoholic beverages by the drink or by the package.

(Code 1978, § 3-21; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-63. Licenses not transferable; exceptions for partnerships.

(a) Licenses hereunder shall not be transferable, except as otherwise provided herein. In case of the death of any person holding such a license, or any interest therein, the same may be transferred to the administrator, executor or the lawful heirs of the deceased person, if otherwise qualified.

(b) Nothing in this section, however, shall prohibit one or more of the partners in a 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. Such a withdrawal shall not, however, serve to bring any new ownership into the partnership.

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

(d) However, a licensee may take in partners or additional stockholders where it is determined that the additional capital furnished is to be used exclusively for additional inventory or expanding the facilities of the business or for building new facilities and where it appears that the licensee himself receives directly none of the additional capital invested. Under this section, an additional partner or new principal stockholder must be approved by the Mayor and City Council.

(Code 1978, § 3-22; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-64. Suspension or revocation for due cause.

No license which has been issued or which may hereafter be issued by the City hereunder shall be

suspended or revoked except for due cause as hereinafter defined, and after a hearing and upon the prior three-day written notice to the holder of such license of the time, place and purpose of such hearing and a statement of the charge upon which such hearing shall be held. Due cause for suspension or revocation of such license shall consist of conduct by the licensee, owner or manager that violates or negatively alters any factor listed in section 3-54 considered when the license was initially granted, the violation of any laws, ordinances or resolutions regulating such businesses, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any State or Federal law, or for the violation of any Municipal ordinance or County resolution other than traffic ordinances. Any such violation committed by a licensed alcoholic beverage caterer whose yearly license is issued by the City and which occurs under a Class V license for consumption on the premises may be treated as a violation of the license-holder's yearly license. Any such violation committed by a licensed alcoholic beverage caterer operating under a license from another State Municipality or by a bona fide nonprofit civic organization may bar the licensed alcoholic beverage caterer or bona fide nonprofit civic organization from applying for and holding a Class V license for a period of two years.

Further, for a first violation within a three-year period of time of any State or Federal law, or for the first violation of any Municipal ordinance, or the first violation of any County resolution other than traffic ordinances, in lieu of suspension or revocation, the Mayor and Council may place said license on a probationary status, with certain conditions as the Mayor and Council may deem fit, for a period of up to 12 months. Upon the expiration of the probationary period applied by the Mayor and Council, restrictions or conditions of probation required by the Mayor and Council shall cease to exist and shall no longer have effect. This cessation shall be automatic and will not require further application or motion by the license holder.

For a second violation within a three-year period of time of any State or Federal law, or for the second violation of any Municipal ordinance,

or the second violation of any County resolution other than traffic ordinances, or any combination of two violations of the aforementioned, the Mayor and Council may suspend said license or place said license on a probationary status, with certain conditions as the Mayor and Council may deem fit, for a period of 12 to 24 months. Upon the expiration of any probationary period applied by the Mayor and Council, restrictions or conditions of probation required by the Mayor and Council shall cease to exist and shall no longer have effect. This cessation shall be automatic and will not require further application or motion by the license holder.

For a third violation within a three-year period of time of any State or Federal law, or for the third violation of any Municipal ordinance, or the third violation of any County resolution other than traffic ordinances, or any combination of three violations of the aforementioned, the Mayor and Council shall revoke said license.

The three-year period of time shall be measured from the dates of the previous violations, not from the dates of disposition by any court of the United States, the State or any action taken by the Mayor and Council or any other local government body.

Nothing in this section shall be deemed to curtail the power of the Municipal Court to judicially punish violations of State law or local ordinances.

(Code 1978, § 3-19; Ord. No. 2000-7, § I(11), 11-16-2000; Ord. No. 2009-02, § I, 3-18-2010; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-65. Opening of establishment.

(a) All applicants for licenses hereunder must, within six months after the approval of said license, open for business the establishment referred to in the license and begin the sale of the product authorized by the said license.

(b) Failure to open the establishment and begin the sale as referred to in subsection (a) within the six-month period shall serve as automatic

forfeiture and cancellation of the unused license and no refund of license fees shall be made to the license holder.

(Code 1978, § 3-23; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-66. Forfeiture of license when business not operative for three months.

Any holder of a Class I, II, III, or IV license for consumption on the premises or license for off-premises consumption hereunder who shall begin the operation of the business and sale of the product as authorized in the said license, but who shall, for a period of three consecutive months thereafter, cease to operate the business and sale of the product authorized in said license shall, after said three-month period automatically forfeit his license, which license shall, by virtue of said failure to operate, be cancelled without the necessity of any further action.

(Code 1978, § 3-24; Ord. No. 2012-04, § I, 10-4-2012)

Secs. 3-67—3-90. Reserved.

DIVISION 3. SALE FOR ON-PREMISES CONSUMPTION

Sec. 3-91. License for sale for consumption on premises authorized.

With the approval of the Mayor and City Council, a license authorizing the sale of alcoholic beverages for consumption on the premises may be issued.

(Code 1978, § 3-51; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-92. Registration cards; dealers.

(a) *General.* It shall be unlawful for any person or any retail alcoholic beverage licensee to operate under the license any place of business in the City without having a registration card signed by the chief of police, or his/her designee. The provisions of this section shall not apply to places selling any alcoholic beverages where such commodities are not consumed on the premises where sold or to any licensed alcoholic beverage caterer

or bona fide nonprofit civic organization holding a Class V license for consumption on the premises.

(b) *Employees.* Every person working or serving any order about any retail alcoholic beverage place of business shall have a registration card signed by the chief of police, or his/her designee, setting forth thereon the name of employer and the location of the place of employment.

(c) *Operation without.* It shall be unlawful for the holder of any retail alcoholic beverage license to permit himself or any other person to work or serve in or about his place of business unless such person has such a registration card.

(d) *Notice upon termination of employment.* It shall be unlawful for the holder of any retail alcoholic beverage license to fail to notify the chief of police, or his/her designee, within five business days after the termination of the services of any of his employees working in any place where alcoholic beverages are served.
(Code 1978, § 3-52; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-93. Misrepresentation of quality, quantity, etc., of alcoholic beverages.

It shall be illegal 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.
(Code 1978, § 3-53; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-94. Display of license.

All licensees hereunder shall display in prominent places on the premises their current prices of spirituous liquors, wines, champagnes or malt beverages by the drink.
(Code 1978, § 3-54; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-95. No sales outside of licensed premises.

It shall be unlawful for any sales to be made outside of the building, premises, or place of business licensed for such sale.
(Code 1978, § 3-55; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-96. Advertising.

No licensee hereunder shall advertise in any manner except as provided by State law, rule or regulation.
(Code 1978, § 3-56; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-97. Violations by licensee.

Violation of any of the provisions of this chapter by the holder of a license hereunder shall subject the holder of such license to revocation of said license.
(Code 1978, § 3-57; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-98. Duty of management to keep copy of chapter on premises.

It shall be the duty of the management of premises licensed hereunder to maintain a copy of this chapter on such premises and to instruct each and every employee of the terms thereof.
(Code 1978, § 3-58; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-99. Sale unlawful without license.

It shall be unlawful for any person to sell alcoholic beverages for use or consumption on the premises without the license required herein.
(Code 1978, § 3-59; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-100. License fee; refunds.

Each original application for license under this article shall be accompanied by a certified check or cash for the full amount of the license fee, together with a separate certified check or cash to defray the cost of investigation and report. If the application is denied and the license refused, the deposit representing the license fee shall be refunded. The fee charged for the administrative cost of filing and processing the application shall be retained to cover the cost of those activities. No refunds of any kind shall be given for denial of applications for Class V licenses for consumption on the premises. All fees shall be charged in accordance with the fee schedule fixed and estab-

lished by the Mayor and City Council from time to time and maintained on file in the office of the City Clerk.

(Code 1978, § 3-60; Ord. No. 2000-7, § I(12), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-101. Compliance with applicable rules.

All applicable State laws, rules and regulations governing the sale of alcoholic beverages must be complied with by any applicant for a license hereunder.

(Code 1978, § 3-61; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-102. Certification by applicant of knowledge of regulations.

No person shall be approved for a license hereunder, or approved for employment by a licensee, unless such person shall have read this chapter in full text and certify in writing the fact of such reading and knowledge thereof.

(Code 1978, § 3-62; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-103. Issuance of license based on food sales.

This section shall apply to property located on M.L. King, Jr. Drive, Court Street, Commerce Street, Bagley Street, West Street, Pine Street, Liberty Street, Midway Street, General Screven Way, Main Street (from its intersection with General Screven Way to its intersection with General Stewart Way), Memorial Drive, and Frank Cochran Drive. The sale of any alcoholic beverages for consumption on-premises is permitted when said establishments derive at least 60 percent of their total gross revenue from the sale of foodstuff and food items or a combination of food sales and revenues from billiards and/or bowling and meet any and all other requirements of Class I, Class II, or Class IV on-premises alcohol consumption license as applicable. Under no circumstances shall a Class III on-premises alcohol consumption license be issued for any location situated on these identified streets. This section shall not apply to any licensed alcoholic beverage caterer or

bona fide civic nonprofit organization operating under a Class V license for consumption on the premises.

(Code 1978, § 3-65; Ord. No. 2000-7, § I(13), 11-16-2000; Ord. No. 2001-8, § I(4), 2-7-2002; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-104. Alcoholic beverages licenses for consumption on the premises prohibited in certain areas.

This section shall apply only to property located on Olmstead Drive, General Stewart Way (from the Fort Stewart Boundary to its intersection with Harrison Drive), and Main Street (from its intersection with General Stewart Way to its intersection with Olmstead Drive), which is zoned commercial and to commercial establishments located thereon. The sale of alcoholic beverages for consumption on the premises is not permitted on the aforesaid locations. This section shall not apply to any licensed alcoholic beverage caterer or bona fide civic nonprofit organization operating under a Class V license for consumption on the premises. This section shall not apply to any licensed alcoholic beverage caterer or bona fide civic nonprofit organization operating under a Class V license for consumption on the premises. (Code 1978, § 3-66; Ord. No. 2000-7, § I(13a), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-105. Reporting and/or certification requirements for verification of percentage of food sales.

On or before the 20th day of the month following the end of each calendar quarter, the license holder of a Class I, II or IV alcoholic beverage license shall file with the City Clerk a gross income report for the license outlet for the preceding calendar quarter. This report shall be filed on a form designated by the City Clerk and must be accompanied by a certified copy of the identified license outlet sales tax report for the applicable quarter. Alternatively, in lieu of filing the quarterly report on a form designated by the City Clerk, the license holder of a Class I, II or IV alcoholic beverage license may file a certification signed by a certified public accountant on a form designated by the City Clerk attesting that the

establishment is meeting the applicable percentage of food sales requirement applicable to their reported gross income.

Code 1978, § 3-16; Ord. No. 1991-2, § 1, 6-6-1991; Ord. No. 2000-7, §§ I(9), I(10), 11-16-2000; Ord. No. 2001-8, §§ I(2), I(3), 2-7-2002; Ord. No. 2002-05, § I, 1-2-2003; Ord. No. 2005-10, § I, 10-6-2005; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-106. Revocation, suspension, probation, etc.

(a) *Grounds.* A Class I, II, and IV licensee may be suspended, revoked, or placed on probation when the quarterly reports of said alcohol establishments indicate that the food and alcohol sales ratio requirements have not been met.

(b) *Revocation, suspension, probation, etc.* The Mayor and City Council, after affording the licensee notice of the charges and opportunity to be heard with respect to any revocation proceeding, may, if it finds this chapter to have been violated by the licensee, his agent, or employee, revoke such license in its entirety, suspend the same for a specified period of time, place the licensee on probation, or place other conditions thereon as the Mayor and City Council may deem necessary.

(c) *Suspension or revocation; procedure.* Whenever the City Clerk finds reasonable grounds exist to suspend, revoke or place on probation a license issued hereunder, the Clerk shall schedule a hearing to consider such suspension or revocation and shall, at least 20 days prior to the show cause hearing, notify the licensee of the time and date of the hearing and the proposed action and the grounds therefore. The licensee shall be entitled to present evidence and cross examine any witness at the hearing, with or without legal counsel. The Mayor and City Council shall make its decision within ten business days of the hearing and shall notify the licensee in writing within five business days of the decision.

(d) *Reporting and/or certification requirements for verification of percentage of food sales.*

- (1) All quarterly reports shall show the year to date alcohol sales ratio requirements in addition to quarterly sales ratio requirements.

- (2) If a licensee's first quarterly report indicates that it has failed to meet its' food and alcohol sales ratio requirements, the tax and license coordinator shall send a certified letter informing the licensee of the noncompliance, and putting the licensee on notice that their license is conditioned on and requires the licensee to meet the required food sales ratio requirements as set forth in the alcohol beverage ordinance and subsequent amendment thereto.
- (3) If the licensee's second quarterly report indicates that it has failed to meet its' respective sales ratio requirements on a year to date basis, the tax and licensee coordinator shall send a certified letter to the licensee notifying the licensee their license is conditioned on and requires the licensee to meet the respective sale ratio requirements. Said letter shall inform the licensee that no action shall be taken on any pending license application until such time as the license holder and/or the licensee's representative appear at a show cause hearing before the Mayor and City Council and demonstrate to the satisfaction of the Mayor and City Council how required ratios will be met in the future.
- (4) If a licensee's third quarterly report indicates that it has failed to meet its' respective sales ratio requirements on a year to date basis, the City Clerk will send a certified letter informing the licensee of the establishment's noncompliance, and instructing the license holder and/or the licensee's representative to appear before the Mayor and City Council, to show cause why the licensee should not be placed on probation, license suspended or its license revoked. At the show cause hearing, the licensee and/or his representative shall be afforded an opportunity to satisfactorily demonstrate how required ratios will be met in the future. Additionally, no action shall be taken concerning a pending license renewal application when the establishment's third quarterly report

shows that it did not meet the food and alcohol sales ratio requirements, until a show cause hearing has taken place.

- (5) If an licensee's quarterly reports indicate that it has failed to meet its' respective sales ratio requirements for two consecutive quarters or any two out of four quarters in a license year, the City Clerk shall send a certified letter to the licensee notifying the licensee of the establishment's noncompliance, and requiring the licensee and/or the licensee's representative to appear at a hearing before the Mayor and City Council to show cause why the establishment should not be placed on probation, or have its' license suspended or revoked. Said notice shall specify that no action will be taken regarding the licensee's renewal application until a show cause hearing before the Mayor and City Council has taken place.
- (6) If a licensee's fourth quarterly report indicates that it has failed to meet its required food and alcohol sales ratio requirements on a year to date basis, the City Clerk shall send a certified letter to the licensee notifying the licensee of the establishment's noncompliance, and requiring the licensee and/or the licensee's representative to appear at a hearing before the Mayor and City Council to show cause why the establishment should not be placed on probation, or have its' license suspended or revoked for the current year.
- (7) If a licensee's fourth quarterly report indicates it has failed to meet the food and alcohol sales ratio requirements on a year to date basis for two consecutive years, the Mayor and City Council shall revoke the license for the current year.
- (8) A \$100.00 late filing fee will be assessed for the first late quarterly filing of the license year. For the second late quarterly filing of the license year, a \$250.00 late filing fee will be assessed. For the third and fourth late quarterly filings of the license year, a \$500.00 late filing fee will be assessed. All late filing fees must be

paid within ten business days of the late filing and are subject to a ten percent late payment penalty. Additionally, after the fourth consecutive late quarterly filing, the licensee shall be required to attend a show-cause hearing and may be subject to suspension or revocation of his or her alcoholic beverage license.

(Ord. No. 2010-03, § I, 3-18-2010; Ord. No. 2012-04, § I, 10-4-2012)

Editor's note—Ord. No. 2010-03, § I, adopted March 18, 2010, enacted provisions intended for use as section 3-105. Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as section 3-106.

Secs. 3-107—3-121. Reserved.

DIVISION 4. SALE FOR OFF-PREMISES CONSUMPTION

Sec. 3-122. License of sale for consumption off premises authorized.

With the approval of the City Council, a license authorizing the sale of alcoholic beverages for consumption off the premises may be issued. (Code 1978, § 3-76; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-123. Sale of beer and wine in grocery stores.

Grocery stores shall be allowed to sell beer and wine by the carton for consumption off the premises, provided they have the required beer and wine license.

(Code 1978, § 3-77; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-124. License fee—Refunds.

Each original application for a license under this article shall be accompanied by a certified check or cash for the full amount of the license fee, together with a separate certified check or cash to defray the cost of investigation and report. If the application is denied and the license refused, the deposit representing the license fee shall be refunded. The fee charged for the administrative cost of filing and processing the application shall be retained to cover the cost of those

activities. All fees shall be charged in accordance with the schedule of fees and charges maintained by the City Clerk.

(Code 1978, § 3-78; Ord. No. 2000-7, § I(14), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-125. Same—Initial license, renewal; payment.

An annual license fee in the amount fixed in the schedule of fees and charges shall be charged for the initial license issued to any licensee hereunder, and a like amount for each renewal license. All license fees hereunder, except those payable for a Class V license, shall be paid in advance on or before December 31st of each year. When any new license other than a Class V license is granted on or after the 1st day of July, in any year, the license fee for the remaining portion of the year shall be 50 percent of the annual license fee imposed for the entire year.

(Code 1978, § 3-79; Ord. No. 2009-05, § I, 12-3-2009; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-126. Sale of alcoholic beverages by the drink not permitted.

Licenses hereunder shall not permit the sale of alcoholic beverages by the drink. Any holder of a license for consumption off the premises may apply for a Class V license for consumption on the premises. However, sales for off-premises consumption shall not be permitted under any Class V license.

(Code 1978, § 3-80; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-127. Issuance of license for sale of alcoholic beverages for consumption off the premises is restricted in certain areas.

This section shall apply only to property located on Memorial Drive and Olmstead Avenue, which is zoned business and to business establishments located thereon or to be located thereon. Licenses for the sale of alcoholic beverages for consumption off the premises are limited to beer and wine sales only. Section 3-123 shall apply to this section.

(Code 1978, § 3-81; Ord. No. 2012-04, § I, 10-4-2012)

Sec. 3-128. Issuance of licenses for sale of alcoholic beverages for consumption off the premises is prohibited in certain areas.

This section shall apply only to property located on Main Street (from its intersection with General Screven Way to its intersection with General Stewart Way), which is zoned business and to business establishments located thereon, or to be located thereon, with the exception of any property located on Main Street with frontage on General Screven Way, but no farther than 300 feet from General Screven Way. Sale of alcoholic beverages for consumption off the premises is prohibited in the aforementioned area.

(Code 1978, § 3-82; Ord. No. 2000-7, § I(15), 11-16-2000; Ord. No. 2012-04, § I, 10-4-2012)