

Sec. 15-64. Eligibility for pouring license.

Except as otherwise provided in this chapter, no application shall be considered from and no license granted to an applicant whose business location for the pouring of distilled spirits is anything other than a restaurant, private club, local caterer or concessionaire, or non-profit civic organization desiring a temporary permit.

Sec. 15-65. Separate businesses.

Under this chapter a separate license shall be required for each business location, and a separate application shall be made for each such place.

Sec. 15-66. Annual fees.

All annual alcoholic beverage license fees shall be paid in advance on or before January 15 of each year, and any new license granted during a calendar year shall be prorated for the remainder of the calendar year.

Sec. 15-67. Amount of fees.

(A) Each person selling distilled spirits in the city shall pay an annual license fee as follows:

- | | |
|--------------------------------------|----------------|
| (1) Wholesaler | \$100.00 |
| (2) Pouring | \$1,500.00 |
| (3) Private club, pouring only..... | \$1,500.00 |
| (4) Temporary permit..... | \$50.00 |
| (5) Local caterer or concessionaire. | \$100.00/event |

(B) Each person selling malt beverages in the city shall pay an annual license fee as follows:

- | | |
|--------------------------------------|---------------|
| (1) Wholesaler..... | \$100.00 |
| (2) Retailer, package only..... | \$500.00 |
| (3) Pouring..... | \$500.00 |
| (4) Private club, pouring only..... | \$500.00 |
| (5) Temporary permit..... | \$50.00 |
| (6) Local caterer or concessionaire. | \$50.00/event |

(C) Each person selling wine in the city shall pay an annual license fee as follows:

- | | |
|-------------------------------------|---------------|
| (1) Wholesaler..... | \$100.00 |
| (2) Retailer, package only..... | \$500.00 |
| (3) Pouring..... | \$500.00 |
| (4) Private club, pouring only..... | \$500.00 |
| (5) Temporary permit..... | \$50.00 |
| (6) Local caterer or concessionaire | \$50.00/event |

State law references: Maximum amount of license fee for sale of distilled spirits, O.C.G.A. § 3-4-50; municipal governing authority to fix malt beverage license fee, O.C.G.A. § 3-5-42.

Sec. 15-68. Responsibility for employee's conduct.

Every person issued an alcoholic beverage license is responsible for the conduct or actions of his employees while under his employ.

- (a) Every holder of an alcoholic beverage license for the pouring of distilled spirits, wine or malt beverages shall comply with the occupancy load requirement set forth in part 1003.2.2.5 of the International Fire Code (2000 edition), as amended.
- (b) No holder of an alcoholic beverage license as described in subsection (a) hereof shall allow the occupancy of the holder's establishment to exceed the posted occupancy load for the space.

Sec. 15-69. Public benefits verification.

(a) The mayor and council find that the issuance of an alcohol beverage license is a public benefit as defined by federal and state law and therefore all persons who apply for an alcohol beverage license individually or on behalf of a partnership, corporation, limited liability company or other entity shall, as condition precedent to the issuance of an alcohol beverage license, execute and deliver to the city clerk an affidavit on a form approved by the city clerk which shall state:

- (1) The applicant is a United States citizen or legal permanent resident 21 years of age or older; or
- (2) The applicant is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act, Title 8 U.S.C., as amended, 21 years of age or older lawfully present in the United States and provides the applicant's alien number issued by the Department of Homeland Security

or other federal immigration agency.

(b) Eligibility for an alcohol beverage license shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the Department of Homeland Security or successor program.

(c) Until such eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence in the United States and an alcohol beverage license may be issued conditioned upon eligibility verification through the SAVE program. In the event the applicant's non-eligibility is determined through the SAVE program, the alcohol beverage license shall be immediately deemed null and void.

Secs. 15-70 — 15-92. Reserved

DIVISION 2. QUALIFICATIONS GENERALLY

Sec. 15-93. Issuance to person.

A license required under this article shall be issued to a person, as defined in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended.

Sec. 15-94. Location of premises.

No license for the retail sale of alcoholic beverages shall be issued except where such business is to be located in the area of the city properly zoned for such business.

Sec. 15-95. Inspections.

The city building official or designee shall conduct periodic inspections of the businesses regulated by this chapter and to report to the city any violation of any laws or ordinances regulating such businesses or other regulations made pursuant to authority granted for the purpose of regulating such businesses, or for the violation of any state or federal law or city ordinance, other than infrequent minor traffic violations.

Sec. 15-96. Location restriction.

(a) It is unlawful for any person to sell alcohol within 300 feet of any school building, school grounds, or college campus. It is unlawful for any person to sell alcohol within 300 feet of any alcoholic treatment center owned and operated by this state or any county or municipal government therein. The distance shall be measured by the most direct route of travel on the ground.

(b) Unless otherwise provided by law, all measurements to determine distances, required by the city, for the issuance of city alcohol licenses, shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:

- (1) From the front door to the structure from which beverage alcohol is sold or offered for sale.
- (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway.
- (3) Along such public sidewalk, walkway, street, road or highway by the nearest route C-2 General Commercial, C-3 Commercial Parkway District and CBD Central Business district. **Cross reference - Zoning**

Sec. 15-97. Disqualified location.

Except as provided herein the city clerk may not accept or process an alcoholic beverage license application for a location that is associated with a license that is suspended, revoked or expired pursuant to section 15-16 through 15-219. An alcoholic beverage license application for such location may be accepted and processed by the city clerk if the business at such location is sold pursuant to a bona fide sale at fair market value to a person or entity with no direct or indirect relationship to the holder, or equity owner of the holder if the holder is not an individual, of the suspended, revoked or expired alcoholic beverage license at that location. Conditions precedent to the acceptance and processing of a license at such location shall be the delivery of the following documents to the city clerk:

- (a) Copy of the sales contract for the business.
- (b) Sworn affidavit of seller, or all equity owners of seller if seller is not an individual, that the:
 - (1) Sale price represents the fair market value of the business;
 - (2) Affiant does not have and will not have an interest in business of the applicant buyer;
 - (3) Affiant is not a relative of the buyer or any equity owner of buyer, if applicable; and
 - (4) Affiant will receive no payment from the buyer other than as set forth in the sales contract.
- (c) Sworn affidavit of buyer, or all equity owners of buyer if buyer is not an individual, that the:
 - (1) Sale price represents the fair market value of the business;

- (2) Affiant has never had an interest in business of the seller;
- (3) Affiant is not a relative of the seller or any equity owner of seller, if applicable; and
- (4) Seller, and the equity owners of seller, if applicable, will receive no payment from the buyer other than as set forth in the sales contract.

Sec. 15-98. Citizenship and residency requirements.

Citizenship and residency requirements for an applicant for a license to engage in the sale of alcoholic beverages shall be as follows:

(1) If an individual, the person shall be a United States citizen or an alien lawfully admitted for permanent residence and a resident of the city; provided, however, the individual applicant need not be a city resident if the applicant designates a resident of the city or county as his agent who shall be responsible for any matter relating to the license.

(2) If a partnership or corporation, this section shall apply to all its partners, officers, managers and principal stockholders as defined in section 6-108(a). If a corporation or LLC, the license shall be issued to the corporation or LLC. Where the principal stockholder or member is not a resident of the city or county, the corporation or LLC shall designate an individual as its agent who must be a resident of the city or county who will be responsible for any matter relating to the license. For a partnership, the license will be issued to one of the partners. If a partner is not a resident of the city or county, the partnership must designate a city or county resident as the partnership agent who shall be responsible for any matter relating to the license.

Sec. 15-99. Filing of changes.

Any change in any relationship declared in this division must be filed, when made, with the city clerk, and failure to do so within a period of 30 days after such change is made shall be grounds for cancellation of a license granted under this chapter by the mayor and council.

Sec. 15-100. Disqualification generally.

No application for any license required under this article shall be granted where the application, investigation or the evidence presented at a hearing before the mayor and city council shows any of the following conditions to exist.

(1) The applicant or his agent has a conviction, as defined in section 15-101, or does not have sufficient mental capacity to conduct the business for which application is made or who has been dishonorably discharged from the armed services of the United States.

(2) The applicant or any agent, stockholder, partner or member of the applicant has had any license issued by the city or any other municipality previously revoked.

(3) The applicant or his agent, as previous holder of a license to sell alcoholic beverages, has violated any law, regulation or ordinance relating to such business, within a 36-month period immediately preceding the date of the application. In the event of a renewal application, offences prosecuted and resolved pursuant to this chapter shall not be considered.

(4) The applicant's business is not properly zoned for the license applied for or does not otherwise meet the requirements of this chapter.

Sec. 15-101. Persons with prior convictions.

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

Convicted includes an adjudication of guilt or a plea of guilty or nolo contendere or the forfeiture of a bond when charged with a crime;

Principal owner refers to an individual owning, directly or indirectly, a five percent or more interest in a corporation, partnership, limited partnership, limited liability company or other entity.

(b) No license for the sale of alcoholic beverages shall be issued to any individual, partnership, limited partnership, corporation or limited liability company where such individual or any individual who is a principal owner of any partnership, limited partnership, corporation, limited liability company or other entity, or who is the agent responsible for matters relating to the license shall have been:

(1) Convicted under any federal, state or local law of any misdemeanor involving moral turpitude within five years prior to the filing of the application for such license; or

(2) Convicted under any federal state or local law of any felony within five years prior to the filing of the application for such license.

Sec. 15-102. Local caterer or concessionaire.

(a) A local caterer or concessionaire may seek a license from the mayor and council for the sale of alcoholic beverages for consumption by the drink at catered affairs, provided such applicant meets all of the requirements of this chapter.

(b) A local caterer or concessionaire licensee shall only sell alcoholic beverages for consumption by the drink in conjunction with the service of catered food items.

(c) A local caterer or concessionaire licensee shall not sell alcoholic beverages on Sunday.

(d) Except as set forth in this section, a local caterer or concessionaire licensee must comply with all other sections of this chapter.

Sec. 15-103. Temporary permits for nonprofit civic organizations.

(a) For the purposes of this section, a "nonprofit" civic organization is defined as an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended, whose membership includes city residents or property owners.

(b) Upon the filing of an application, payment of the required fee and notification to the police chief on the required form by a nonprofit civic organization, the city clerk may issue a permit authorizing the organization to serve alcoholic beverages for consumption on the premises or for off-premises consumption, or both, for a period not to exceed three days, subject to any law regulating the time for serving such beverages. No more than six permits may be issued to a qualified organization in any one calendar year pursuant to this section. Permits issued pursuant to this section shall be valid only for the location, times and dates specified in the permit. No permit may be issued unless the sale of such alcohol beverage is lawful in the place for which the permit is issued.

Secs. 15-104 — 15-126. Reserved.

DIVISION 3. APPLICATION AND ISSUANCE GENERALLY

Sec. 15-127. Application required.

Every person desiring to obtain a license required under this chapter shall make formal written application to the mayor and council for such privilege, signed by the applicant and agent, if applicable, upon forms to be prepared and provided by the city clerk. All such applicants and agents shall furnish all reasonable data, information and records requested to them by the mayor and council, and failure to furnish such data, information and records within 30 days from the date of such request shall automatically serve to dismiss the application. Applicants or those having an interest in the application, by filing an application, agree to produce any criminal record for review by the mayor and council and, for oral interrogation, any person requested by the mayor and council and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within 30 days after being requested to do so shall result in the automatic dismissal of the application. The application must be in the name of the person conducting the business at the address contained in the application.

Sec. 15-128. False information.

Any material omission or untrue or misleading information contained in or left out of an original or renewal application for an alcoholic beverage license shall be cause for the denial thereof. If any license has previously been granted on the basis of such misleading statements or material omissions, such shall constitute cause for the revocation of the license.

Sec. 15-129. Processing fee.

Upon filing an application for an alcoholic beverage license with the city clerk, the city shall require the applicant to pay a fee to cover the cost of processing the application in such an amount as the mayor and council shall set from time to time.

Sec. 15-130. Advertisement of intent to engage in business.

The city clerk shall give notice of the application for an alcoholic beverage license by advertisement at least two times in two weeks, once weekly prior to hearing, in the weekly paper published in the city in which the legal advertisements of the city are carried. The notice shall contain a particular description of the location of the proposed business and shall give the name of the applicant and agent, if applicable, and if a partnership the name of the partner to whom the license shall be issued and if a corporation the names of the largest stockholders and the date and time the mayor and council would hear the application.

Sec. 15-131. Payment of taxes and other debts to city.

The city clerk shall cause an inquiry to be made into the city tax records to determine if an applicant for an alcoholic beverage license or other party with interest in the application has any outstanding taxes or special assessments that are delinquent against his property or any other monies owing to the city. No license shall be issued or renewed until such debts are paid in full.

Sec. 15-132. Issuance.

Upon an application for an alcoholic beverage license being granted by the mayor and council, a license shall be issued to the applicant as of the date the applicant commences his alcoholic beverage business and upon the payment by the applicant of the license fee prescribed in section 15-67.

Sec. 15-133. Notification of denial.

The denial of an application for an alcoholic beverage license shall be in writing, with the reasons therefor stated, and shall be mailed or delivered to the applicant. Upon timely application any applicant aggrieved by the decision of the mayor and council regarding a permit or license shall be afforded a hearing with an opportunity to present evidence and cross examine opposing witnesses.

Sec. 15-134. Acceptance and consideration of application after rejection or revocation.

When any application for an alcoholic beverage license is denied for cause or any license is revoked for cause by the mayor and council, the mayor and council shall not accept or consider any application by such applicant or licensee for a license to operate the same type of business within 24 months in the event of a denial for cause and 60 months in the event of a revocation for cause.

Sec. 15-135. Approval of applications for sites under construction.

An application for a proposed licensed alcoholic beverage premises may be approved by the mayor and council prior to the applicant obtaining an occupancy permit for the premises if the premises are currently under construction, renovation or rehabilitation. If approved by the mayor and council, the city clerk shall not issue the alcohol beverage license until the applicant has obtained an occupancy permit and all other approvals required by the state and city for fire and building code purposes and has advised the city clerk in writing of the date on which the alcoholic beverage business shall commence, which date shall not exceed 12 months from the date of application approval. The license shall be dated as of such commencement date and shall not be effective until that date. If the applicant fails to obtain an occupancy permit or to commence the alcoholic beverage business within 12 months of the date of approval of the alcohol beverage license by the mayor and council, the applicant shall forfeit his application which shall, by virtue of failure to obtain an occupancy permit or failure to commence the alcoholic beverage business, be rejected without the necessity of any further action of the mayor and council.

Sec. 15-136. Time limit for commencement of business.

Except for a license issued to a site under construction which is governed by section 15-135, an applicant must open the alcoholic beverage business in the establishment referred to in the application within six months after its approval by mayor and council. The city clerk shall not issue the alcoholic beverage license until presented with the applicant's notarized statement stating the applicant is in fact the owner of the establishment and will open for business on a date certain. The license shall be dated as of the date certain in the affidavit and shall not be effective until that date. Failure to open the licensed establishment within the six-month period or the date stated in the applicant's affidavit shall serve as an automatic forfeiture and cancellation of the unused license, and no refund of license fees shall be made to the license holder.

Sec. 15-137. Time limit for closed business.

Any holder of a license issued under this division who shall begin the operation of the business authorized in the license, but who shall for a period of six consecutive months thereafter cease to operate the business as authorized in the license, shall, upon completion of the six-month period, automatically forfeit his license, which license shall, by virtue of the failure to operate, be revoked without the necessity of any further action of the mayor and council.

Sec. 15-138 — 15-160. Reserved.

DIVISION 4. RESTRICTIONS**Sec. 15-161. Compliance with article by wholesalers.**

All wholesalers licensed under this article shall file a certified statement of the gross sales of the business in the city for the preceding calendar month with the city clerk on or before the 20th of the following month.

Sec. 15-162. Interest in other licenses by wholesalers.

No person who has any direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any other license or an interest in any license under the terms of this article.

Sec. 15-163. Sales and deliveries by wholesalers.

Alcoholic beverage deliveries and sales by wholesalers under this article shall only be made to retailers properly licensed for the operation of alcoholic beverage establishments in the city. Deliveries shall be made in a conveyance owned and operated by the licensed wholesaler, and such license shall, at all times when deliveries are made in the corporate limits, be in the conveyance making such deliveries and shall be subject at all times to inspection by any and all duly authorized city authorities.

Sec. 15-164. Retailers to purchase from licensed wholesalers.

Retail dealers in alcoholic beverages licensed under the applicable sections of this article shall not buy or accept deliveries of alcoholic beverages from wholesalers or other persons offering alcoholic beverages for sale except from wholesalers duly licensed under this article. Any such retail dealer shall only accept deliveries of alcoholic beverages directly to the premises for which his license or permit is issued and by no means other than a conveyance owned and operated by a wholesaler licensed as required by this article. However, on written request to the mayor and council and upon the granting of permission by the mayor and council in writing, deliveries may in special instances be made otherwise upon terms and conditions as prescribed by the mayor and council as to each such delivery.

Sec. 15-165. Invoices.

Upon every delivery of distilled spirits by a licensed wholesaler to a licensed retailer, an invoice in triplicate shall be prepared, showing the quantities and brands of distilled spirits delivered together with the price thereof and the tax collected on the distilled spirits. The original copy of such invoice shall be delivered by the wholesaler to the retailer simultaneously with each such delivery. The wholesaler shall retain the second copy of the invoice and shall keep it for a period of 12 months. The wholesaler shall keep

such invoices for one year after the date of the invoices, and during the year such invoices shall be made available for inspection by authorized city representatives. If requested by an authorized representative, a copy of such invoices shall be attached to any reports requested or required by the city.

Secs. 15-166 — 15-188. Reserved.

DIVISION 5. RENEWAL AND TRANSFER

Sec. 15-189. Renewal required.

All licensees under this article shall be required to renew their licenses annually on forms prescribed by the city clerk.

Sec. 15-190. Time of renewal; provisional renewal.

- (a) Any person licensed under this article shall be required to renew his license on or before the next January 15. Any license not renewed by January 15 shall expire automatically and without notice at 12:01 a.m. on January 16. Any application for a new license necessitated by the failure to timely renew shall be assessed a penalty in the amount of ten percent of the license fee to cover administrative costs associated therewith.
- (b) In the event an applicant for renewal of licenses has not paid all required city taxes on or before January 1 for the reason that the county tax digest was not timely approved by the state revenue commissioner and the deadline for timely tax payments has been extended past January 1, then, in such event, the city clerk shall be authorized to issue a provisional license to the applicant who is otherwise qualified for renewal and pays the appropriate fee. The provisional renewal shall be conditioned upon the timely payment of all city taxes due from the applicant after approval of the county tax digest. Failure of an applicant to timely pay all city taxes due shall result in the automatic expiration of the provisional license without notice.

Sec. 15-191. Transferability.

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- (b) If an individual licensee dies, 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. However, no further 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 with the city clerk for authorization to continue to sell for such period.

- (c) (1) If a licensee or responsible person, other than the owner, severs such person's association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 60 days from the date of such severance, provided a new application is filed with the clerk within ten days of such severance which submits a new licensee or responsible person, as the case may be, for approval and indicates that there has been no change in the ownership of the licensed establishment. If approved, the term of the new license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the applicant.
- (2) If licensed establishment is sold to a person who, at the time of the sale holds a valid license to sell alcohol at another establishment located within the city (purchaser), the purchaser may continue, if otherwise qualified and with the written permission of the original license holder, to sell alcohol under the permit or permits of the selling license holder for a period of 60 days from the date purchaser's application to sell alcohol at the purchased licensed establishment (the temporary period), provided purchaser makes such application on or before the date of sale and in writing on a form approved by the clerk, agrees to accept, all responsibility for and arising from the license during the temporary period. If approved, the term of the purchaser's license shall be for the remaining term of the original license and the original license shall terminate as of the date of such approval. No additional license fees, other than an advertising and administrative fee set by the clerk from time to time, shall be required from the purchaser.
- (d) 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 at the time of the issuance of the license and who meet the qualifications of a licensee under this article. This subsection shall not prohibit the transfer of stock between persons who held stock in the corporate owner at the time of issuance of the license, nor shall it prohibit transfers of stock which do not result in any person increasing such person's holdings by a total of ten percent or more of any class stock.
- (e) If a transfer of location is approved by the mayor and council, with no change of ownership of the business, the license fee paid for the old location shall be applied to the new location.
- (f) Except as provided in this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license issued automatically, without the necessity of any hearing.

- (g) Violation of this section shall result in revocation of the license being used, and no license will be issued to the old or the new owner for one year from the date of the violation.

Sec. 15-192. Surrender of license.

- (a) **Criteria generally.** Any licensee authorized to engage in the sale of alcoholic beverages on specifically described premises shall be required to surrender the license held by him without demand of the mayor and council upon any of the following events: except as otherwise provided in this chapter, any sale or transfer of any interest in the business of the license holder, whether an actual sale of any of the license holder's stock or proprietorship or partnership interest to any unregistered person or upon a sale of all or substantially all of the license holder's assets to any unregistered person. For purposes of this subsection, the term "unregistered person" shall mean any individual, corporation, partnership, limited partnership, club, association or fraternal order not shown upon any current application for an alcoholic beverage license on the specific premises involved. For purposes of this subsection, a sale of all or substantially all of the licensee's assets shall include, or be deemed to include, any sale of any specifically described premises or bulk sale of inventory or assets at any specifically described premises for which the license holder is licensed to engage in the sale of alcoholic beverages in the city. For purposes of this subsection, any corporation or limited partnership or association whose stock is traded on any stock exchange recognized by the United States Securities and Exchange Commission shall be excepted from this requirement to the extent of any transfer of shareholding or partnership interests not exceeding five percent in anyone trade or transaction.
- (b) **Time limit.** Surrender as provided in this chapter shall be made to the city clerk within 30 days of any event requiring surrender of the license.
- (c) **Fines and failure to surrender.** For failure to surrender the license within the period provided in subsection (b) of this section, the applicant shall be fined an amount as follows:
- (1) The sum of \$50.00 for failure to surrender within 30 days of the date that any surrender of the alcoholic beverage license is required; and
 - (2) An additional sum of \$10.00 per day for each day thereafter from which the applicant fails or defaults in the surrender of the license after the date upon which the surrender is required.
- (d) **Assessment of penalty.** The city clerk shall assess any penalty against any applicant for failure to surrender the license as required by this section. Notice of assessment shall be by certified letter to the licensee based upon information and belief of the city clerk stating the date that any required surrender should have been made by the licensee. The licensee shall have a period of ten days from the date of receipt of the certified letter of the city

clerk of the notice of assessment of the penalty to protest the assessment to the city clerk by presenting evidence or information in writing to the city clerk as to the licensee's position. If the city clerk shall not agree with the licensee's position after the licensee's written showing, the licensee shall have ten days from the date of the written notice of the city clerk's written decision disagreeing with the licensee's protest to request protest to request in writing a hearing before the mayor and council. The mayor and council shall either approve or reject or modify the city clerk's assessment at its next regular meeting.

Sec. 15-193 — 15-215. Reserved.

DIVISION 6. LICENSE STATUS

Sec. 15-216. Expiration upon delinquency.

A license issued under this article shall expire automatically and without notice upon the occurrence of a delinquency of 20 days in :

- (a) Filing any required monthly report under this chapter; or
- (b) Paying over any required exercise tax levied under this chapter or any other indebtedness owed to the city.

Sec. 15-217. Revocation of state license.

Whenever the state department of revenue shall revoke any permit or license to manufacture or sell at wholesale or retail any alcoholic beverages, any license issued under this chapter to the same licensed premises shall thereupon be automatically revoked without any action by the mayor and council or any city officer, and the licensee shall not be entitled to any refund of any license fee theretofore paid to the city.

Sec. 15-218. Suspension in emergency.

The mayor and the chief of police are each delegated the authority to suspend any license issued under this chapter for due cause in any emergency situation, and the suspension shall be made effective immediately and shall remain in force until the next regular or called meeting of the mayor and council.

Sec. 15-219. Other licenses.

When the mayor and council find a violation of any section of this Code for which the licensee shall have his alcoholic beverage license suspended or revoked, all alcoholic beverage licenses of the licensee shall be so suspended or revoked.

Secs. 15-220 — 15-242. Reserved.

DIVISION 7. HEARING PROCESS

Sec. 15-243. Due cause hearing; defined; cost hearing.

- (a) Except as provided in sections 75-216 through 15-219, no license which has been issued or which may be issued pursuant to this article shall be suspended or revoked except for due cause and after a hearing as provided in this chapter of the Code.
- (b) The term "due cause" for the purpose of this chapter of the Code shall include, but not be limited to:
 - (1) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any felony, any law, administrative regulation or ordinance involving alcoholic beverages, gambling or narcotics, or tax laws, or misdemeanor involving more moral turpitude.
 - (2) Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any person holding an interest in the license for any sex offense when the licensed business permits on-premises consumption.
 - (3) Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act, which may be construed as a subterfuge in an effort to circumvent any of the qualifications for a license under this chapter, shall be deemed a violation of the requirement attempted to be circumvented.
 - (4) Violation of any provision of this chapter, or any failure to meet or maintain any standard or regulation prescribed by this chapter as a condition or qualification for holding a license.
 - (5) Any other factor known to or discovered by the city whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling, narcotics or sex offenses and it shall create a rebuttable presumption that the violative act was done with the knowledge or consent of the licensee.

Sec. 15-244. Notice of violation.

The city clerk shall notify the licensee in writing by certified mail, return receipt requested, of any charge of conduct or offense subject to penalty, suspension or revocation or any combination thereof. If the potential sanction is suspension or revocation the notice shall also state the place and time the mayor and council will hear the charges against the licensee. The notice may also contain

such additional information, as the city clerk may deem appropriate. The notice shall be deposited into the United States mail at least five days prior to the hearing date.

Sec. 15-245. Action by mayor and council.

Unless waived by the licensee, the mayor and council shall conduct a hearing on any charge against a licensee alleging conduct or offense that is subject to a suspension or revocation, at its next regularly scheduled meeting, but not later than 60 days from the date of notice to the licensee unless a continuance is granted at the request of the city or the licensee. The mayor and council shall have the discretion to call a special meeting to conduct a meeting or to reschedule or continue any hearing upon the request of the city or the licensee. The licensee shall be allowed to appear at said hearing to present evidence and cross-examine witnesses. Upon hearing evidence from the city and licensee, if the licensee shall present any evidence, the mayor and council shall, no later than 30 days after the hearing, either dismiss all or some the charges against the licensee and/or, make a finding that a violation has occurred as to all or any one of the charges. If a violation is found to have occurred the mayor and council shall levy the monetary penalty provided in this article. The mayor and council may also make a finding that a licensee shall be allowed to pay any applicable penalty within a time certain not to exceed 30 days. The mayor and council shall have the authority to suspend the license of any licensee for a period of time not to exceed 30 days who:

- (1) Has been found to have incurred more than three violations in a three-year period; or
- (2) Has been found to have willfully violated the provisions of this chapter.

The mayor and council may also make a finding that a willful violation of this article has occurred, and upon making such a finding, may determine that the license of any licensee be suspended for a period of time not to exceed 60 days or be revoked. For the purposes of this article, a finding that:

- (1) The violation or a pattern of violations shows that the licensee lacks operational control regarding the responsible sale of alcohol or that the licensee's operations are contrary to the public safety or welfare of the community;
- (2) That the licensee knowingly violated a provision of this article; or
- (3) Knowingly made a false statement on either a document filed with the city or to any city official,

Shall create a rebuttable presumption that a willful violation has occurred.

Sec. 15-246. Procedures for first three violations.

- (a) Except for a violation of this chapter that results in a suspension under section 15-218, or an initial determination by the police department that a willful violation has occurred, then, within ten business days of a citation for a violation of this chapter, a licensee may pay the monetary penalty to the city clerk for the first three violations of this chapter within a moving three-year period and forgo a hearing before the mayor and council.

- (b) A licensee who fails to timely pay the monetary penalty as provided in the preceding section shall be noticed to a hearing before the mayor and council as provided in section 15-243.

Sec. 15-247 — 15-269. Reserved.

DIVISION 8. SANCTIONS

Sec. 15-270. Sanctions for violations.

- (a) **Judicial remedy for violation of this chapter.** Any person who violates any part of this chapter of the Code, or knowingly and willfully makes a false statement in any affidavit required in section 15-97, shall be subject to citation and subpoena to the appropriate court, and to the judicial penalties resulting therefrom as provided in the Code or by general law.
- (b) **Nonjudicial Sanctions for violation of this chapter.** In addition to the penalties of suspension or revocation as set forth in this article, a licensee shall be subject to monetary sanctions upon a finding of a violation after a hearing. For purposes of determining sanctions under this section, a violation shall include each distinct violation of this chapter though they are presented in a single hearing.
- (1) A licensee shall be subject to a monetary sanction of \$1,000.00 for each violation of this chapter.
 - (2) The failure of a licensee to pay when due any penalty or costs assessed pursuant to the terms of this chapter of the Code shall result in the immediate suspension of all alcohol licenses issued by the city to such licensee. A suspension under this subsection shall continue until all penalties and other sums due the city by the licensee are paid in full.
 - (3) A revoked license shall become null and void as of the time of revocation. A holder of a revoked license shall not be entitled to a refund of all or a part of the license fee. A holder of a revoked license may apply for a new license after the expiration of the revocation period.

Sec. 15-271. No refund of fee.

When an alcoholic beverage license is revoked, suspended or expires pursuant to section 15-216 through 15-219, the city shall not be required to refund any portion of the license fee.

Sec. 15-272. Removal of signs and alcoholic beverages.

When any license for selling alcoholic beverages is revoked or automatically expires pursuant to section 15-216 through 15-219, all alcoholic beverages and all signs indicating that such beverages may be sold or purchased shall be removed from the place of business, both outside and inside. After receipt by the police department of notice of such revocation or expiration, the police department shall take the necessary steps to see that this section is enforced.

Sec. 15-273. Costs.

If due cause to assess sanctions is found to exist, then the licensee shall be charged with and shall pay, in addition to any sanction, the actual costs of the court reporter arising from the take down and transcription of the hearing proceedings and, if applicable, the cost of translation services.

Secs. 15-274 — 15-296. Reserved.**ARTICLE III. EXCISE TAX****DIVISION 1. DISTILLED SPIRITS****Sec. 15-297. Unlawful sales.**

It shall be a violation of this division for any person to sell at retail within the city any distilled spirits by the drink on which the taxes provided for in this division have not been paid.

Sec. 15-298. Levied.

In addition to all other taxes or license fees imposed upon retail dealers engaged in the city in the business of selling distilled spirits by the drink, as defined in this chapter, there is imposed and levied upon all such dealers an excise tax, to be computed and collected as set forth in this division.

State law reference: Municipal excise tax authorized, O.C.G.A. § 3-4-80.

Sec. 15-299. Duties of wholesaler.

Each wholesale dealer or distributor selling, shipping or delivering distilled spirits to any retail dealer in the city shall, as condition of the privilege of carrying on such business in the city:

- (1) Keep true and correct records of all sales, shipments or deliveries of such distilled spirits to each retail dealer in the city. Such records shall be preserved for a period of one year and shall be made available on request for the inspection of any duly authorized city representative.
- (2) Collect from each such retail dealer in the city, at the time of delivery of the distilled spirits, the amount of tax due under this division and hold the money in trust for the city until such amount is remitted to the city as provided in subsection (3) of this section.
- (3) On or before the 20th day of each calendar month, make a verified and comprehensive report to the city which shall correctly show all sales and deliveries of distilled spirits to or for retail dealers in the city for the month immediately preceding the report. The report shall show the name and address of each retail dealer, quantities delivered to each retail dealer, the amount collected under the terms of this division and such other information as may be called for by the city. The report shall be accompanied by remittance to the city for all taxes collected or due as shown on the report.

There is assessed a ten percent late charge on the gross tax due for the month.

Sec. 15-300. Unlawful deliveries.

It shall be unlawful and a violation of this division for any wholesale dealer or distributor or other person to deliver any distilled spirits to any retail dealer in the city without collecting the taxes provided for in this division at the time of delivery.

Sec. 15-301. Noncompliance by wholesale dealer, distributor.

If any wholesale dealer or distributor fails or refuses to make the reports provided for in this division, the city shall notify the person in writing. If the reports are not made and the taxes remitted within five days from the date of the notice, the city may withdraw from the wholesale dealer or distributor the privilege of doing business in the city by revoking his license.

Sec. 15-302. Frequency of payment

The tax imposed in this division shall be computable and payable monthly.

Sec. 15-303. Rate.

The tax levied under this division shall be computed on the basis of \$0.80 per gallon of distilled spirits sold or delivered.

State law reference: Maximum rate of tax, O.C.G.A. § 3-4-80.

Sec. 15-304 — 15-326. Reserved.

DIVISION 2. MALT BEVERAGES

Sec. 15-327. Imposed generally.

Except as provided in section 15-328, there is levied and imposed upon each wholesaler dealer selling malt beverages within the city an excise tax in the amount of \$0.05 per 12 ounces or proportionately of such amount of malt beverages sold by such wholesaler dealer within the corporate limits, so as to graduate the tax on bottles, cans and containers of various sizes.

State law reference: Similar provisions, O.C.G.A. § 3-5-80; occupation taxes for certain salesperson and merchants, O.C.G.A. § 48-5-354.

Sec. 15-328. Tap or draft beer.

All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided for in section 15-327, but in lieu thereof there is imposed upon each wholesaler dealer selling such malt beverages within the corporate limits an excise tax of \$6.00 for each barrel or bulk container having a capacity of not more than 15 1/2 gallons sold by such wholesaler dealer within the city and at a like rate for fractional parts thereof.

State law reference: Similar provisions, O.C.G.A. § 3-5-80.

Sec. 15-329. Separate from other charges.

The excise taxes provided for in this division shall be in addition to any license fee, tax or charge which may be imposed upon the business of selling malt beverages at retail or wholesale within the corporate limits.

Sec. 15-330. Payment and collection generally.

The excise tax imposed in this division shall be paid and collected in the manner provided in this division.

Sec. 15-331. Duties of retail dealers for receipt and presentation of invoices.

All retail dealers of malt beverages and all persons selling at retail malt beverages within the city shall keep a correct record of all purchases of malt beverages and shall demand of and require all persons from whom they purchase malt beverages to furnish and deliver to them with such beverages a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 15-332. Report of wholesale dealers.

Each wholesale dealer who has sold malt beverages within the city shall file a report by the tenth day of each month itemizing for the preceding calendar month the exact quantities of all malt beverages, by size and type of container, for the month sold within the city. Each such wholesale dealer shall remit to the city on the tenth 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 reference: Similar provisions, O.C.G.A. § 3-5-81.

Sec. 15-333. Marking.

No decal, stamp or other marking may be required on malt beverages designating the particular municipality or county in which a sale of malt beverages is made or in which resides a licensed retailer to whom the beverages are delivered.

State law reference: Similar provisions, O.C.G.A. § 3-5-82.

Sec. 15-334. Delinquencies.

The failure to make a timely report and remittance under this division shall render a wholesale dealer liable for a penalty equal to ten 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 ten 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.

State law reference: Enforcement by city authorized, O.C.G.A. § 3-5-84.

Sec. 15-335. False report.

The filing of a false or fraudulent report under this division shall render the wholesale dealer making such report liable for a penalty equal to ten percent of the amount of the remittance which would be required under an accurate and truthful report.

Sec. 15-336. Revocation of license.

In addition to the penalties in sections 15-334 and 15-335, the failure to make a timely report or remittance or the filing of a false or fraudulent report under this division shall also constitute grounds for the revocation of the business license issued by the city to a wholesale dealer.

State law reference: Authority of city to enforce collection and payment of tax, O.C.G.A. § 3-5-84.

Secs. 15-337 — 15-359. Reserved.**DIVISION 3. WINE****Sec. 15-360. Levied.**

There is imposed and levied a specific excise tax upon all retail dealers in wine within the city limits at the rate of \$0.22 per liter container and a proportionate tax at the same rate on all fractional parts of a liter.

State law reference: Municipal excise tax authorized, O.C.G.A. § 3-6-60.

Sec. 15-361. Separate from other taxes and fees.

The tax levied under this division shall be in addition to all other taxes or license fees imposed upon retail dealers in wine and may be added by the retail dealer and collector as a sales tax from each customer, but the tax shall be paid nevertheless to the city by the retail dealer.

Sec. 15-362. Payment and collection generally.

The excise tax imposed in this division shall be paid and collected as provided in this division.

Sec. 15-363. Invoices.

Each wholesale dealer selling, shipping or delivering wine to any retailer dealer or to any establishment having a pouring license in the city, by rail, truck or otherwise, shall make three true and correct copies of invoices of all sales and deliveries made to and for retail dealers in the city. One copy shall be delivered to the retail dealer at the time of delivery and one copy shall be retained and preserved by the wholesaler, distributor or manufacturer for a period of 12 months from the date of the sale to the retail dealer. The copy so retained shall be subject to inspection by any duly authorized city representative at all reasonable times.

Sec. 15-364. Collection and custody.

At any time of delivery of wine, the wholesale dealer shall collect from the retail dealer the taxes imposed by this division and shall hold the money in trust for the city until the tax is remitted to the mayor and council as provided in this division.

Sec. 15-365. Monthly report.

On or before the 20th day of each calendar month, each wholesale dealer, delivering wine to or for any retail dealer or to an establishment having a pouring license shall make a true and correct report to the mayor and council on blanks to be furnished by the mayor and council of all sales and deliveries made to or for retail dealers in the city for the current month immediately preceding the report. The report shall show the name of each retail dealer, the location of the place of business of the retailer or the place where each delivery was made, the method of delivery, the number and size of each container, the amount collected as taxes and such other information as may be called for by the mayor and council. The failure to receive such blanks will not excuse the furnishing of the report and the remittance of the taxes.

Sec. 15-366. Remittance.

The report required by section 15-365 shall be accompanied by remittance to the city for all taxes collected or due shown on the report.

Sec. 15-367. Duties of retail dealers for receipt and preservation of invoices.

All retail dealers of wine and all persons selling wine at retail within the city shall keep a correct record of all purchases of wine and shall demand of and require all persons from whom they purchase wine to furnish and deliver to them, with the wine, a correct invoice of each purchase. The invoice shall be kept and preserved by the retailer at his place of business for a period of 12 months from the date of the purchase. The invoices shall be open and subject to inspection by any authorized city representative at all reasonable times.

Sec. 15-368. Failure to make reports.

If a wholesaler, or retail dealer of wine fails and refuses to make the reports or maintain records as provided in this division and at the time specified, the mayor and council shall notify the party in writing by mail or otherwise. If the reports are not made and the taxes paid within five days from the date of the notice, the mayor and council shall proceed to assess the amount of taxes due by the dealer from the best information available, together with ten percent thereof as a penalty, and proceed to collect the taxes and penalty as provided for the collection of delinquent license taxes.

Sec. 15-369. Sale upon which tax not paid.

It shall be a violation of this article for any person to sell at retail or otherwise within the city any wine on which the tax as set out in this division has not been paid to the wholesaler for the city as provided or on which the tax not paid to the wholesaler at the time of delivery is not paid to the city by the retailer.

Sec. 15-370. Prohibited sales and deliveries.

It shall be unlawful and a violation of this article for any wholesaler, or other person to deliver any wine to any retail dealer in the city or to transport wine into the city for resale by any means whatsoever, except to licensed wholesale distributors, without collecting the taxes thereon as set out in this division at the time of delivery.

Sec. 15-371. Revocation of license.

Any retail dealer of wine failing or refusing to pay the tax imposed and levied in this division or failing to abide by any of the terms or sections of this article shall be deemed to have forfeited his privileges of conducting or engaging in the business of selling wine in the city, and any license issued to the dealer by the city prior to that time shall be revoked and canceled.

Secs. 15-372 — 15-394. Reserved.**DIVISION 4. ALCOHOLIC BEVERAGES BY THE DRINK****Sec. 15-395. Definitions.**

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

Agent means the person designated by the licensee in his application for a permit to sell alcoholic beverages by the drink.

Alcoholic beverages means any beverage containing alcohol obtained by distillation, including any distilled or fermented liquid containing consumable alcohol, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin, vodka, cordials or other spirituous liquors by whatever named called and including fortified wines as defined by the Federal Alcohol Administration, but does not include nonfortified wines, beer, ale or malt liquors.

Drink and mixed drink mean any alcoholic beverage, as defined in this division, served for consumption on the premises, which may or may not be diluted by water or other substance in solution.

Licensee 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, plural as well as singular number, who holds a permit from the city to engage in the sale of alcoholic beverages by the drink for consumption on the premises.

Monthly period means the calender months of any year.

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

receipts, credit, 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.

Purchaser means any individual, firm, or organization, who orders and gives present or future consideration for any alcoholic beverage by the drink.

Return means any return filed or required to be filed as provided in this division.

Tax means the tax imposed by this division.

Sec. 15-396. Imposition and rate.

There is imposed and levied upon every purchaser of an alcoholic beverage by the drink within this city a tax in the amount of three percent (3%) at the purchase price of the beverage.

Sec. 15-397. Administration of division.

- (a) **Authority of mayor and council.** The mayor and council shall administer and enforce this division for the collection of the tax imposed by this division
- (b) **Records required from licensee; form.** Every licensee for the sale of alcoholic beverages by the drink in this city shall keep such records, receipts, invoices and other pertinent papers in such form as the mayor and council may require.
- (c) **Examination of records; audit.** The mayor and council or any person authorized in writing by the mayor and council may examine the books, papers, records, financial reports, equipment and other facilities of any licensee for the sale of the alcoholic beverages by the drink and 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.
- (d) **Authority to require reports; contents.** In the administration of this division, the mayor and council may require the filing of reports by any person or class of persons having possession or custody of information relating to purchases which are subject to the tax. Reports shall be filed with the mayor and council when required by the mayor and council and shall set forth the purchase price for each purpose, the date of purchase and such other information as the mayor and council may require.

Sec. 15-398. Violations.

Any person violating any section of this division shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in section 15-6. Any licensee or any other person who fails to furnish any return required to be made or who fails or refuses to furnish a supplemental return or other data required by the mayor and council or who

renders a false or fraudulent return shall be deemed guilty of an offense and, upon conviction, shall be punished as provided in this section.

Sec. 15-399. Authority and requirement of licensee to collect.

Every licensee or his agent is authorized and directed to collect the tax imposed in this division from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the mayor and council to facilitate the collection of the tax.

Sec. 15-400. Collection; receipts, rules and regulations.

Every licensee for the sale of alcoholic beverages by the drink operating a place of business in this city shall, at the time of collection for food and/or drink served, give to the purchaser a receipt on which the purchase price and tax imposed by this division on alcoholic beverages by the drink shall be itemized separately. When the collection of food and/or drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The mayor and council shall have authority to adopt rules and regulations prescribing methods and schedules for the collection and payment of the tax.

Sec. 15-401. Determination, returns and payments.

- (a) **Due date.** The tax imposed by this division shall become due and payable from the purchaser at the time of the purchase of any mixed drink in this city. All amounts of such taxes collected by the licensee shall be due and payable in the city monthly on or before the 20th day of every month next succeeding each respective monthly period as set forth in section 15-400.
- (b) **Return.** On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the mayor and council in such form as the mayor and council may prescribe by every licensee liable for the payment of the tax under this division. All returns shall show the gross receipts of the sale of alcoholic beverages by the drink and the amount of the tax collected on such drinks.
- (c) **Collection fee allowed licensees.** Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three years from the date of payment to file a 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 mayor and council, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid or from his administrators or executors.

Sec. 15-402. Deficiency determinations on returns.

- (a) **Generally.** If the mayor and council have cause to believe that the return of the tax or the amount of tax required to be paid to the city under this division by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.
- (b) **Interest.** The amount of the determination shall bear interest at the rate of one percent per month or fraction thereof from the due date of taxes.
- (c) **Notice of determination; service.** The city or its designated representatives shall give to the licensee written notice of his 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 city records. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) **Timeframe for mailing.** Except for failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

Sec. 15-403. Determination if no return made.

- (a) **Estimates of gross receipts.** If any person fails to make a return as required in this division, the mayor and council shall make an estimate of the amount of the gross receipts of the person or, as the case may be, of the amount of the total sales in this city which are subject to the tax. The estimate shall be made for the period in respect to which the person failed to make the return and shall be based upon any information which is in possession of the mayor and council. Written notice shall be given in the manner prescribed in subsection.
- (b) **Interest on amount found due.** The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or fraction thereof from the 20th day of the month following the monthly period for which the amount or any portion thereof would have been returned until the date of payment.

Sec. 15-404. Penalty for nonpayment.

Any person who fails to pay the tax imposed in this division or who fails to pay any amount of the tax required to be collected and paid to the city 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 subsection 15-403(b).

Sec. 15-405. Action for tax; tax credit; penalty or interest paid more than once or erroneously or illegally collected.

At any time within three years after any tax or any amount of tax required to be collected pursuant to this division becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the mayor and council may bring an action in the courts of this state any other state or of the United States in the name of the city to collect the amount delinquent, together with penalties and interest, court fees, filing fees, attorney's fees, and other legal fees incident thereto. Whenever the amount of any tax, penalty or interest has been paid more than once or has been paid erroneously or illegally collected or received by the city under this division, it may be offset against any future liability for the tax. If the licensee determines that he has overpaid or paid more than once, which fact has not been determined by the city, he will have three years from the date of payment to file a 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 mayor and council, the excess amount paid the city may be credited on any amounts then due and payable from the person by whom it was paid or from his administrators or executors.

Secs. 15-406 — 15-422. Reserved.

SECTION 3

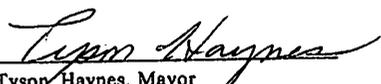
The sections, paragraphs, sentences, clauses, or phrases of this ordinance are severable, and if any section, paragraph, sentence, clause, or phrase of this ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of said ordinance.

SECTION 4

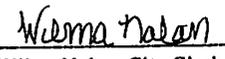
This ordinance shall become effective immediately upon its adoption.

The foregoing ordinance received a first reading on October 4, 2010 and a second reading on the 18th day of October, 2010. Upon second reading, a motion for passage of the ordinance was made and seconded and the ordinance is adopted.

This 18th day of October, 2010.


Tysop, Haynes, Mayor

Attest:


Wilma Nolan, City Clerk

Following the reading, Mayor Haynes called for a motion to adopt this as the second reading.

Fred, "I move we adopt this as the second reading." Gary seconded and the motion passed by a vote of 4 to 0.

Mayor Haynes adjourned the meeting at 12:10 p.m.

ATTEST:

CITY CLERK

MAYOR TYSON HAYNES

ALDERMAN WAYNE GRAVES

ALDERWOMAN CELESTE MARTIN

ALDERMAN GARY BROCK

ALDERMAN FRED WELCH

AUGUST PAID BILLS CONTINUED

COASTAL POND	165.23	CUTTING EDGE CREATIONS	5205.19
FORT MOUNTAIN UNIFORMS	70.00	CLYDE HUFFMAN	1740.00
S & J INDUSTRIAL SUPPLY	291.10	KEN SMITH AUTO PARTS	210.23
MURRAY MIX CONCRETE INC	3539.50	WACHOVIA	380.00
AUTOZONE/AZ OCMMERICAL	211.64	OFFICE DEPOT	959.97
CHAPTER 13 STANDING TRUSTEE	249.00	GAS SOUTH	868.83
CHATS/MURRAY LIBRARY	3000.00	ROBBY G WATKINS	360.00
JUSTIN CALE HAMBY	360.00	ERIC J DUCKETT	360.00
DUSTIN ANDREW WHITENER	360.00	CHATSWORTH TIMES	40.00
WINDSTREAM	1238.75	GSCCCA	2798.84
VULCAN MATERIALS COMPANY	2169.98	PEACE OFFICERS A & B FUND	662.36
MC COMMISSIONER DATE	597.56	CHILD SUPPORT ENFORCEMENT	189.58
CHATS WATER WORKS COMM	8418.13	MURRAY COUNTY JAIL FUND	1103.79
VICTIMS COMP PROBATION	535.00	COURTWARE SOLUTIONS	730.00
NATIONWIDE RETIREMENT SO	653.16	PEACE OFFICERS A & B FUND	260.00
NORTH GEORGIA TIRE	1676.92	WACHOVIA	380.00
5% VICTIMS SURCHARGE	549.60	CHAPTER 13 STANDING TRUSTEE	249.00
B B & T	117.00	SPECIALTY GASES SE INC	19.50
U V 2000	350.00	KELLER OUTDOOR INC	565.75
COMMUNICATIONS & ELECTRONICS	267.00	SANTEK ENVIRONMENTAL GA	1934.56
ROBBY G WATKINS	360.00	EAGLE PARTS & MACHINERY	12.39
JUSTIN CALE HAMBY	360.00	ERIC J DUCKETT	360.00
DUSTIN ANDREW WHITENER	360.00	CHILD SUPPORT ENFORCEMENT	189.58
NATIONWIDE RETIREMENT SO	653.16	WACHOVIA	380.00
CHAPTER 13 STANDING TRUSTEE	249.00	GMEBS LIFE HEALTH FUND	21208.50
NORTHWEST GA REGIONAL CO	576.00	PURE UV WATER COOLERS	30.00
KELLER OUTDOOR INC	837.41	VERIZON WIRELESS	593.45
ROBBY G WATKINS	360.00	WILMA NOLAN	11.99
PRE-PAID LEGAL SERVICES	93.65	A & R BODY SHOP	93.69
JUSTIN CALE HAMBY	360.00	COMMERCIAL STORAGE SYSTEMS	1306.20
JERRY BRYSON CONSULTING	225.00	AFLAC	1280.18
GEORGIA TECHNOLOGY AUTHORITY	534.92	CHILD SUPPORT ENFORCEMENT	189.58
NATIONWIDE RETIREMENT SO	653.16	WACHOVIA	380.00
CHAPTER 13 STANDING TRUSTEE	249.00	C LARRY OWENS INC	262.23
DAVIS ENGINE & TRANS	80.00	KLEEN-A-MATIC	595.07
GEORGIA POST COUNCIL	30.00	ROBBY G WATKINS	360.00
ADVANCED OFFICE SYSTEMS	250.02	JUSTIN CALE HAMBY	328.50
NORTH GEORGIA EMC SEDC	193.60	MCCAMY PHILLIPS TUGGLE	280.50
FIRST IMPRESSIONS PRINTING	147.50	HIGDON HEAT & AIR	187.50
DUSTIN ANDREW WHITENER	256.50	PAT DENSMORE SELF	562.00
EMPLOYEE DATA FORMS INC	35.75	KEEP CHATSWORTH MURRAY	2083.34
CHATS/MURRAY HEALTH DEPT	416.67	CHATS/MURRAY LIBRARY	2500.00
CHILD SUPPORT ENFORCEMENT	189.58	COMMUNICATIONS & ELECTRONICS	304.50
NATIONWIDE RETIREMENT SO	653.16	WACHOVIA	380.00
CHAPTER 13 STANDING TRUSTEE	249.00	BANKCARD CENTER	1715.50
DUSTIN ANDREW WHITENER	360.00	TYSON HAYNES	120.00

**CITY OF CHATSWORTH
COUNCIL MEETING
OCTOBER 4, 2010**

The Chatsworth City Council met in regular session on Monday, October 4, 2010 at 6:00 p.m. in the Council Chambers of City Hall with Mayor Tyson Haynes presiding.

PRESENT: Mayor Tyson Haynes, Aldermen: Wayne Graves, Celeste Martin, Gary Brock. City Attorney Steve Williams. City Clerk Wilma Nolan.

ABSENT: Alderman Fred Welch.

Mayor Haynes called the meeting to order and presented the agenda for approval.

Gary, "I make a motion we approve the agenda." Wayne seconded and the motion passed by a vote of 3 to 0.

MINUTES: Mayor Haynes presented the minutes of the last month's meeting for approval and adoption.

Celeste, "I make a motion we adopt the minutes as presented." Gary seconded and the motion passed by a vote of 3 to 0.

OLD BUSINESS

NONE

NEW BUSINESS

Presentation of a resolution to officially approve and adopt the Five-Year Update for the Joint Solid Waste Management Plan for Murray County and the City of Chatsworth and Eton and to become effective October 5, 2010.

The resolution reads as follows:

RESOLUTION
TO ADOPT THE

FIVE-YEAR UPDATE
FOR THE
JOINT SOLID WASTE MANAGEMENT PLAN
FOR
MURRAY COUNTY AND THE CITIES OF CHATSWORTH AND ETON

Whereas, the Georgia Comprehensive Solid Waste Management Act requires county and municipal governments to prepare a local solid waste management plan and periodic update; and

Whereas, The City of Chatsworth, Georgia has compiled, reviewed, and modified a Five-Year Update to the Joint Solid Waste Management Plan for Murray County and the Cities of Chatsworth and Eton; and

Whereas, the City of Chatsworth has complied with the Rules of the Georgia Department of Community Affairs Minimum Planning Standards and Procedures for Solid Waste Management (Chapter 110-4-3) including public participation requirements;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Chatsworth that the document entitled Five-Year Update for the Joint Solid Waste Management Plan of Murray County and the Cities of Chatsworth and Eton be officially approved and adopted.

SO RESOLVED THIS 4TH DAY OF OCTOBER, 2010 AT A REGULAR MEETING OF THE MAYOR AND COUNCIL, AND EFFECTIVE ON OCTOBER 5, 2010.

BY: /s/ Tyson Haynes
Tyson Haynes Mayor

ATTEST: /s/ Wilma Nolan
Wilma Nolan, City Clerk

Mayor Haynes called for a motion to adopt the resolution.

Gary, "I make a motion we adopt the resolution." Celeste seconded and the motion passed by a vote of 3 to 0.

REQUEST THE APPROVAL OF A MALT BEVERAGE AND WINE LICENSE FOR VIREN PATEL DBA A-1 FOOD MART, 1317 HIGHWAY 76 -

Mayor Haynes called for questions or discussion. Chief Martin advised that everything was in order.

ALDERMAN FRED WELCH arrived for the council meeting.

Mayor Haynes called for a motion.

Wayne, "I make a motion we approve the malt beverage and wine license as presented." Gary seconded and the motion passed by a vote of 4 to 0.

MAYOR'S REPORTS - Reads as follows:

MAYOR'S ACTIVITIES REPORT TO COUNCIL
SEPTEMBER - 2010

1. Councilmember Brock, City Clerk Nolan, Zoning Administrator Flood, and I met with City Attorney Williams on 09-01-10.
2. Attended the Masonic and Eastern Star State meeting in Dalton with Mayor Pennington on 09-10-10.
3. Participated in teleconference with Congressman Graves on 09-14-10.
4. Authorized additional cross-walk at the High School after Chief Martin met with school system on 09-15-10.
5. Attended Northwest Georgia Planning Commission meeting in Calhoun on 09-16-10. The fundamentals of HB 277 was discussed.
6. Met with Public Works Director Jones on work on new park on 09-17-10.
7. Attended recognition meeting with KCMB on grant award on 09-29-10.
8. Councilmembers Brock, Graves and I received update on probation services in private sector from Ms. Baker on 09-29-10.
9. Councilmember Brock, Public Works Director Jones, KCMB, and I met to discuss work activities on new park. Grant has May, 2011 deadline to utilize \$10,000 on 09-30-10.
10. Received and responded to ten (10) calls from citizens.

Respectfully submitted,
Tyson Haynes
Mayor

COMMITTEE REPORTS

FINANCE: Alderman Graves advised that all departments are within budget guidelines.

INFRASTRUCTURE: Alderman Brock advised that the water department projects are complete. The street department has had another busy month with collections and will be getting busier with leaf pickup.

INTERGOVERNMENTAL & TECHNOLOGY: Presentation of the first reading of an Ordinance by the City of Chatsworth, Georgia to repeal Article VI of Chapter 9; to repeal Article VII of Chapter 9; and to repeal Article X of Chapter 9; to Enact New Chapter 15 of the Code of Ordinances for the City of Chatsworth to provide for the General Provisions Controlling Alcohol within the City; To Control license for malt beverages, wine and distilled spirits by the drink; and to provide for excise taxes on alcohol within the city; to provide an adoption date and an effective date; for other purposes.

Alderwoman Martin asked Mayor Haynes to provide an overview of the ordinance.

Mayor Haynes presented an overview of the major points.

License fees - Beer	500.00
Wine	500.00
Distilled Spirits	1500.00

Wholesale excise tax will remain at 5%. Beginning 01-01-11 there will be a 3% retail excise tax.

Special events will be permitted. There will be no Sunday Sales. Twelve midnight closings. The clerk will have applications available on 10-18-10 after the second reading which is scheduled for a called meeting on 10-18-10 at 12 noon.

Mayor Haynes called for a motion to adopt this as the first reading.

Celeste, "I make a motion we adopt this as the first reading." Wayne seconded the motion which passed by a vote of 4 to 0.

PUBLIC SAFETY: Fred called for the fire department report from Mike Baxter.

Mr. Baxter advised that this was fire prevention week and they would be having tours from the school children. Also, the Flames course is scheduled for October 15, 16 and 17.

Chief Martin advised that there were no burglaries this month. There were 31 accidents.

Marshal Mitchell Smith advised things were going well with him.

Mayor Haynes adjourned the meeting at 6:30 p.m.

ATTEST:

CITY CLERK

MAYOR TYSON HAYNES

ALDERMAN WAYNE GRAVES

ALDERWOMAN CELESTE MARTIN

ALDERMAN GARY BROCK

ALDERMAN FRED WELCH

SEPTEMBER PAID BILLS

BRADLEY BUILDERS SUPPLY	624.96	CITY FLORIST	56.66
CHATSWORTH AUTO PARTS	646.89	ALSCO-518	113.69
G & S OFFICE SUPPLY INC	248.41	WINDSTREAM	1228.96
GMEBS	12889.84	LIBERTY NATIONAL LIFE	1842.87
CINTAS FIRST AID	76.49	DALTON TRUCK INC	1279.50
REEDS LUMBER CO	3440.53	CHATS WATER WROKS COMM	7924.57
ROBBY G WATKINS	360.00	JUSTIN CALE HAMBY	360.00
S & J INDUSTRIAL SUPPLY	264.48	DUSTIN ANDREW WHITENER	360.00
B B & T	86.00	GAS SOUTH	862.99
K & C METAL INC	4223.99	CHATSWORTH FARM & GARDEN	406.86
CHATSWORTH TIMES	356.20	FORT VIEW CLEANERS	211.40
GLOBE CHEMICAL CO INC	185.19	GEORGIA POWER COMPANY	15333.80
GSCCCA	2878.90	COMMISSIONER OF MC	6544.41

September Paid Bills Continued

VULCAN MATERIALS COMPANY	1436.85	PEACE OFFICERS A & B FUND	914.08
MC COMMISSIONER - DATE	290.68	ADVANCE AUTO PARTS	48.06
DALTON JANTORIAL INC	51.62	CHILD SUPPORT ENFORCEMENT	189.58
COMMUNICATIONS & ELECTRONICS	267.00	SANTEK ENVIRONMENTAL GA	2158.76
WORLD ELECTRONICS	29.99	MURRAY COUNTY JAIL FUND	1042.22
VICTIMS COMP PROBATION	549.50	COURTWARE SOLUTIONS	950.00
O'REILLY AUTO PARTS	4.29	NATIONWIDE RETIREMENT SOL	653.16
MURRAY MIX CONCRETE INC	434.50	WACHOVIA	380.00
VAUGHTERS TRACTOR CO INC	242.96	AUTOZONE/AZ COMMERCIAL	209.04
5% VICTIMS SURCHARGE	526.36	SPARTAN CHASSIS	319.14
CHAPTER 13 STANDING TRUSTEE	249.00	BABBS BODY SHOP	90.00
NORTHWEST GA REGIONAL CO	95.00	FRETTA PULLIAM	30.00
LARRYS TREES TO DIRT INC	450.00	ROBBY G WATKINS	288.00
PEACE OFFICER'S A & B	260.00	JUSTIN CALE HAMBY	72.00
DUSTIN ANDREW WHITENER	72.00	CHATSWORTH FORD	50.00
CHILD SUPPORT ENFORCEMENT	189.58	NATIONWIDE RETIREMENT SO	653.16
HENDRICKS TRUSS CO INC	1686.00	NORTH GEORGIA TIRE	456.73
WACHOVIA	350.00	CHAPTER 13 STANDING TRUSTEE	249.00
NORTHWEST GA REGIONAL CO	350.00	ROBBY G WATKINS	288.00
BANKCARD CENTER	326.77	KEY-JAMES BRICK & TILE	2141.78
TEAMBUILDERS/ E BRIDGES	180.00	AFLAC	1280.18
GMEBS LIFE HEALTH FUND	21208.50	PITNEY BOWES	147.00
CHILD SUPPORT ENFORCEMENT	189.58	NATIONWIDE RETIREMENT SO	653.16
VERIZON WIRELESS	588.32	PRE-PAID LEGAL SERVICES	93.65
DHR CONSTRUCTION INC	15000.00	WACHOVIA	380.00
CHAPTER 13 STANDING TRUSTEE	249.00	PURE UV WATER COOLERS	30.00
REEDS LUMBER CO	1055.61	GEORGIA TECHNOLOGY AUTHORITY	511.21
JLT SALES INC	2383.55	ROBBY G WATKINS	360.00
A & R BODY SHOP	320.00	NORTH GEORGIA EMC - SEDC	196.98
CHILD SUPPORT ENFORCEMENT	189.58	NATIONWIDE RETIREMENT SO	653.16
WACHOVIA	380.00	CHAPTER 13 STANDING TRUSTEE	249.00

**CITY OF CHATSWORTH
SPECIAL CALLED COUNCIL MEETING
OCTOBER 18, 2010**

The Chatsworth City Council met in a special called session on Monday, October 18, 2010 at noon with Mayor Tyson Haynes presiding.

PRESENT: Mayor Tyson Haynes, Aldermen: Wayne Graves, Gary Brock and Fred Welch. City Attorney Steve Williams and City Clerk Wilma Nolan. Lori Harrison of the Chatsworth Times.

Present by teleconference Alderwoman Celeste Martin.

Mayor Haynes called the meeting to order for the purpose of the second reading of an ordinance amending Article VI of Chapter 9, repealing Article VII, and repealing Article X of Chapter 9 of the Code of Ordinances of the City of Chatsworth, and adding a new Chapter 15 .

The ordinance reads as follows:

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY OF CHATSWORTH, GEORGIA TO AMEND THE CODE OF ORDINANCES OF THE CITY OF CHATSWORTH, GEORGIA TO REPEAL ARTICLE VI OF CHAPTER 9; TO REPEAL ARTICLE VII OF CHAPTER 9; AND TO REPEAL ARTICLE X OF CHAPTER 9; TO ENACT NEW CHAPTER 15 OF THE CODE OF ORDINANCES FOR THE CITY OF CHATSWORTH TO PROVIDE FOR THE GENERAL PROVISIONS CONTROLLING ALCOHOL WITHIN THE CITY; TO CONTROL LICENSES FOR MALT BEVERAGES, WINE, AND DISTILLED SPIRITS BY THE DRINK; AND TO PROVIDE FOR EXCISE TAXES ON ALCOHOL WITHIN THE CITY; TO PROVIDE AN ADOPTION DATE AND AN EFFECTIVE DATE; FOR OTHER PURPOSES.

WHEREAS, the City of Chatsworth is authorized to control, license, and tax alcohol within its city borders; and,

NOW, THEREFORE, IT IS HEREWITH ORDAINED, and THE MAYOR AND COUNCIL OF THE CITY OF CHATSWORTH HEREBY ORDAINS, as follows:

SECTION 1

The Code of the City of Chatsworth is hereby amended by repealing Article VI of Chapter 9, repealing Article VII, and repealing Article X of Chapter 9 of the Code of Ordinances of the City of Chatsworth.

SECTION 2

The Code of Ordinances of the City of Chatsworth, Georgia is further amended by adding a new Chapter 15 of said Code of Ordinances, which said chapter shall read as follows:

Chapter 15**ALCOHOLIC BEVERAGES****ARTICLE I. In General**

- Sec. 15-1 Definitions.
- Sec. 15-2 Purpose of chapter.
- Sec. 15-3 Applicability.
- Sec. 15-4 Compliance with chapter.
- Sec. 15-5 Laws and regulations adopted.
- Sec. 15-6 Penalties.
- Sec. 15-7 Possession of unsealed containers.
- Sec. 15-8 Possession in public places.
- Sec. 15-9 Open area and patio sales.
- Sec. 15-10 Underage persons prohibited on premises.
- Sec. 15-11 Sales to person underage.
- Sec. 15-12 Purchase or possession by underage persons; misrepresentation of age.
- Sec. 15-13 Employees.
- Sec. 15-14 Furnishing to underage persons.
- Sec. 15-15 Sunday sales.
- Sec. 15-16 Business hours of licensed wholesaler.
- Sec. 15-17 Hours of sale.
- Sec. 15-18 Closing and vacation of premises of pouring outlets.
- Sec. 15-19 Service after hours at pouring outlets.
- Sec. 15-20 Delivery by retailer beyond licensed premises.
- Sec. 15-21 Drive-in window or curb service.
- Sec. 15-22 Clear view of entrance and interior of licensed premises.
- Sec. 15-23 Misrepresentation of contents.
- Sec. 15-24 Sale or furnishing of alcoholic beverages to intoxicated persons.
- Sec. 15-25 Private clubs.
- Sec. 15-26 Copy of chapter on premises.
- Sec. 15-27 Limitation on consumption sales.
- Sec. 15-28 Proper identification-Definition
- Sec. 15-29 Responsibility to examine proper identification; exceptions to prohibitions.
- Sec. 15-30 Brown bagging prohibited; exception; sanction.
- Secs. 15-31 — 15-53. Reserved.

ARTICLE II. License**DIVISION 1. GENERALLY**

- Sec. 15-54 Necessity for license in compliance with ordinance.
- Sec. 15-55 Separate license for each retail consumption dealer; license not transferable; surrender of license.
- Sec. 15-56 Approval of mayor and council.
- Sec. 15-57 Grant or privilege.
- Sec. 15-58 Types of licenses.
- Sec. 15-59 Holding more than one retail license.
- Sec. 15-60 Use restricted to license type
- Sec. 15-61 Display.
- Sec. 15-62 Inspection of licensed establishments.
- Sec. 15-63 Audits.
- Sec. 15-64 Eligibility for pouring license
- Sec. 15-65 Separate businesses.
- Sec. 15-66 Annual fees.
- Sec. 15-67 Amount of fees.
- Sec. 15-68 Responsibility for employee's conduct.
- Sec. 15-69 Public benefits verification.
- Secs. 15-70 — 15-92. Reserved.

DIVISION 2. QUALIFICATIONS GENERALLY

- Sec. 15-93 Issuance to Person.
- Sec. 15-94 Location of premises.
- Sec. 15-95 Inspections.
- Sec. 15-96 Location restriction.
- Sec. 15-97 Disqualified location.
- Sec. 15-98 Citizenship and residency requirements.
- Sec. 15-99 Filing of changes.
- Sec. 15-100 Disqualification generally.
- Sec. 15-101 Persons with prior convictions.
- Sec. 15-102 Local caterer or concessionaire.
- Sec. 15-103 Temporary permits for nonprofit civic organizations
- Secs. 15-104 — 15-126. Reserved.

DIVISION 3. APPLICATION AND ISSUANCE GENERALLY

- Sec. 15-127 Application required.
- Sec. 15-128 False information.
- Sec. 15-129 Processing fee.
- Sec. 15-130 Advertisement of intent to engage in business.
- Sec. 15-131 Payment of taxes and other debts to city.
- Sec. 15-132 Issuance.
- Sec. 15-133 Notification of denial.

- Sec. 15-134 Acceptance and consideration of application after rejection or revocation
Sec. 15-135 Approval of applications for sties under construction.
Sec. 15-136 Time limit for commencement of business.
Sec. 15-137 Time limit for closed business.
Secs. 15-138 — 15-160. Reserved.

DIVISION 4. RESTRICTIONS

- Sec. 15-161 Compliance with article by wholesalers.
Sec. 15-162 Interest in other licenses by wholesalers.
Sec. 15-163 Sales and deliveries by wholesalers.
Sec. 15-164 Retailers to purchase from licensed wholesalers.
Sec. 15-165 Invoices.
Secs. 15-166 — 15-188. Reserved.

DIVISION 5. RENEWAL AND TRANSFER

- Sec. 15-189 Renewal required.
Sec. 15-190 Time of renewal; provisional renewal.
Sec. 15-191 Transferability.
Sec. 15-192 Surrender of license.
Secs. 15-193 — 15-215. Reserved.

DIVISION 6. LICENSE STATUS

- Sec. 15-216 Expiration upon delinquency.
Sec. 15-217 Revocation of state license.
Sec. 15-218 Suspension in emergency.
Sec. 15-219 Other licenses.
Secs. 15-220 — 15-242. Reserved.

DIVISION 7. HEARING PROCESS

- Sec. 15-243 Due cause hearing; defined; cost hearing.
Sec. 15-244 Notice of violation.
Sec. 15-245 Action by mayor and council.
Sec. 15-246 Procedures for first three violations.
Secs. 15-247 — 15-269. Reserved.

DIVISION 8. SANCTIONS

- Sec. 15-270 Sanctions for violations.
Sec. 15-271 No refund of fee.
Sec. 15-272 Removal of signs and alcoholic beverages.
Sec. 15-273 Costs.
Secs. 15-274 — 296. Reserved.

ARTICLE III. Excise Tax**DIVISION 1. DISTILLED SPIRITS**

- Sec. 15-297 Unlawful sales.
- Sec. 15-298 Levied.
- Sec. 15-299 Duties of wholesaler.
- Sec. 15-300 Unlawful deliveries.
- Sec. 15-301 Non compliance.
- Sec. 15-302 Frequency of payment.
- Sec. 15-303 Rate.
- Secs. 15-304 — 15-326. Reserved.

DIVISION 2. MALT BEVERAGES

- Sec. 15-327 Imposed generally.
- Sec. 15-328 Tap or draft beer.
- Sec. 15-329 Separate from other charges.
- Sec. 15-330 Payment and collection generally.
- Sec. 15-331 Duties of retail dealers for receipt and presentation of invoices.
- Sec. 15-332 Report of wholesale dealers.
- Sec. 15-333 Marking.
- Sec. 15-334 Delinquencies.
- Sec. 15-335 False report.
- Sec. 15-336 Revocation of license.
- Secs. 15-337 — 15-359. Reserved.

DIVISION 3. WINE

- Sec. 15-360 Levied.
- Sec. 15-361 Separate from other taxes and fees.
- Sec. 15-362 Payment and collection generally.
- Sec. 15-363 Invoices.
- Sec. 15-364 Collection and custody.
- Sec. 15-365 Monthly report.
- Sec. 15-366 Remittance.
- Sec. 15-367 Duties of retail dealers for receipt and preservation of invoices.
- Sec. 15-368 Failure to make reports.
- Sec. 15-369 Sale upon which tax not paid.
- Sec. 15-370 Prohibited sales and deliveries.
- Sec. 15-371 Revocation of license.
- Secs. 15-372 — 15-394. Reserved.

DIVISION 4. ALCOHOLIC BEVERAGES BY THE DRINK

- Sec. 15-395 Definitions
- Sec. 15-396 Imposition and rate.
- Sec. 15-397 Administration of division.
- Sec. 15-398 Violations.

- Sec. 15-399 Authority and requirement of licensee to collect.
Sec. 15-400 Collection; receipts; rules and regulations.
Sec. 15-401 Determination, returns and payments.
Sec. 15-402 Deficiency determination on returns.
Sec. 15-403 Determination if not return made.
Sec. 15-404 Penalty for nonpayment.
Sec. 15-405 Action for tax; tax credit; penalty or interest paid more than once or erroneously or illegally collected.
Secs. 15-406 — 15-422. Reserved.

ARTICLE I. IN GENERAL

Sec. 15-1. Definitions.

All definitions set forth in the Georgia Alcoholic Beverage Code (O.C.G.A. tit. 3) and state regulations, as amended, are adopted by this chapter. 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 means ethyl alcohol hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

Alcohol beverage includes all alcohol, distilled spirits of wine, from whatever source or by whatever process produced.

Applicant means any person who files forms designated by the city clerk as an applicant for a license to sell alcoholic beverages either at retail or wholesale, deal in alcoholic beverages either at retail or wholesale or manufacture alcoholic beverages.

Bartender means a person that serves beverages behind a bar in a restaurant, pouring outlet or similar establishments.

Brewer a manufacturer of malt beverages.

Church means a permanent freestanding building located in an area designated for such use by the zoning ordinances where persons regularly assemble for religious worship which shall be publicly designated as a place of worship, but does not include a residence or place of business also used for religious purposes.

Code enforcement officer means a certified peace officer, as defined by state law, appointed by the mayor and council to enforce this chapter.

Distance means the distance as established in section 15-96 of this chapter.

Distilled spirits or 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.

Eating establishment means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 60 percent of its total annual gross food and beverage sale from the sale of prepared meals or food.

Family means any person related to the holder of a license within the first degree of consanguinity or affinity as determined according to civil law.

Financial Interest includes, but is not limited to, holding an investment, indebtedness, or security interest in a business.

License means the authorization by the governing body to engage in the sale of alcoholic beverages by the package or for the sale of alcoholic beverages for consumption on the premises, as may be permitted by the terms of this ordinance.

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.

Local caterer or concessionaire means a person, whose principal business is to cater meals or other food items for functions located off the caterer's premises, who maintains a permanent office within the city and who meets the citizenship and residency requirements of section 15-105 of this chapter.

Lounge means a separate room connected with a part of, and adjacent to a restaurant as defined in this chapter, or located in a hotel; provided that in no event shall the seating capacity of the lounge exceed that of its connected restaurant and provided that in no event shall the lounge be located in a separate building.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt hops or any other similar product, or any combination of such products in water, containing not more than six (6) percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese wine.

Nonprofit civic organization means an organization which is an exempt organization under section 501(c) or (d) of the Internal Revenue Code of 1986, as amended.

Package store means a geographic location within the city wherein a license may be issued for the sale of packaged alcoholic beverages in unbroken packages and where the sale of alcoholic beverages in unbroken packages comprises more than 50 percent of the licensee's annual gross sales and where the sale of nonalcoholic items is incidental to the business of the licensee at that location.

Person means any individual or entity as defined in the Georgia Alcoholic Beverage Code, (O.C.G.A. tit. 3) and state regulations, as amended.

Person under age means any individual under the age of 21 years.

Pour or sell by the drink mean the sale of alcoholic beverages by the drink for consumption on the premises.

Pouring outlet means any place where wine or malt beverages are poured or proposed to be poured, but excluding places or establishments other than restaurants, hotels, motels, private clubs and lounges.

Premises means the entire building and lot or complex, including parking area, upon which either a pouring outlet or package store is located.

Private club means an entity that meets all of the following criteria:

- (1) It is either a corporation organized or existing under the laws of the State, or a fraternal or veterans' organization that has by laws and that is part of a national organization.
- (2) It shall have existed in the city for at least one year immediately prior to application for licensing as a private club under this chapter.
- (3) It has at least 100 members regularly paying dues at least annually.
- (4) It is organized and operated exclusively for nonprofit purposes, including fraternal brotherhood, pleasure and recreation.
- (5) No part of the net earnings of the entity inure to the benefit of any share holder or member.
- (6) It owns, hires, or leases a building or space therein for the reasonable use of its members, with suitable kitchen and dining room space and equipment.
- (7) It maintains a kitchen area and dining area for cooking, preparing, and/or serving meals for its members and guests at least once a month.
- (8) No member, officer, agent or employee is paid, or directly or indirectly receives, in the form of salary or other compensation, any profit from the sale of wine or malt beverages to the entity or its members or guest beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing board out of general revenue of the club.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are regularly served, such place being provided with kitchen and with a separate dining room, equipment, and personnel to serve, and regular seating for 60 persons. The serving of food shall consist of at least one meal per day at least six days a week, with the exception of holidays, vacations, and periods of redecorating, and shall be where the principal business is conducted, with pouring being only incidental thereto.

Retail consumption dealer means any person who sells distilled spirits for consumption on the premises only to consumers and not for resale.

Retail or retail dealer means any person who sells alcoholic beverages in unbroken packages at retail only to consumers and not for resale.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

School building or educational building means such state, county, city, church or other schools as teach subjects commonly taught in the common schools and colleges of the state and shall not include private schools where only specialized subjects such as law, stenography, business, music, art, dance, medicine, dentistry, vocational occupation or other special subjects are taught.

Tavern means a pouring outlet, as defined in this section, which serves malt beverages or wine by the drink.

Waiter/waitress means a person taking customer's orders, serving food and drinks, and also prepares tables before and after meals in a restaurant, bar or similar establishments.

Wholesale or wholesale dealer means any person who sells alcoholic beverages to other wholesale dealers or to retail dealers.

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, and combination of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixes 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.

State law reference: Definitions relating to alcoholic beverages. O.C.G.A. §§ 3-1-2, 3-3-2.

Sec. 15-2. Purpose of chapter.

This chapter has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages to protect and preserve schools and churches;
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and

- (4) Protecting against the evils of concentration of ownership of retail outlets for alcoholic beverages or preventing undesirable persons from engaging in or having any interest in alcoholic beverages.

Sec. 15-3. Applicability

The sections of this chapter and the license fees levied in this chapter shall apply to all persons residing or maintaining a place of business in the city or to any person bringing alcoholic beverages into the city for the purpose of sale, except those sales made by a salesperson upon order and delivery later.

Sec. 15-4. Compliance with chapter

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages without having first complied with this chapter including, but not limited to, obtaining the appropriate alcoholic beverage license from the city.

Sec. 15-5. Laws and regulations adopted.

The state laws and regulations relating to the sale and distribution of alcoholic beverages in the state, as revised and promulgated by the general assembly and by the state revenue department and especially as they relate to wholesale and retail package sales and retail sales for consumption on the premises, are incorporated into and made a part of this chapter as if fully set out in this section.

Sec. 15-6. Penalties.

Any person violating any of the sections of this chapter or who shall assist any dealer in alcoholic beverages in the city to evade or avoid the payment of the fees and taxes provided for in this chapter shall be guilty of a violation of this chapter and, upon conviction in the municipal court, shall be fined or sentenced to the maximum allowed under the Charter or both such fine and sentence to be inflicted in the discretion of the municipal court, and such person so convicted shall also be subject to having his license revoked if he shall be a licensed dealer in alcoholic beverages either at wholesale or retail.

Sec. 15-7. Possession of unsealed containers.

It shall be unlawful for any person to possess any unsealed alcohol container on premises licensed for the sale of alcoholic beverages by the package, and it shall be unlawful for any licensee to permit possession of an unsealed alcohol container on the premises licensed for the sale of alcoholic beverages by the package.

Sec. 15-8. Possession in public places.

(a) Except as provided in subsection (b) of this section and section 15-9, it shall be unlawful for any person to drink, consume, transport, carry alcoholic beverage (except in the original package and with the seal unbroken), on any public street, sidewalk, or in any

city park, city maintained recreation facility, public parking lot or semipublic parking lot located within the city limits. The term "semi-public parking lot" shall include any area wherein motor vehicles are parked by the public in conjunction with any business, enterprise, commercial establishment, office building or apartment building.

(b) The following activities shall not be a violation of this section:

(1) Beer and/or wine and/or distilled spirits by the drink within a special outdoor area as provided in section 15-9, or has city approval and been issued a temporary permit good for a 3 day event.

Sec. 15-9. Open area and patio sales.

The consumption and/or sale of alcoholic beverages by the drink shall be allowed in open areas and patios under the control of the licensee provided that such open areas and patios are separated from public areas by a physical barrier, fence, rail or similar structure sufficient to prevent ingress and egress by a person(s) except through a controlled access point and further provided that the licensee is in compliance with all other appropriate regulations as to the safe and orderly operation of such establishment and its open area or patio, including, but not limited to, regulations pertaining to maximum capacity, ingress and egress. In the event the designated area is separated from the licensee's premises so that it is necessary to traverse public property to get from one location to the other, then in such event it shall be unlawful for alcoholic beverages to be carried from said premises to the designated area or vice versa by anyone but licensee or employees of licensee.

Sec. 15-10. Underage persons prohibited on premises.

No person who holds a license to sell malt beverages, wine, distilled spirits, or other alcoholic beverage shall allow any person underage to be in, frequent or loiter about the premises of the licensee unless such underage person is accompanied by a parent or a legal guardian. However, this section shall not apply to a licensee whose annual sales of food and non-alcoholic beverages upon the premises comprise more than 60 percent of the licensee's annual gross sales and where the sales of alcoholic beverages are merely incidental to the business.

Sec. 15-11. Sales to person underage.

No licensee or any other person on a licensed premises shall sell alcoholic beverages to any person under the age of 21 years.

State law reference: Furnishing alcoholic beverages to underage persons, O.C.G.A. § 3-3-23.

Sec. 15-12. Purchase or possession by underage persons; misrepresentation of age.

It shall be unlawful for any person under age to purchase or possess any alcoholic beverage. It shall be unlawful for any person under age to misrepresent his age in any manner whatsoever for the purpose of illegally obtaining any alcoholic beverages.

State law reference: Purchase of alcoholic beverages by underage persons, misrepresentation of age O.C.G.A. § 3-3-23.

Sec. 15-13. Employees.

Except as otherwise provided by law:

- (1) No person issued a license under this chapter shall employ any person under 18 years of age in or about the premises where alcoholic beverages are sold, consumed or offered for sale, or for such person under 18 to sell or deliver or to aid or assist in the sale or delivery, directly or indirectly, of alcoholic beverages; and
- (2) No person under 18 years of age shall sell, take orders for or deliver or in any manner take part or assist in the sale, serving or delivery of alcoholic beverages.

State law reference: Underage persons employed where alcoholic beverages sold, O.C.G.A. § 3-3-23.

Sec. 15-14. Furnishing to underage persons.

It shall be unlawful for any person to buy alcoholic beverages and furnish them to a person under age, except as provided by law.

State law reference: Furnishing alcoholic beverages to underage persons, O.C.G.A. § 3-3-23.

Sec. 15-15. Sunday sales.

- (a) No alcoholic beverages shall be sold either by a wholesale or retail dealer on Sunday.
- (b) If otherwise lawful, persons holding alcoholic beverages licenses from the city pursuant to this chapter shall be authorized to sell alcoholic beverages subject to all of the rules and regulations of this Code applicable to such sales.

State law reference: Similar provisions, O.C.G.A. § 3-3-20.

Sec. 15-16. Business hours of licensed wholesaler.

The business hours of any wholesaler licensed to sell alcoholic beverages shall be at all times not inconsistent with limitations on such sales as set forth in this chapter or in state law.

Sec. 15-17. Hours of sale.

No alcoholic beverage shall be sold after 12:00 a.m. or before 7:00 a.m. in the city.

Sec. 15-18. Closing and vacation of premises of pouring outlets.

The premises of all pouring outlets shall be completely closed and vacated by all persons except those persons regularly employed for management, sanitation and supply purposes, no later than 12:00 a.m.

Sec. 15-19. Service after hours at pouring outlets.

No alcoholic beverages shall be mixed or sold at pouring outlets during the prohibited hours, based upon timely sale of tickets, chits, decanters or other devices.

Sec. 15-20. Delivery by retailer beyond licensed premises.

It shall be unlawful for any person issued a license under this chapter to make deliveries of any alcoholic beverages by the package beyond the boundaries of the premises covered by the license or any alcoholic beverages by the drink beyond the indoor boundaries of the premises covered by the license.

Sec. 15-21. Drive-in window or curb service.

It shall be unlawful for any person to sell or dispense alcohol from drive-in or service window. Curb service or other sale of alcohol outside the building licensed to sell is hereby expressly prohibited.

Sec. 15-22. Clear view of entrance and interior of licensed premises.

No licensee for the sale of alcoholic beverages by the package shall operate under the license unless the front entrance to the licensed premises is clearly visible from the public street.

Sec. 15-23. Misrepresentation of contents.

Under this chapter it shall be unlawful for licensees or their agents 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.

State law reference: Quality requirements, O.C.G.A. § 3-3-5.

Sec. 15-24. Sale or furnishing of alcoholic beverages to intoxicated persons.

No person issued a license under this chapter or any other person on the licensed premises shall be sold, bartered, exchanged, given, provided, or furnished to any person who is in a state of noticeable intoxication or of unsound mind. The licensee or his/her designee shall provide access to transportation for intoxicated persons on the premises.

State law reference: Similar provisions, O.C.G.A. § 3-3-22.

Sec. 15-25. Private clubs.

Any private club that secures a pouring license under this chapter and is operated behind locked doors, shall provide at least three keys to each lock, or where cards are used for admittance, three cards for each lock, properly marked. One key or card shall be provided to the chief of police, one key to the city fire chief, and one key or card shall be provided to the county sheriff. The changing of the locks without supplying new keys or cards shall be grounds for revocation of the license.

Sec. 15-26. Copy of chapter on premises.

It shall be the duty of the management of a pouring or package outlet to maintain a copy of the pouring or package license ordinance contained in this chapter at the location and to instruct each employee on the terms thereof.

Sec. 15-27. Limitation on consumption sales.

It shall be unlawful for any person to knowingly and intentionally sell any alcoholic beverage for consumption on premises located within 100 yards of any housing authority property or library.

Sec. 15-28. Proper identification-Definition.

"Proper identification" as used in this chapter of the Code shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and such person's date of birth. Proper identification includes, without being limited to, a passport, military identification card, driver's license, or any identification card authorized under O.C.G.A. §§ 40-5-100 through 40-5-104. Proper identification shall not include a birth certificate and shall not include any traffic citation and complaint form.

Sec. 15-29. Responsibility to examine proper identification; exceptions to prohibitions.

It shall be the responsibility of the licensee to examine the proper identification of each patron to ascertain that such patron is 21 years of age or older. The prohibitions of sections 15-11 of the Code shall not apply with respect to the sale of alcoholic beverages

by a person when such person has been furnished with proper identification showing the alcohol beverage is to be sold to a person who is 21 years of age or older.

Sec. 15-30. Brown bagging prohibited; exception; sanction.

- (1) Except as otherwise provided herein, it shall be unlawful for the owner, manager or employee of a food-serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink or entertainment to permit customers, guests or invitees to bring an alcoholic beverage onto the premises of such establishment for consumption purposes.
- (2) This ordinance shall not apply to a private event on any premises where the general public is not allowed entry. An event at a private club where only club members are allowed entry shall not be deemed a private event for the purposes of this ordinance.
- (3) Any owner, manager or employee of a food serving establishment, private club, dance hall or any other establishment primarily in the business of providing food, drink, or entertainment who violates this ordinance shall, upon conviction thereof, be punished by a civil penalty of not less than \$200.00 and not more than \$1,000.00.

Secs. 15-31 — 15-53. Reserved.

ARTICLE II. LICENSE

DIVISION 1. GENERALLY

Sec. 15-54. Necessity for license in compliance with ordinance.

- (a) No distilled spirit shall be manufactured, sold or offered for sale at wholesale or retail within the City of Chatsworth, Georgia, without the appropriate license for such manufacture or sale, or in violation of the terms of such license or of this ordinance. Any person found guilty of violating this provision may be fined or sentenced to jail at the discretion of the court up to the maximum allowed of said court, or both such fine and sentence of jail time.
- (b) Distilled spirits may only be sold for consumption on the premises to consumers and not for resale by a duly licensed retail consumption dealer of the City of Chatsworth and in accordance with the provisions of this ordinance at duly licensed outlets.

Sec. 15-55. Separate license for each retail consumption dealer; license not transferable; surrender of license.

- (a) A separate license shall be required for each distilled spirits outlet, and a separate application shall be made for each such outlet.
- (b) No license shall be transferable or assignable unless a new license shall first be approved by the Chatsworth Chief of Police in accordance with the provisions of this ordinance.

- (c) Immediately upon the sale or closing of an outlet, it shall be the duty of a licensee to surrender the license to the City of Chatsworth by presenting same to the City Clerk who shall mark it "cancelled and void" with the date it is so marked.

Sec. 15-56. Approval of mayor and council.

- (a) With the exception of a temporary permit, no alcoholic beverage license shall be issued until it has been approved by the mayor and council.
- (b) No alcoholic beverage license shall be approved unless all sections of this chapter have been met.

Sec. 15-57. Grant or privilege.

Every license issued under this article shall be a mere grant or privilege to carry on such business during the term of the license, subject to all the terms and conditions imposed by this chapter and related laws, applicable sections of this Code and other city ordinances and resolutions relating to such business.

State law reference: Local licenses, O.C.G.A. § 3-3-2.

Sec. 15-58. Types of licenses.

The types of alcoholic beverage licenses which may be issued under this article are as follows:

- (1) Pouring of distilled spirits.
- (2) Pouring wine and/or malt beverages.
- (3) Package wine and/or malt beverages.
- (4) Wholesale alcoholic beverages.
- (5) Local caterer or concessionaire.
- (6) Temporary permit.
- (7) Private club.

Sec. 15-59. Holding more than one retail license.

A retail alcoholic beverage licensee may hold more than one type of retail license, provided that each license must be approved by the mayor and council.

Sec. 15-60. Use restricted to license type.

- (a) It shall be unlawful for any person operating a premises license for the sale of wine and malt beverages to store or have on the premises any distilled spirits.
- (b) Holders of a pouring distilled spirits license shall not sell distilled spirits in the package.
- (c) Holders of a pouring wine and malt beverages license shall not sell malt beverages or wine by the package for carry-out purposes.

Sec. 15-61. Display.

Each licensee for the sale of alcoholic beverages shall have his license posted conspicuously in his place of business. The failure of a licensee to display the license conspicuously in his place of business shall be a violation of this chapter and shall subject the licensee to citation and nonjudicial sanctions as provided in this chapter upon a finding of a violation after a hearing.

Sec. 15-62. Inspection of licensed establishments.

Sworn officers of the police department and the city Marshal shall have the authority to inspect establishments licensed under this article 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 sections of this Code.

Sec. 15-63. Audits.

The city clerk shall be authorized to conduct an audit of the records and books of a retail alcoholic beverage licensee for the purpose of determining whether such licensee is in compliance with this chapter or any other provision of the Code. The city clerk or their designee shall notify a licensee of the date, time and place of the audit, and the licensee shall present for inspection at such date, time and place its books and records for audit purposes, and such licensee shall cooperate with the city officials and the agents of the city conducting said audit.

The burden of proving compliance with minimum annual food sales requirement contained in this chapter shall be on the licensee. Compliance with such requirement may only be proven through the submission of licensee's business records made and kept in the ordinary course of business. If the licensee is unable to meet its burden of proof with such business records, then licensee shall be deemed to be in violation of this article, and, in addition to any other remedy or right available to the city, the licensee shall be liable for, and shall pay to the city upon demand, the cost of said audit.