

Chapter 3

ALCOHOLIC BEVERAGES*

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***Cross reference--**Public drunkenness, § 11-14.

State law references--Use of proceeds of alcoholic beverage tax for prevention, education and treatment, Ga. Const. art. 3, sec. 9, par. 6; Georgia Alcoholic Beverage Code, O.C.G.A. § 3-1-1 et seq.; public drunkenness, O.C.G.A. § 16-11-41; furnishing alcoholic beverages to persons under twenty-one years of age, jurisdiction of municipal courts, O.C.G.A. § 36-32-10; driving under the influence of alcohol or drugs, O.C.G.A. § 40-6-391.

Section 3-0A ARTICLE I. IN GENERAL

Section 3-1 Definitions.

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

Alcoholic beverages means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

City Special Event means an event, held on designated City property, including rights-of-way, located in the City's Downtown Business District, that is organized and sponsored by the City of Thomasville consistent with the provisions of Section 3-30 and other applicable provisions of this Chapter.

Distilled spirits means any alcoholic beverage obtained by distillation or containing more than twenty-one (21) percent alcohol by volume, including, but not limited to, all fortified wines.

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

Liquor means distilled spirits.

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 "malt beverage" does not include sake, known as Japanese rice wine.

Private Nonprofit Special Event on Designated City Property shall mean a special event held by a nonprofit organization, recognized as an organization eligible to receive tax deductible charitable contributions as described in § 170(c) of the Internal Revenue Code of 1986, as amended, on designated City property, including rights-of-way, consistent with the provisions of Section 3-30 and other applicable provisions of this Chapter.

Private Party means a gathering of individuals by invitation without charge for admission to which

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the general public is neither invited to attend nor allowed to attend.

Private residence means a house, dwelling or building wherein not less than one (1) family customarily resides. This shall not apply to any of the above which have been unoccupied for a period of twelve (12) consecutive months immediately prior to the filing of an application hereunder.

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

Wine means any alcoholic beverage containing not more than twenty-one (21) percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

Section 3-2 Purposes of chapter.

This chapter has been enacted for the purpose of promoting the health and general welfare of the city; to establish reasonable and ascertainable standards for the regulation and control of the licensing and sale of alcoholic beverages; to protect and preserve schools, and churches; to give effect to existing land use; to preserve residential areas, with reasonable consideration being given to the character of the area and its peculiar suitability for particular uses, the congestion in roads, and streets, and with a general view of promoting desirable living conditions, sustaining the stability of neighborhoods and property values; and to protect against the evils of concentration of package liquor store licenses in one (1) family, or corporation, or both; and to prevent an undesirable person from engaging in or having an interest in alcoholic beverages or the sale thereof in the city.

Section 3-3 Compliance with chapter required.

It shall be unlawful for any person to sell or offer for sale at wholesale or retail any alcoholic beverages as defined in section 3-1, which shall include beer, wine and distilled spirits, within the city without having first complied with the provisions of this chapter, but the properly licensed sale of same is hereby declared lawful.

Section 3-4 Intoxicating liquor; sale, transportation or possession of nontax-paid beverages prohibited.

(a) It shall be unlawful for any individual to sell any nontax-paid intoxicating liquors or beverages within the city limits.

(b) It shall be unlawful for any individual to transport any nontax-paid intoxicating liquors or beverages within the city limits.

(c) It shall be unlawful for any individual to possess any nontax-paid intoxicating liquors or beverages within the city limits.

Section 3-5 3-5--3-20. Reserved.

Section 3-20A ARTICLE II. LICENSES

Section 3-21 Required; consideration and approval; subsequent issuance; conditional approval.

(a) No alcoholic beverages shall be manufactured or warehoused except under license granted by the

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city council as provided in this article, but the properly licensed sale of such alcoholic beverages is hereby declared lawful.

(b) Each application provided for in this article shall be considered and passed upon by the city council in regular or special session, legally assembled. No license shall be granted to any person unless it is made to appear to the city council that the applicant is a suitable and fit person to carry on such business, and that the business will be conducted in an orderly manner and in compliance with all laws, municipal, state and federal. Upon approval of the application and payment of the required license fee, the applicant shall be entitled to the issuance of the license; provided, however, the council reserves the right to approve such issuance of the license conditioned upon full and final compliance by the licensee with all applicable city ordinances.

Section 3-22 Disqualification provisions.

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

- (1) Any person as determined by the city council by reason of such person's business experience financial standing, moral character mental capacity, trade associations, personal associations, record of arrest, or reputation in any community in which he has resided, who is not likely to maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations.
- (2) Any person who shall have been convicted or who shall have entered a plea of nolo contendere, or forfeited a bond, to any felony within a period of ten (10) years immediately prior to the filing of any such application, or to any misdemeanor within a period of five (5) years immediately prior to the filing of any such application, for any felony or misdemeanor of any state, or of the United States, or any municipal ordinance except a traffic violation not involving a DUI, particularly, but not limited to, those involving force or violence, prostitution, alcoholic beverages, gambling or tax law violations, if such conviction, plea or forfeiture tends to indicate that the applicant will not maintain the operation for which he is seeking a license in conformity with federal, state or local laws, rules and regulations. The term "conviction" shall include an adjudication of guilt or plea of guilty, or a plea of nolo contendere or the forfeiture of a bond by a person charged with a crime. Notwithstanding this provision, the city council, in their sole discretion, may direct the issuance of a license to persons who have in the past been convicted of, or plead guilty to, or entered a plea of nolo contendere, or forfeited a bond on any crime, and the city council after a thorough investigation of all the facts, including parole or probation officer's reports, judge's recommendations, and any other evidence bearing on the character of the applicant have determined that such action is in keeping with the public good and ends of justice, or the public interest and welfare.
- (3) A location not suitable in the judgment and discretion of the city council because of traffic congestion, general character of the neighborhood, or by reason of the effect which such an establishment would have on the adjacent and surrounding properties, or on the neighborhood.
- (4) A location at which a previous alcoholic beverage license has been revoked or suspended, and where, in the judgment of the city council, the problems which have arisen from the operation of an alcoholic beverage license at such location indicate that it is not in the interest of public health, safety, welfare or morals that the sale of alcoholic beverages be permitted at such location.
- (5) Any person who is an elected official (or that person's spouse) of, or employee (or that person's spouse) of, the city.

Section 3-23 Application forms; license not to issue under certain conditions.

(a) All applications for licenses shall be made on forms furnished the applicant by the city clerk and shall indicate, along with all reasonable information necessary to complete the form, which of the

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following is to be considered for licensing of the applicant to conduct:

- (1) Retail package beer;
- (2) Retail beer--consumption on the premises;
- (3) Retail package wine;
- (4) Retail wine--consumption on the premises;
- (5) Package liquor;
- (6) Liquor pouring.

(b) Upon approval by the city council of an original or renewal application for license of one (1) or more of the above types of sales of alcoholic beverages, such sales of alcoholic beverages may be made by the applicant after a license is issued for all or the remaining part of the calendar year in which the license is issued unless the license is revoked or suspended for due cause as provided in section 3-25. All applications for renewal of licenses to sell alcoholic beverages shall be filed with the city clerk no later than 5:00 p.m. on December 31st of the year preceding the year for which the application renewal is made. The annual fee for the license sought to be renewed shall be paid the city at the time the application for renewal is filed. Failure of any holder of a license to sell alcoholic beverages to file the application for renewal by the date and time specified shall render the license void, effective the last legal hour on December 31st of that year for such sales. In order to sell alcoholic beverages a license holder who has allowed the license to lapse shall file a new application for license as if a license had never been held and pursuant to the provisions of this article. Where an application for renewal is timely filed as provided in this article, the license holder shall be permitted to continue selling alcoholic beverages under the previous year's license until the city council has acted upon the license holder's application for renewal. Wholesale sales of alcoholic beverages in the city by wholesalers licensed by the state are hereby declared legal, subject to the right of the city to charge a wholesaler for violation of state law or regulation, and to request a hearing thereon before the state revenue commissioner.

(c) No person, or his spouse, who has a direct financial interest in a license for the sale of alcoholic beverages at wholesale shall hold any license or have an interest in any other license issued under the terms of this chapter.

(d) The city clerk of the city shall cause an inquiry to be made into the records of the City to determine if any applicant or other parties interested in an application have any outstanding taxes or special assessments that are delinquent or any other monies owing to the city. No license shall be issued nor shall a license be renewed until all such debts are paid in full.

(e) All applications required by this chapter shall be investigated by the city police department and the report of investigation presented to the city council for consideration with the application.

(f) Each applicant for a license to sell alcoholic beverages in the city, who has not heretofore been licensed by the city to sell alcoholic beverages at retail, shall be required to submit to a complete fingerprinting record and test, pursuant to the rules and regulations established by the city from time to time, such fingerprinting record to be used by the city to supplement the information contained on the application and to make available to the city any records of criminal offenses, either federal or state, from other jurisdictions.

Section 3-24 Fees.

(a) The following annual fees shall be paid the city before any license to sell alcoholic beverages is issued:

- (1) Retail package beer (with no beer to be consumed outside the building on the licensed location except as provided in section 3-115), or retail beer for consumption only inside the building on the licensed location except as provided in section 3-49, Consumption-on-premises establishments:

Either	\$ 400.00
Both consumption and package	500.00

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- (2) Retail package wine (with no wine to be consumed outside the building on the licensed location except as provided in section 3-115), or retail wine for consumption only inside the building on the licensed location except as provided in section 3-115.
 - Either 350.00
 - Both 450.00
- (3) Retail package liquor 4,000.00
- (4) Liquor pouring 2,000.00
- (5) Beer wholesalers (licensed by the state) 100.00

(When applicable, such wholesalers shall be prorated or refunded pro rata, on a monthly basis)

(b) Upon filing an original application or reapplication (except renewals) with the city clerk of the city, the applicant shall deposit in cash or by a check a processing fee of sixty dollars (\$60.00) for beer and/or wine only, or one hundred twenty-five dollars (\$125.00) total, for all licenses applied for, to cover the expense of investigation and processing the application, which fee shall not be refundable and shall not apply against any license granted hereunder. Applicant shall also submit to the city clerk at the time such application is filed, in addition to the city processing fee, a separate cashiers check or money order made payable to the GBI-GCIC, to cover the cost of a GBI-GCIC background check, in an amount specified by the GBI. There will be no investigation fee charged wholesalers licensed by the state.

(c) On subsection (a)(1) through (5), the fees shall be prorated on a monthly basis (all or any part of a month) for new licenses granted during the calendar year.

Section 3-25 Suspension; revocation; denial of renewal or transfer.

(a) *Notice, hearing.* Any license which has been applied for or which has been issued or which may hereafter be issued by the City to an licensee may be denied, suspended, revoked or transfer refused, as applicable, by the city council pursuant to the provisions of this chapter. In the event the city council shall deny any application for a license or for the transfer of any license, or shall revoke or suspend any existing license, the applicant or licensee shall be given notice in writing from the city clerk with the reasons for the actions stated and which notice shall be mailed or delivered to the applicant. Within 15 business days of the date of the notice of the action denying any application or suspending, revoking or refusing the transfer of any license, the party affected shall have the right to give notice in writing to the city council of a request for a hearing with respect to the action taken by the city council. Thereafter, and within 30 days of the notice of the application for hearing by the applicant or the licensee, the city council shall set a hearing for the party affected. The hearing provided for in this section need not be at a regular meeting of the city council but may be at such time and place as shall be fixed by the city council in the notice given to the applicant or licensee. Provided further, that at any hearing as provided for in this section, the party afforded the hearing shall have the opportunity to present evidence, to cross-examine opposing witnesses, to have an attorney present to represent the party's interest, and to have testimony recorded at that party's expense.

(b) *Due cause generally.*

- (1) Due cause for the suspension, revocation or denial of the renewal or transfer of any license shall consist of an act or omission found to be by the city council, after a hearing as above provided, a violation of any law or ordinance regulating such business, or violation of regulations made pursuant to authority granted for the purpose of regulating such business, or for the violation of any state or federal law, or for the violation of any city ordinances, other than traffic violations or ordinances, or failure of the licensee or his employee to promptly report to the police department any violation of the law or ordinance, breach of peace, disturbance or altercation, resulting in violence occurring inside the premises.
- (2) Due cause may also be found should the licensed establishment have become a trouble spot in the

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judgment of the city council by reason of disturbances or acts of disorderly conduct or violence having occurred in the establishment or on the premises thereof, provided that when the license of any establishment has been revoked or renewal of license denied because such establishment has become a trouble spot, no further license shall be issued under this chapter to any person, firm or corporation at such location for a period of at least twelve (12) months from the date of revocation.

- (3) Due cause shall also consist of the business or the operation or location thereof, or the owner or any person connected therewith, ceasing to meet any of the qualifications for the issuance of license as stated in this chapter.
- (4) Due cause may also be found upon the revelation of any false statement or material misrepresentation in any application hereunder. Any material omission from or untrue or misleading information which is contained in an original, renewal or transfer application for license hereunder shall be cause for the denial or refusal of a license, and if any license has previously been granted under such circumstances, the same shall constitute due cause for revocation of such license.
- (5) Failure to control operation resulting in public nuisance. If the failure to control the operation either inside the building or outside on the property results in controlled substance abuse, prostitution, gambling, flagrant indecent conduct or obscenity, fighting, excessive noise, loitering or illegal parking, to the number of times and extent that the city council, after proper hearing, should find the establishment to have become a public nuisance, then such failure may be declared to be due cause for suspension or revocation of the alcoholic beverage license for such establishment, or the denial of renewal application for such license.

(c) *Emergency due cause; failure or refusal to cooperate with the city police acting in line of duty.* On evidence of failure or refusal of the licensee or employee hereunder to cooperate with any police officer on any reasonable request or action within such officer's duties, responsibilities or powers, including all police powers, rights and duties to investigate to determine any pertinent fact relating to the establishment, the licensee, any employees or corporate officers or partners, the chief of police shall immediately order all sales of any alcoholic beverages suspended until after a hearing as set out in the due cause hearing provided for in paragraph (a), such hearing to be concerning such failure or refusal to cooperate.

(d) *Refund of license fee.* When a license is so revoked or suspended, the city shall not be required to refund any portion of the license fee.

(e) *Effect of revocation by state.* Whenever the state shall revoke any permit or license to sell any alcoholic beverage at retail, the city license to deal in such product shall thereupon be automatically revoked without any action by the city council or any municipal officer. If the state has suspended the license or placed such license on probation, then the city license is automatically suspended or probated, as the case may be.

(f) *Emergency situation.* The mayor is the delegated authority to suspend any license hereunder in any emergency situation, and such suspension may be made effective immediately and remain in force until the next regular or called meeting of the city council. In addition, in any emergency situation, the chief of police is hereby authorized to cause the business in question to close temporarily until he decides the emergency or possible riotous situation to be at an end, or until such decision is made by the city council at its next regular meeting, whichever occurs first.

(g) *Penalties for sale of alcoholic beverages to underage persons.* Upon receipt of information by the city council that a sale of alcoholic beverages to an underage person has taken place by a license holder, including the license holder's agent or employee, the license holder shall be given notice in writing from the city clerk to show cause before the city council at a time and place specified therein not less than three (3) days no more than ten (10) days from the date of the service of the notice why a penalty should not be assessed against the license holder. At the appointed time and place the license holder shall

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have an opportunity to show cause, if any exist, why the license holder should not be penalized for the sale of alcoholic beverages to an underage person. At any hearing as provided in this subsection, the license holder shall have the opportunity to present evidence, to cross-examine opposing witnesses, to have an attorney present to represent the license holder's interest, and to have testimony recorded at the license holder's expense. Thereafter, the city council shall take such action as it, in its judgment and discretion, shall deem warranted under the facts, and if a determination is made that the license holder or license holder's employee has sold alcoholic beverages to an underage person, the license holder shall be penalized according to the following schedules:

ALCOHOLIC BEVERAGE VIOLATORS--LICENSE HOLDERS SALES TO UNDERAGE PERSONS		
	<i>Disposition</i>	
<i>Violation/time frame</i>	<i>With training program</i>	<i>Without training program</i>
Issuance of license	Verbal warning	Warning--advise that training program is mandatory for all employees/clerks
First offense	Written warning to license holder \$500.00 fine or thirty (30) days suspension of license at the election of the holder	\$2,000 fine--require mandatory training program for employees/clerks and sixty (60) days suspension
Second offense within twelve (12) month period	\$1,500 fine and sixty (60) days suspension	\$2,000 fine and ninety (90) days suspension--require mandatory training program for all clerks/employees
Third offense within twelve (12) month period	\$2,000 fine and ninety (90) days suspension	\$2,000 fine and revocation of license for one (1) year

Alcoholic beverage license holders shall follow guidelines established by the city manager in conducting training programs mentioned in subsection (g).

ALCOHOLIC BEVERAGE VIOLATORS--EMPLOYEES OF LICENSE HOLDERS SALES TO UNDERAGE PERSONS	
Issuance of employee permit	Warning
First offense	\$200 fine and warning
Second offense	\$300 fine and revocation of permit for 30 days and warning
Third offense	\$300 fine and revocation of permit

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Note: The City Council delegates to the judge of the Municipal Court of Thomasville, Georgia, the duty to conduct hearings with respect to the sale of alcoholic beverages to underage persons by employees of license holders, and the judge of Municipal Court, upon a finding that an offense has occurred, shall assess the appropriate penalty as set forth above.

Any monetary penalty established by the city council for the sale of alcoholic beverages to underage persons shall be paid by the license holder on or before the seventh working day following the establishment of such penalty.

Section 3-26 Transfers; changes of ownership; locations.

(a) Licenses hereunder shall not be transferable except as otherwise provided in this section.

(b) In the case of the death of any person owning a license, or any interest therein, with the approval of the city council and subject to the terms of this section, the license may be transferred to the administrator, executor or personal representative of the deceased person, or to the heirs at law of the deceased person, if such administrator, executor, personal representative or heirs meet all of the other qualifications contained in this section. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of his estate and disposition of the license or his interest therein, but in no event to exceed six (6) months.

(c) Nothing in this section, however, shall prohibit one (1) or more of the partners in a partnership holding a license from withdrawing from the partnership and assigning his interest in such partnership to one (1) or more of the partners who were partners at the time of the issuance of the license. Such withdrawal shall not, however, serve to bring any new ownership into the partnership, unless all provisions of this section are fully complied with, and then only upon the approval of the city council.

(d) Any change in the ownership interests contained on the application shall cause the immediate cessation of sales of any alcoholic beverages and no sales of alcoholic beverages shall be made until any such change in the ownership interests are approved by the city council; provided, however, that this provision shall not apply in a situation where one (1) or more individuals who have ownership interests in the license cease to have such ownership interest, but the remaining ownership interest remains unchanged except as to the division of the remaining interests.

(e) Should a transfer of the location be desired, the location shall meet all requirements of a new license to be issued hereunder, except payment of the license fee. The investigation fee will accompany the application and the unearned portion of the license fee may be transferred to the new location in the event the transfer of location is approved by the city council.

(f) An application for a new license on an existing licensed location shall meet all requirements of a new license to be issued hereunder. Any unearned portion of the license fee for that licensing year may not be transferred to the new owner in the event the transfer of ownership is approved by the city council, and will be forfeited by the original license holder.

Section 3-27 Zoning provisions.

(a) No license to engage in the sale of distilled spirits by the drink at retail shall be granted except in areas zoned C-1 or C-2 commercial or C-1A limited business districts. Existing private clubs which qualified and became licensed under the provisions of this chapter by January 1, 1977, are hereby exempt from this zoning requirement.

(b) No license shall be issued to a wholesaler of alcoholic beverages except where the wholesaler business is to be located in an area of the city which is zoned C-1 commercial, C-2 commercial or M manufacturing.

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(c) No license to engage in the sale of packaged distilled spirits at retail shall be granted except in an area zoned C-1 commercial or C-2 commercial. This provision does not allow licensing of sale of packaged distilled spirits in a nonconforming use.

(d) Beer or wine may be licensed in any commercial establishment or private club not in violation of any zoning ordinance of the city.

Section 3-28 Distance provisions relating to the sale of alcoholic beverages; allowable proximities to schools, churches, residences.

(a) Special distance from residential property provisions:

(1) *Package liquor, liquor pouring or beer and wine consumption on premises.* No license hereunder shall be granted to any proposed location which is within fifty (50) feet of any private residence. The distance for the purpose of this section shall be measured in all directions from the nearest wall enclosing the proposed store where alcoholic beverages are to be sold to the nearest point of any residential property line, except that the provisions of this subsection shall not apply on residences located in areas of the city zoned C-1 commercial or C-2 commercial.

(2) *Private clubs.* Distance requirements of subsection (a)(1) are not applicable for private clubs that were in operation prior to September 1, 1975, operating as a corporation organized and existing under the laws of the state.

(b) General distance provisions:

(1) *All beer and/or wine sales and liquor pouring sales; exceptions.* No beer or wine or liquor pouring mixed drinks may be sold at any location within one hundred (100) yards of any school building, school grounds, college campus, day care center, or alcoholic treatment center owned and operated by any branch of government. The school building or educational building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects commonly taught in the common schools and colleges of this state are taught. The daycare center referred to in this section shall apply only to a daycare center licensed as such by the state of Georgia.

(2) *Packaged liquor sales.* No packaged liquor may be sold at any location within one hundred (100) yards of any church building or an alcoholic treatment center owned and operated by any branch of government, or within two hundred (200) yards of any school building or educational building or school grounds or college campus or day care center. The school building or educational building referred to in this section shall apply only to state, county, city or church school buildings and to such buildings at such other schools in which subjects commonly taught in the common schools and colleges of this state are taught. The daycare center referred to in this section shall apply only to a daycare center licensed as such by the state of Georgia.

(3) *Exceptions to subsections (b)(1) and (2) for the licensing of certain hotels or motels and certain private clubs.* Nothing contained in this section shall prohibit the licensing of the sale of alcoholic beverages by:

- a. Hotels or motels of fifty (50) rooms or more which have been in continuous operation for a period of at least five (5) years preceding the effective date of this chapter;
- b. Bona fide private clubs licensed under the provisions for licensing liquor pouring in such clubs.

(4) *Distance measurement methods.* Unless otherwise provided in this chapter, all measurements to determine distances for the requirements of subsections (b)(1) and (b)(2) shall be measured by the most direct unimpeded route of travel on the ground and shall be measured in the following manner:

- a. From the front door of the structure from which alcoholic beverages are sold or offered for sale;

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- b. In a straight line to the nearest public sidewalk, walkway, street, road or highway;
 - c. Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - d. To the front door of the building, or the nearest portion of the grounds, whichever is applicable to the language of subsections (b)(1) and (b)(2).
- (5) Distance provisions outlined in this ordinance will not apply when an establishment has previously been granted a license to sell alcoholic beverages and when that establishment is already licensed and in place prior to a school, church, residence, child care center, or other establishment specified in Section 3-28 locating within the distance prohibited by this same section 3-28.

Section 3-29 Temporary permit for charitable organizations authorized.

(a) Bona fide charitable and nonprofit civic organizations desiring to sell alcoholic beverages may apply, on forms furnished by the city clerk, for a permit authorizing the organization to sell alcoholic beverages for consumption only on the premises for a period not to exceed one (1) day. Applications for such temporary permit must include a copy of an official document such as a nonprofit certification by the Internal Revenue Service, or constitution and bylaws of the organization, or corporate charter which clearly states the purpose of the organization as being charitable or nonprofit whereupon a permit will be issued by the city conditioned upon the applicant's obtaining a like permit from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit. Following the issuance of the conditional permit from the city as contemplated hereunder, the applicant shall apply for a permit for such sale from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit, under the provisions of O.C.G.A. section 3-9-3 and O.C.G.A. section 560-2-2-.43 of the rules of the Department of Revenue, Alcohol and Tobacco Tax Unit. The permit issued by the city as contemplated hereunder shall not be effective until such time as a permit has been obtained by the applicant from the Georgia Department of Revenue, Alcohol and Tobacco Tax Unit.

(b) There shall be no application fee for the permit issued by the city.

(c) It shall be unlawful for any organization obtaining a permit under the provisions of this section to sell or brown-bag alcoholic beverages except from 5:00 a.m. to 2:00 a.m., Monday through Saturday at 2:00 a.m. and from 5:00 a.m. to midnight on Saturday.

(d) The provisions of section 3-47 pertaining to sale or brown-bagging of alcoholic beverages to persons under twenty-one (21) years of age shall apply to organizations selling alcoholic beverages under the provisions of this section.

(e) In all other respects, organizations selling or brown-bagging alcoholic beverages under the provisions of this section will be governed by state law.

(f) Bona fide charitable and nonprofit civic organizations desiring to allow the brown-bagging of alcoholic beverages to a specified event may also apply, on forms furnished by the city clerk, for a temporary one day permit authorizing the "brown-bagging" of alcoholic beverages for consumption only on the premises for a period not to exceed one (1) day, for a maximum of twice a calendar year. "Brown-bagging" is hereby defined as allowing attendees of an event sponsored by a charitable or nonprofit civic organizations at which tickets are sold for the purpose of fundraising, but at which no alcoholic beverages are sold, to bring alcoholic beverages to that event for their personal consumption only and not for sale to other attendees of the event. Applications for such temporary permit must include a copy of an official document such as a nonprofit certification by the Internal Revenue Service, documentation of registration with the State of Georgia as a non-profit organization, and constitution and bylaws of the organization or corporate charter which clearly states the purpose of the organization as being charitable or nonprofit.

Final approval of temporary permits to "brown-bag" shall be contingent upon the approval of the police chief or his designee.

No location that has had an alcoholic beverage sales license suspended shall be approved as a permitted location under the provisions of this ordinance during the period of such suspension.

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No organization that has had an alcoholic beverage sales license suspended shall be approved for a temporary alcoholic beverage permit under the provisions of this ordinance during the period of such suspension.

Section 3-30 City Sponsored Events and Private Nonprofit Special Events on Designated City Property.

a) During City Special Events as defined in Section 3-1 of this Chapter, members of the public shall be authorized to possess and consume alcoholic beverages in a designated City Special Event Area in the City's Downtown Business District. For each such City Special Event, the City Special Event Area shall be determined by the City Manager and shall be set forth on a map which is on file in the City Manager's office, the City Clerk's office, and the City's Main Street office. A copy of the map may be obtained from any of these locations. Such alcoholic beverages shall be purchased only from vendors which hold a current City of Thomasville Alcoholic Beverages Consumption-on-Premises License. All City Special Events and members of the public participating therein shall be subject to Part A of the Requirements for Special Events Allowing Alcoholic Beverage Consumption on City Property and Rights-of-Way in the City of Thomasville Downtown Business District as established by the City Manager, a copy of which is on file with and may be obtained from the City Manager's office, the City Clerk's office, and the City's Main Street office. The requirements contemplated herein may be modified from time to time by the City Manager in the sole discretion of the City Manager.

b) A Private Nonprofit Special Event on Designated City Property ("Nonprofit Special Event") as defined in Section 3-1 of this Chapter, may be held on City property, including rights-of-way, in a designated Nonprofit Special Event Area in the City's Downtown Business District and as determined by the City Manager. Participants in such a Nonprofit Special Event shall be authorized to possess and consume alcoholic beverages in the Nonprofit Special Event Area. Such Nonprofit Special Events shall not be open to the general public and shall be attended on the basis of written invitation, pass or ticket only. All such Nonprofit Special Events shall be subject to Section 3-29 (a) of this Chapter and Part B of the Requirements for Special Events Allowing Alcoholic Beverage Consumption on City Property and Rights-of-Way in the City of Thomasville Downtown Business District as established by the City Manager, a copy of which is on file with and may be obtained from the City Manager's office, the City Clerk's office, and the Thomasville Main Street Office. The requirements contemplated herein may be modified from time to time by the City Manager in the sole discretion of the City Manager.

c) An alcohol beverage licensee located in the Downtown Business District which holds a current City of Thomasville alcoholic beverage consumption-on-premises license but which is not participating in a City Special Event shall be permitted to sell and serve alcoholic beverages while such an event is taking place, but patrons of any such establishment shall not be allowed to carry or consume alcoholic beverages purchased from any such establishment outside of the establishment.

d) Entities selling and persons consuming alcoholic beverages in the City's Downtown Business District under any provision of this Section 3-30 shall obey all state laws and City ordinances, especially including, but not limited to, laws and ordinances pertaining to the sale of alcoholic beverages to or the consumption of alcoholic beverages by underage persons.

Section 3-31--3-45. Reserved

Section 3-45A ARTICLE III. OPERATING REGULATIONS

Section 3-45D DIVISION 1. GENERALLY

Section 3-46 Hours; daily, Sundays, holidays.

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(a) *Daily and Sunday hours:*

(1) *Packaged beer or wine locations.* It shall be unlawful for any licensee licensed to sell packaged beer or wine hereunder to permit the sale or engage in the sale of such beer or wine except from 5:00 a.m. to 2:00 a.m. Monday through Saturday at 2:00 a.m., and 5:00 a.m. to midnight on Saturdays. For security purposes, if any work is needed to be done during legally closed hours, the police department must be notified at least one (1) hour in advance. Hotels, motels, grocery stores, service stations and restaurants shall not be required to close unrelated functions and activities not licensed under this chapter or customarily operated at hours other than the foregoing specified hours, but all alcoholic beverages of any nature must be and remain in the custody and control of the licensee or his employees, and may not be dispensed in any manner, and the licensee is hereby required to evict any other person possessing any of the above.

(2) *Beer and wine on the premises consumption.* It shall be unlawful for any licensees licensed to sell beer or wine for on the premises consumption to permit the sale or engage in the sale of such beer or wine except from 5:00 a.m. to 2:00 a.m. Monday through Saturday at 2:00 a.m., and 5:00 a.m. to midnight on Saturday. All customers will clear the premises no later than 2:15 a.m. on weekdays and 1:00 a.m. on Sundays, and all owners and employees shall vacate the premises no later than 3:00 a.m. on weekdays or 1:30 a.m. on Sunday, with the following exceptions. All customers will clear the premises no later than 2:00 a.m. on Sundays and all employees shall vacate the premises no later than 2:30 a.m. on Sundays on New Year's Eve when that day falls on a Saturday. When New Year's Eve falls on Sunday, customers possessing alcoholic beverages shall not be allowed to enter upon the licensed premises before 5:00 a.m. on Sunday, all customers will clear the premises no later than 2:00 a.m. on Monday, and all employees shall vacate the premises no later than 2:30 a.m. on Monday.

For security purposes, if any work is needed to be done during legally closed hours, the police department must be notified at least one (1) hour in advance. Hotels, motels, grocery stores, service stations and restaurants shall not be required to close unrelated functions and activities not licensed under this chapter or customarily operated at hours other than the foregoing specified hours, but all alcoholic beverages of any nature must be and remain in the custody and control of the licensee or his employees, and may not be dispensed in any manner, and the licensee is hereby required to evict any other person possessing any of the above with the following exception. When New Years Eve falls on a Sunday, customers carrying broken or unbroken packages of alcoholic beverages shall be allowed to enter upon the licensed premises for the purpose of consumption of such alcoholic beverages thereon. Neither the licensee nor his employees shall sell or dispense alcoholic beverages in any manner.

For the purpose of this subsection, "restaurant" shall be defined by the definition of that word contained in section 3-96.

(3) *Liquor pouring--on the premises consumption.* It shall be unlawful for any licensee licensed to sell alcoholic beverages hereunder to permit the sale or engage in the sale of alcoholic beverages except during the hours 8:00 a.m. to 2:00 a.m. Monday through Saturday at 2:00 a.m., and from 8:00 a.m. to midnight on Saturdays. All customers will clear the premises no later than 2:15 a.m. on weekdays and 1:00 a.m. on Sundays, and all owners and employees shall vacate the premises no later than 3:00 a.m. on weekdays and 1:30 a.m. on Sundays, with the following exceptions. All customers will clear the premises no later than 2:00 a.m. on Sundays and all employees shall vacate the premises no later than 2:30 a.m. on Sundays on New Year's Eve when that day falls on a Saturday. When New Year's Eve falls on Sunday, customers possessing alcoholic beverages shall not be allowed to enter upon the licensed premises before 8:00 a.m. on Sunday, all customers will clear the premises no later than 2:00 a.m. on Monday, and all employees shall vacate the premises no later than 2:30 a.m. on Monday. For security purposes, if any work is needed to be done during legally closed hours, the police department must be notified at least one

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(1) hour in advance.

Hotels, motels and restaurants shall not be required to close unrelated functions and activities not licensed under this chapter or customarily operated at hours other than the foregoing specified hours, but all alcoholic beverages of any nature must be and remain in the custody and control of the licensee or his employees, and may not be dispensed in any manner, and the licensee is hereby required to evict any other person possessing any of the above with the following exception. When New Year's Eve falls on Sunday, customers carrying broken or unbroken packages of alcoholic beverages shall be allowed to enter upon the licensed premises for the purpose of consumption of such alcoholic beverages thereon. Neither the licensee nor his employees shall sell or dispense alcoholic beverages in any manner.

For purposes of security and for purposes of licensees expressly authorizing and enabling the police department to investigate and verify compliance with the provisions of this chapter, each private club licensed hereunder shall make available to the chief of police immediately upon his request a key or card to the main entrance of such club, which key or card shall provide immediate access to the premises by the chief of police or a subordinate officer expressly authorized by him to use such key or card on a particular occasion, and such chief or subordinate shall be allowed to search the entire premises for any violation of this chapter. There shall be no other key or card required to open such door from the outside, nor shall such door be additionally locked or barred from the inside in any manner whatsoever, including electronically locking.

Any rooms other than storage rooms may not be locked during legal hours of operation, nor shall any electronic locking device be used in such rooms during legal hours of operation.

(4) *Package liquor stores.* Licensees shall not engage in the sale of any commodity except between the hours of 8:00 a.m. and 11:00 p.m., Monday through Saturday.

(5) *Wholesalers.* The business hours of any wholesaler licensed hereunder shall be from sunrise to sunset, exclusive of Sunday.

(b) *Holidays:*

(1) *Beer and wine.* Notwithstanding any of the provisions of paragraph (a) above, sales of beer or wine on Christmas Day are prohibited between the hours of 2:01 a.m. and 12:00 midnight.

(2) *Liquor pouring.* Notwithstanding any of the provisions of paragraph (a) above, liquor pouring sales on Christmas Day are prohibited between the hours of 2:01 a.m. and 12:00 midnight.

(3) *Packaged liquor.* Except as hereinafter provided no licensee for the sale of alcoholic beverages by the package at retail shall permit his place of business to be open for the sale of alcoholic beverages on Sundays and Christmas Day.

(c) *Election days:* There shall be no prohibition by the city against the sale of alcoholic beverages on election days.

Section 3-47 Persons under twenty-one years of age.

(a) *Furnishing.* It shall be unlawful and punishable as provided in section 3-25 (g) of this Code for any person holding an alcoholic beverage license, or any other person, or his agent or employee, to sell or give away, or permit the sale or gift of any alcoholic beverage to any person under the age of twenty-one (21), except for medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state, or in the home with the consent of a parent or a legal guardian who shall be present in the home at the time any such consumption takes place.

No person shall be allowed to sell alcoholic beverages until that person has undergone a training program for employees of the license holder regarding the sale of alcoholic beverages to underage persons. Such a training program may be implemented by written materials, videotape, computer program or any combination thereof. If called upon by the city council to do so, the license holder shall provide written proof to the city council or its designated representative that the required training program was in effect at

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all pertinent times, and, at a minimum, such written proof shall consist of the text of the program, whether presented in writing, by way of videotape or otherwise; provided further, however, that the written proof of training program requirement may be satisfied by the presentation of a statement signed by the employee which contains the following language:

Statement of Training

I, _____
[print name of employee]

an employee of _____
[print name of license holder]

hereby certify that I have read the provisions of Sections 3-25(g) and 3-47 of the Code of the City of Thomasville; that the wording of those code sections have been explained to me by my employer or a representative of my employer; and that I understand the meaning and intent of the code sections. I further certify that I have been trained by my employer with respect to the prohibition of the sale of alcoholic beverages to persons under the age of twenty-one (21).

I further acknowledge that I understand that the sale of alcoholic beverages to persons under the age of twenty-one (21) is not permitted under the law, and that if I make a sale of alcoholic beverages to a person under the age of twenty-one (21) without that person having furnished proper identification as that term is defined in Section 3-47 of the Code of the City of Thomasville, I am subject to prosecution in the Municipal Court of the City of Thomasville.

I also acknowledge and understand that I am not permitted to sell alcoholic beverages until such time as I have completed the training program referred to above.

I give this Statement of Training this ___ day of _____, 2____.

The training described above confirmed by:

Signature of Representative of
employer/license holder
responsible for training
the above named employee

Employee Signature

No person shall be convicted under this section if such person has been furnished with proper identification showing that the person who is being furnished alcoholic beverages is twenty-one (21)

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years of age or over. For purposes of this section, the term “proper identification” means any document issued by a governmental agency containing a description of the person, with the person’s photograph, and giving the person’s date of birth and includes, without being limited to, a passport, military identification card, driver’s license, or state identification card. The licensee shall cause all persons who appear to be near the legal age to exhibit, and the licensee or his employee shall inspect, one (1) of the means of identification allowed above.

(b) *Consumption, possession.* Except as hereinafter provided, it shall be unlawful and punishable as provided in section 1-6 of this Code for any person under the age of twenty-one (21) to purchase, or to possess or consume any alcoholic beverage except for medical purposes pursuant to the prescription of a physician duly authorized to practice medicine in this state, or except in the home with parental consent. For purposes of enforcement of this section, parental consent for the possession or consumption of alcoholic beverages in the home shall be considered to have been given when attested to by the custodial parent or guardian and not merely by the assertion of the person under the age of twenty-one (21) whose conduct is under consideration.

(c) *Attempting to purchase or possess alcoholic beverage.* It shall be unlawful for any person under the age of twenty-one (21) years to attempt to purchase or possess any alcoholic beverage.

(d) *Use of faked, etc., credentials.* It shall be unlawful for any person under the age of twenty-one (21) years to exhibit faked, forged or borrowed credentials in an effort to obtain alcoholic beverages to which he is not entitled.

(e) *Underage persons on licensed premises.* No person who holds an alcoholic beverage license, or his agent or employee, shall allow any person who has not attained the age of twenty-one (21) to be in, frequent or loiter about the licensed premises unless such person is accompanied by a parent or legal guardian, or unless such person is an employee of the license holder; provided, however, that such person shall be permitted in restaurants or other places serving food without being accompanied by a parent or legal guardian.

(f) *Employment of persons under twenty-one years of age.* Nothing contained in this section shall be construed to prohibit any person under twenty-one (21) years of age from:

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

(g) *Persons under eighteen years of age not to be allowed or required to serve, sell or take orders for alcoholic beverages; exceptions.*

- (1) No person shall allow or require a person in his employment under eighteen (18) years of age to dispense, serve, sell or take orders for any alcoholic beverages.
- (2) The provisions of this section shall not prohibit persons under twenty-one (21) years of age who are employed in supermarkets, convenience stores, breweries or drug-stores from selling or handling alcoholic beverages which are sold for consumption off the premises.

Section 3-48 Beer and wine consumption on premises; seating capacity.

Beer and wine may not be sold for consumption on the premises except in eating or drinking establishments with a seating capacity of not less than twenty (20) persons.

Section 3-49 Consumption-on-premises establishments.

(a) *Off-street parking.* The requirements of off-street parking for this section shall be the same as would be required under the ordinances or codes for a new building, or under the zoning ordinances or codes for a new business. This provision shall not apply to any holder of a license hereunder unless,

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subsequent to the adoption of the ordinance from which this section derives, such license holder divests himself of fifty (50) percent or more of the interest in the business owned by him at the time of the enactment of this chapter, but shall be effective with regard to any establishment for which a new alcoholic beverage license is applied for after adoption of this chapter to make use of an existing building, or other premises, as well as applicants for licenses who will be required to comply with this chapter in the erection of, or use of, a new building.

(b) *Visibility; shrubbery.* On any premises occupied by a license holder hereunder, the immediate proximity of the building shall be maintained so as to keep vegetation low and vision unobstructed. Failure to comply with this provision shall be grounds for suspension or revocation of consumption-on-premises licenses, or denial of renewal of such licenses.

(c) *Permitted areas for consumption on premises.* The consumption of alcoholic beverages shall be permitted only inside that portion of licensee's building designated for such consumption, or at such outside location immediately adjacent to the building and specifically designated for the consumption of food and alcoholic beverages (but not for the consumption of alcoholic beverages only), with such outside location for the consumption of food and alcoholic beverages to include patios, decks, screen porches and like areas. This provision is not to be interpreted as permitting unrestricted consumption of alcoholic beverages on any portion of licensee's premises, especially including parking lots and the grounds surrounding the building and similar areas, and no licensee hereunder shall permit the consumption of alcoholic beverages except in those designated areas as described in this section.

(d) *Premises to be well lighted.* The exterior of each building in which alcoholic beverages are sold for consumption on the premises shall have sufficient lighting so that all entrances and parking areas are clearly visible at all times when the premises are open for business. Also, the lounge and restaurant areas, if any, and all tables, booths and other areas where customers are served, and all passageways for customers shall be sufficiently well illuminated so that they may be viewed by those in such areas.

(e) *Fire and safety; maximum occupancy provisions.* All drinking establishments licensed or to be considered for licensing for consumption on the premises of any alcoholic beverages shall be measured as to the net usable floor area, and publicly visible posters stating the maximum number of persons allowable inside the building where such beverages are consumed shall be posted by the fire chief or assistant fire chief. The maximum allowable floor space per occupant in the net usable floor area shall be fifteen (15) square feet. The alcoholic beverage licensee will be responsible for seeing that the established occupancy limits are not exceeded, and the violation of this provision shall be due cause for suspension or revocation by the council, after proper hearing, of the alcoholic beverage license.

(f) *Package sales prohibited.* It shall be unlawful for any person to sell or offer to sell, or give or lend to any person, for any purpose, including carry-out, any alcoholic beverages by the package or bottle or by the broken container, or remainder, in a package or bottle except that beer and/or wine in unbroken packages may be sold by consumption-on-premises establishments holding current package beer and/or package wine licenses.

(g) *Serving of drinks to be by employees or employers; employees not to drink or be seated with customers.* Alcoholic beverages hereunder shall be served only by alcoholic beverage license holders, permitted employees or holders of a letter of eligibility to serve alcoholic beverages, but neither the license holder nor the eligible employee shall consume any alcoholic beverages nor any employee be seated with any customer.

(h) *Service in back rooms prohibited.* The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to general public use is prohibited except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms; and provided further, that this prohibition shall not apply to private clubs hereunder nor to the sale of alcoholic beverages for consumption hereunder to the registered guests of any hotel or motel.

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Section 3-50 Permitting of certain persons affiliated with consumption on premises establishments; procedure and eligibility provisions.

(a) *Applicability; clearance.* Each and every employee who dispenses, serves, or sells alcoholic beverages in an establishment licensed for consumption on the premises shall obtain an alcoholic beverage employee permit card.

(b) *Time limit.* All persons subject to the provisions of this section shall within five (5) working days of reporting to work obtain such permit card from the city police department.

(c) *Investigation and report.* The city police department shall have a reasonable search made relative to any police record of the person being permitted. If there is no record of a violation of this chapter, such temporary issuance above shall become permanent unless cancelled. If it should be found there is a violation of this chapter by the person permitted, the chief of police shall notify the licensee that such person is not eligible for continued work. No person shall continue working after receiving such notice of ineligibility. It shall be the responsibility of the licensee after receiving notification of the ineligibility of such worker to ensure that the worker ceases to work.

(d) *Possession of employee permit cards.* Such permit card shall be kept at all times on the licensed premises of the establishment licensed for consumption on premises. Such permit card remains valid regardless of the person's place of employment in an establishment licensed for consumption on premises. The city manager may prescribe reasonable fees for certifying the eligibility for working.

(e) *Licensee responsible.* The licensee is responsible for the conduct or actions of his employees while in his employ.

Section 3-51 Consumption on premises establishments--Employment of persons with prior convictions prohibited.

(a) No licensee for the sale of alcoholic beverages shall employ in any capacity involving the taking of orders for, the sale of, or the dispensing of alcoholic beverages any person who has been convicted of any state or federal felony charge within a period of five (5) years immediately prior to the filing of any application for an alcoholic beverage permit card as contemplated by section 3-50. This provision shall also apply to any person who has been convicted of any local, state or federal misdemeanor charge excepting any charge involving a traffic citation not involving a DUI within a period of two (2) years prior to the date of filing of any such application. The term "conviction" shall include any adjudication of guilt, any plea of guilty, any plea of nolo contendere, or any forfeiture of bond by any person charged with any such felony or misdemeanor, but shall not include a plea entered under a First Offender's Act or similar statutory procedure.

(b) Notwithstanding the provisions of subsection (a) above, the chief of police may direct the issuance of a letter of eligibility for an alcoholic beverage permit card to any person who would be otherwise ineligible for the issuance of such a card under the provisions of subsection (a) above, so long as the offense in question did not involve force or violence, and the chief of police, after a thorough investigation of all the facts, including information set forth in any parole or probation officer's report or any judge's recommendation and any other evidence bearing on the character of the applicant, has determined such action will not be contrary to the public interest or welfare. The chief of police shall make a written finding regarding whether the certificate of eligibility will be granted or denied. The original finding shall be forwarded to the city clerk, and a copy shall be furnished to the applicant.

(c) Any person who has applied for a letter of eligibility from the chief of police and who has been denied the issuance of a letter of eligibility may appeal the decision of the chief of police within thirty (30) days of the date of the decision. The appeal shall be in writing and on a form available from the city clerk's office. The city council delegates to the city manager or his designee the authority to affirm the decision of the chief of police or to grant the appeal and direct the issuance of a letter of eligibility after first making the determination the issuance of the letter of eligibility will not be contrary to the public interest and welfare.

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Section 3-52 Vending machines authorized; gambling devices prohibited.

Coin-operated equipment is permitted on the premises for the following purposes: vending machines, such as cigarettes; vending a service such as music or television; and for amusement excluding any equipment designed or used for gambling purposes or refunds given in such manner as tickets, money, prizes or free games to entice play; provided, further, however, that this section shall have no effect on section 3-77 which shall remain in force and effect.

(Ord. of 6-8-98, § I)

Section 3-53 Reserved

Section 3-54 No sale of Alcoholic Beverages By Way of Drive Through Facilities.

No licensee for the sale of alcoholic beverages shall sell any alcoholic beverage by way of a "drive through" facility or through any method other than requiring the purchase of an alcoholic beverage to be made in the immediate presence of a person authorized to make such a sale. It is the specific intent of this section to provide the licensee with every reasonable opportunity to verify that a purchaser of alcoholic beverages is of legal age to do so.

Section 3-55 Security requirements.

(a) Every licensee selling any retail package alcoholic beverages such as beer, wine, or distilled spirits shall comply with this section establishing certain security requirements, except any licensee who operates a business which remains open fourteen (14) consecutive hours or less between 5:00 a.m and 8:00 p.m.

(b) Any such licensee, not exempted under the terms of subsection (a) of this section from complying with security requirements, shall install or cause to be installed a video monitoring and recording system of the type and number approved by the chief of police.

(1) Such video monitoring and recording systems shall be capable of recording time, and the recording medium used shall be of a quality capable of being reproduced onto a still frame.

(2) Such video camera shall be placed in a conspicuous location in a position to video record all activity in all sales transaction areas.

(3) Each such licensee shall be responsible for the maintenance and periodic check of the licensee's monitoring and recording system.

(4) Each such licensee shall reinstate the licensee's system within seventy-two (72) hours of any system failure.

(c) Any licensee subject to this section shall have all customer or employee parking areas, which are adjacent to the licensed package sales building, illuminated by at least two (2) foot candles per square foot at eighteen (18) inches above the surface of such areas.

(d) To every extent practical any licensee subject to this section shall restrict the display of merchandise, vending machines, window signage, window tinting, and other obstructions in such a manner as to allow a clear and unobstructed view of all cash register and sales transaction areas from outside such building in a normal line of sight.

Section 3-56 Obscene, lewd or indecent entertainment prohibited on premises where alcoholic beverages are offered for sale.

(a) *Findings; public purpose.* Based on the demonstrated experience of other local governments, including, but not limited to, Peach County, Georgia; Oklahoma City, Oklahoma; Garden Grove,

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California, and Houston, Texas, which experience the mayor and council have found to be relevant to certain problems that face the City of Thomasville, Georgia, and based on the evidence reviewed by the mayor and council prior to the consideration of the ordinance codified in this section, the mayor and council take note of the notorious and self-evident conditions and secondary effects attendant to the commercial exploitation of human sexuality, particularly the problems of crime, blight, and deterioration which are brought about by alcohol and live nudity which do not vary greatly among the various communities within our country.

Based on a review of the evidentiary materials from other communities referred to above, it is the finding of the mayor and council that public nudity (either partial or total) under circumstances related to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment" or "adult entertainment" in conjunction with the sale of alcoholic beverages begets criminal behavior and tends to create undesirable community conditions.

Among the acts of criminal behavior reported to be associated with nudity and alcohol are disorderly conduct, prostitution, public indecency and drug trafficking. Among the undesirable community conditions identified with the concentration of adult entertainment establishments are depreciation of property values in neighborhoods surrounding nude bars or adult entertainment establishments where alcoholic beverages are sold, increased expenditures for and allocation of law enforcement personnel to preserve law and order, increased burdens on the judicial system as a consequence of the criminal behavior hereinabove described, and acceleration of community blight by the concentration of adult establishments in particular areas.

Other negative effects learned about by the mayor and council are the apparent connection of these establishments to organized crime and illegal drug sales, the potential spread of communicable diseases to law enforcement personnel who answer calls at adult establishments and to patrons of such establishments, and the potential proliferation of adult entertainment establishments after the initial siting of an adult entertainment establishment in a particular neighborhood.

The mayor and council therefore find that it is in the best interest of the health, welfare, safety and morals and preservation of Thomasville's businesses, neighborhoods, churches, schools, and parks to prevent the adverse impact of adult entertainment establishments. Therefore, the mayor and council find that the prohibition of live nude conduct in establishments licensed to serve alcohol for consumption on the premises is in the public welfare by furthering legitimate government interests, such as reducing criminal activity, protection against property devaluation and deterioration, and eliminating undesirable community conditions normally associated with establishments which serve alcohol and allow and/or encourage nudity, and that such prohibition will not infringe upon the protected constitutional rights of freedom of speech. To that end, this section is hereby adopted.

(b) *Definitions.* As used in this section, the following words shall have the meaning as set forth below unless otherwise required by context:

Alcoholic beverages means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as more specifically defined in section 3-1 of this Code.

Business establishment means a business within the city where alcoholic beverages are offered for sale for consumption on the premises pursuant to a license issued by the city.

License means a license for sale for consumption on the premises of alcoholic beverages issued by the city.

Licensee means any person to whom a license for sale for consumption on the premises of alcoholic beverages has been issued by the city, including the officers and agents of the licensee.

Live means any activity or entertainment which is carried on by an actual living person in the physical presence of the patrons.

Live entertainment means entertainment for the benefit of patrons which is carried on in the actual physical presence of such patrons, including, but not limited to dancing.

Person means a human being.

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Premises means the definite closed or partitioned establishment, whether room, shop or building wherein alcoholic beverages are sold or consumed, including the sidewalk serving area or outside, open air or patio-type serving area on the private property of an establishment, as defined in section 3-1 of this Code.

Specified anatomical areas means any of the following:

- a. Less than completely and opaquely covered human genitals or pubic region; cleft of the buttocks; or any portion of the female breast encompassed within an area falling below the horizontal line one would have to draw to intercept a point above the top of the areola, or any portion of the areola, or any simulation thereof. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed;
- b. Human male genitalia in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes any of the following:

- a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
- b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- c. Masturbation, actual or simulated;
- d. The displaying of the male or female pubic hair, anus, vulva or genitals; or
- e. Excretory functions as part of or in connection with any of the activities set forth in items a. through d. above.

(c) *Conduct prohibited.* The following types of entertainment, attire and conduct are prohibited upon any premises licensed to sell, serve or dispense alcoholic beverages for consumption on the premises with the city limits of Thomasville, Georgia:

- (1) The employment or use of any person live, in any capacity, in the sale or service of alcoholic beverages or food while such person is unclothed or in such attire, costume or clothing, as to expose any portion of his or her specified anatomical areas;
- (2) Live entertainment where any person appears unclothed or in such attire, costume or clothing as to expose any portion of his or her specified anatomical areas or where such person performs acts of specified sexual activities or acts which simulate specified sexual activity, as defined herein;
- (3) The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where live patrons of the licensed establishments are encouraged or allowed to engage in any of the conduct prescribed in subsections (1) and (2) above.

(d) *Penalties.*

- (1) It shall be unlawful for any person to perform any acts prohibited in subsection (c) of this section above and any such conduct will be a violation of this Code and shall be punishable in the municipal court of the city as provided under section 4.13 of the charter of the City of Thomasville.
- (2) It shall be unlawful for a licensee to permit any conduct prohibited in subsection (c) of this section above which he knows or has reasonable cause to know is taking place on the premises. Any such conduct by a licensee shall be a violation of this Code and shall be punishable in the municipal court of the city as provided under section 4.13 of the charter of the City of Thomasville. Also, upon conviction, a licensee may have his license revoked or suspended as provided in section 3-25 of this Code.

Section 3-57 Regulation of keg sales

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

- (1) 'Keg' means any brewery-sealed container or barrel containing, by liquid volume, more than two

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gallons of malt beverage.

(2) 'Retail dealer,' 'retail licensee,' or 'licensee' means a person holding either a retail dealer license, a permit issued by the commissioner authorizing the sale of alcoholic beverages for consumption only on the premises for a period not to exceed one day.

(b) No person licensed under this chapter shall sell malt beverages at retail by the keg except as provided in subsections (c), (d), and (e) of this Code section. The Council may take punitive action against violators, up to and including revocation of the City of Thomasville alcoholic beverage sales license of any licensed retail dealer who fails to comply with this Code section. The undertaking of any punitive action allowed under this Code section shall not prohibit prosecution for sale to underage persons.

(c) Each retail licensee selling kegs containing malt beverages for consumption off licensed premises shall require each keg purchaser to present a Georgia drivers license or other proper identification at the time of purchase. The licensee shall record for each keg sale, using a standard Keg Registration form as provided by the Georgia Department of Revenue, Alcohol and Tobacco Division: the date of sale; the size of keg; the keg identification number; the amount of container deposit; the name; address; date of birth of the purchaser; and the form of identification presented by such purchaser. The purchaser shall sign a statement at the time of purchase attesting to the accuracy of the purchaser's name and address, the location where the contents of the keg will be consumed, and acknowledging that a violation of State Code Section 3-3-23 and City Code Section 3-47 as it relates to furnishing alcoholic beverages to persons under the age of 21 years, may result in civil liability, criminal prosecution, or both. The licensee shall retain the identification form and purchaser's signed statement attesting to the accuracy of the purchaser's name and address and acknowledging that a violation of State Code Section 3-3-23 and City Code Section 3-47, as it relates to furnishing alcoholic beverages to persons under the age of 21 years, may result in civil liability, criminal prosecution, or both, for a minimum of six months following the sale of the keg.

(d) Each keg sold at retail for consumption off licensed premises shall be labeled with the name and address of the retail licensee, the keg identification number, and the state alcohol license number of the business. The Department of Revenue will prescribe the form of registration label or tag to be used for this purpose. The registration label or tag shall be supplied by the Department of Revenue without fee and securely affixed to the keg by the licensee making the sale. In addition to the label or tag, the Department of Revenue shall provide guidelines to the licensee on the information to be recorded on the identification form required under subsection (c) of this Code section.

(e) The licensee shall record the date of return of the keg on the identification form required under subsection (c) of this Code section. If there is no label or tag affixed to the keg or if the identification number is not legible, the licensee shall indicate this fact on the identification form required under subsection (c) of this Code section. The licensee shall not refund a deposit for a keg that is returned without the required label or tag and identification number intact and legible.

(f) The removal of the required label shall be unlawful until such time that it is lawfully returned to the retailer by the purchaser. Possession of a keg without the required label and identification number shall be unlawful and subject to penalty pursuant to State Code Section 3-3-9.

Section 3-58 Regulation of alcohol carried into licensed establishments.

(a) No establishment in the City of Thomasville shall permit any person to enter upon the premises of the establishment carrying any broken or unbroken package of alcoholic beverage for the purpose of consumption thereon (commonly referred to as "brown bagging"), unless the owner of the establishment is licensed by the City of Thomasville to sell beer or wine (consumption on the premises) or mixed drinks. As a matter of clarification, the license holder shall only allow "brown bagging" of alcohol of the classification of license held by the license holder. By way of example, if the license holder is licensed only for the sale of wine for consumption on the premises, then only the "brown bagging" of wine shall be allowed. If the license holder is licensed for the sale of beer and wine for consumption on the

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premises, then “brown bagging” of beer and wine shall be allowed. If the license holder is licensed to sell mixed drinks, then the “brown bagging” of beer, wine, and distilled spirits shall be allowed.

(b) Even if the owner of the establishment does not intend to sell alcoholic beverages, but only wishes to permit customers to enter upon the premises of the establishment carrying broken or unbroken packages of alcoholic beverages for the purpose of consumption on the premises, the requirements for and process of applying for, obtaining and renewing an alcoholic beverages license shall be as outlined in Sections 3-2 through 3-28 of Chapter 3 of the Code of Thomasville, Georgia.

(c) All local ordinances and state laws prohibiting the possession and consumption of alcoholic beverages by underage persons will be strictly enforced.

Section 3-59 Chapter not applicable to private parties

The provisions of this chapter shall not apply to the furnishing of or consumption of alcoholic beverages at a private party as defined at Section 3.1, above. In the event alcoholic beverages are made available for consumption at a private party, no charge, directly or indirectly, may be made for any alcoholic beverage consumed at a private party, whether furnished by the host(s) or by any guest(s) at the party.

Section 3-60-65 Reserved.

Section 3-65D DIVISION 2. SPECIAL PROVISIONS FOR PACKAGED LIQUORS

Section 3-66 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:

Adequate parking means one (1) parking space for each two hundred fifty (250) square feet of gross floor area within the store building of the applicant, but not less than a minimum of six (6) spaces. Such off-street parking shall have vehicular access to streets and be constructed of all-weather surface. All off-street parking must be on the premises and located adjacent to the sides or front of the building. Such parking shall be designed to allow for separate and coordinated lanes of ingress and egress. On the entire business premises relating to all businesses located thereon as allowed in section 3-75, the parking spaces shall not be less than the total required under this division together with other parking ordinance requirements of the city for all of such businesses.

Business area means any area which is correspondingly zoned in accordance with the city zoning ordinance.

Family means and includes any person related to the holder of a license issued under the provisions of this division within the first degree of consanguinity or affinity as determined according to the law of this state.

Fortified wines, as defined in section 3-1, are classed as liquor.

License means the authorization by the governing authority of the city to engage in the sale of packaged alcoholic beverages on the premises for a calendar year, or the remaining portion of a calendar year.

Licensee means a person, real or artificial, holding any class of license issued under the terms of this division.

Manufacturer means a producer or bottler of beer or wine.

Package store means a geographic location within the city wherein a license may be issued for the sale of packaged liquors. Such package store must be operated as a distinct business and cannot be operated in conjunction with or as a part of any other business, except as provided in this section.

Premises means that area circumscribed by the property lines of the property upon which a licensee is authorized to operate a package liquor store.

Private residence means a house, dwelling or building wherein not less than one (1) family

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customarily resides. This shall not apply to any of the above which has been unoccupied for a period of twelve (12) consecutive months immediately prior to the filing of an application hereunder.

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

Visibility means a full and unobstructed view of the inside cash register and service area through at least thirty (30) percent (old code said sixty (60) percent) of one (1) exterior wall fronting on a traveled street, or twenty (20) percent (old code said forty (40) percent) of each of two (2) exterior walls, at least one (1) of which fronts on a traveled street. The percentages herein are to be calculated on the surface area from the floor to ceiling or floor to eight (8) feet above the floor if the ceiling height is greater than eight (8) feet of any of the chosen walls and doorways circumscribing the sales transaction and customer service area. The required visibility hereunder may not be blocked by the display of merchandise, vending machines, window signage, window tinting, and other obstructions and must allow a clear and unobstructed view of all cash registers and sales transaction areas from outside the building in a normal line of sight. Visibility shall include inside illumination at all times of the day and night of at least ten (10) footcandles in any part of the customer service and display area.

Wholesaler means any person, firm or corporation engaged in distribution or selling to retailers for the purpose of resale, any alcoholic beverages as defined herein.

Section 3-67 Residency requirements; required information.

(a) No license for the retail sale of liquor by the package shall be granted to any applicant who, on the date on which the application is made, is not a resident of Thomas County and has not been a resident of Georgia for a period of one (1) year. Wholesalers and distillers are exempt from this residency provision.

The determination of whether an applicant meets the residency requirement shall be made by the city council in its sole discretion based upon information supplied by the chief of police, including, but not limited to, such matters as whether the applicant has purchased or rented a residence dwelling in the city, whether the applicant has registered to vote in the city, and whether the applicant has obtained a driver's license showing a residence in the city. When the applicant is a corporation, which may be a newly formed corporation, all officers and stockholders in such corporation, and all officers and stockholders in any corporation which holds stock in the applicant corporation, or any further extension of corporate interests, must meet the requirements contained in this paragraph. If the applicant is a partnership, the requirements contained in this subsection must be met by all partners, whether general or limited. All licensees selling packaged liquors must remain a resident of the city during tenure of the license under which packaged liquor is sold.

(b) All applicants including partners and stockholders having an interest in an applying corporation, or in any corporation having an interest in the applicant corporation, shall furnish all data, information and records pertinent to the application requested of them by the police department of the city, which shall include fingerprints, except in the case of any corporate stockholders when an officer of the corporation making the application shall be fingerprinted. Failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application. All applicants shall submit an executed version, for city purposes only as modified by the city clerk, of the personnel statement Form ATT-17, State of Georgia Department of Revenue, Alcohol Tax and Control Unit. The applicants, by filing an application, agree to produce for oral interrogation any person requested by the police department of the city and considered as being important in the ascertainment of the facts relative to such application and/or license issued under the terms of this division. The failure to produce such person within thirty (30) days after being requested to do so shall result in the automatic dismissal of any application pending under this division.

Section 3-68 Advertisement of application for license; signs.

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(a) All applicants for original licenses hereunder shall give notice of the making of an application by advertisement at least twice a week, for two (2) consecutive weeks prior to the date of hearing on such application, in the daily newspaper published in the city in which the legal advertisements of the city are published, which notice shall contain the location of the proposed business and shall give the name of the applicant, and, if a partnership, the name of all of the partners, whether limited or general, and, if a corporation, the names of the officers and all stockholders therein and the names of all officers and stockholders of any corporation owning an interest in the applicant corporation, and the date and time the mayor and city council will hear such application. The advertisement referred to herein shall be of type not smaller than ten (10) point capital and lower case and shall be at least a two (2) inch, two (2) column advertisement. It shall be the responsibility of the applicant for an original license to advertise the notice of hearing as required as follows:

"Notice of application for retail license to sell packaged liquors.

The undersigned has made application to the City Council of the City of Thomasville for a retail license to sell packaged liquors at _____.

This application will be heard by the city council at its meeting to be held at _____ o'clock p.m. on the _____ day of _____, 2 ____.

/s/

Applicant"

(b) The applicant shall cause to be placed upon the location of the proposed business for a week before the date of hearing, a sign or signs stating the following:

"PACKAGE LIQUOR LICENSE APPLIED FOR. HEARING BEFORE THE CITY COUNCIL FOR THE CITY OF THOMASVILLE, GEORGIA, ON THE _____ DAY OF _____, 2 ____."

(c) The sign required by paragraph (b) shall be not less than twenty-four (24) inches by thirty-six (36) inches and shall face toward all public streets, alleys, sidewalks or other public property adjoining the proposed location. Such signs shall be placed where they can be easily seen from all public properties adjoining the proposed location.

Section 3-69 Licenses limited to one per family or corporation.

(a) No person and/or member of his family and/or corporation shall own, hold or control any interest whatsoever in more than one (1) license in the city to engage in the business of selling liquor by the package at retail.

(b) As used in this section, an interest in the license shall be deemed to exist if the person involved is the outright owner of the license, a co-owner of a license, a general or limited partner in a partnership which owns all or any part of a license, a stockholder in any corporation which owns all or any part of a license, an owner, a lessor, sublessor, or stockholder in any corporation owning or leasing, any real estate which is occupied by a retail liquor store, or shares in any income or corpus of any trust fund or estate having any interest in a retail liquor store.

(c) All applications for a license made on forms provided by the city clerk, whether original or for renewal, must be accompanied by a full and complete statement under oath of information relative to any and all interests, as hereinbefore defined in subsection (b), in retail liquor stores. This shall include the names and addresses of all persons interested in the ownership of the business of selling packaged liquor at retail, together with any interest each person or members of his family has in any other retail liquor store; the ownership of the land and building where such retail business is operated; the amount of rental paid for such land and building and the manner in which the same is determined and to whom and at what intervals it is paid; the name and address (by affidavit from owner, lessor or sublessor of such land and building) of all persons having any whole, partial, beneficial or any other interest in and to the land and building on and in which said retail liquor store is to be located; a copy of the proposed lease, and any other information requested by the police department or the city council pertinent to the application under investigation.

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Section 3-70 Conducting a public hearing on original application.

(a) No original application for a license hereunder shall be acted upon or issued by the city council until after advertisement and public hearing thereon, as required in section 3-68.

(b) A public hearing upon all original and completed applications for a license hereunder shall be called by the city council for a regular meeting not more than sixty (60) days after the filing of the application.

(c) Each applicant for an original license shall submit a plot plan and floor plan prepared by an architect, engineer, contractor, surveyor or other qualified person showing all compliance with all requirements contained in this section.

Section 3-71 Minimum floor space; parking; refuse storage; visibility.

(a) Any structure housing a licensed retail package liquor store, or proposed therefor, under the terms of this division, shall contain not less than one thousand (1,000) square feet of floor space, including customer service and display area, storage area and service areas.

(b) Adequate parking shall be provided as defined elsewhere in this division. Adequate refuse storage space shall be provided with access for servicing by refuse collection vehicles.

(c) Visibility, as defined elsewhere in this division, must be provided from the exterior into the customer service and display area. Visibility, as required, may not be blocked by any signs, vending machines, displays or other obstructions.

Section 3-72 Advance approval for structure to be built.

Where a building in which a retailer proposed to operate under the provisions of this division is at the time of application for such license not in existence, or not yet completed, a license may be approved for such location provided the plans and specifications for the proposed building are filed with the city clerk and show clearly a compliance with the other provisions of this division and applicable ordinances of the city. No license shall then be issued and no sales shall be allowed in such establishments until it has been completed in accordance with all other provisions of this division and other applicable ordinances of the city.

Section 3-73 Minimum time to reapply after rejection.

When any license or permit to operate a retail package store under this section is rejected by the city council, it shall be unlawful for the city clerk to accept and for the city council to consider any application from the applicant for license within twelve (12) months from the time of such rejection by the city council.

Section 3-74 Forfeiture for nonuse.

Any holder of a license hereunder who shall begin the operation of the business authorized in the license, but who shall for a period of six (6) consecutive months thereafter cease to operate the business as authorized in such license, shall upon expiration of such six-month period automatically forfeit such license, which license shall by virtue of such failure to operate be cancelled without the necessity of any further action of the city council, and no refund of license fee shall be made to the license holder; provided, however that a license holder may apply to the city council to cease business operations for a period, not to exceed an additional six (6) months for such reasons as building renovation, illness or other such reasons as the city council in its discretion may approve.

Section 3-75 Restrictions on adjoining businesses.

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(a) A licensee of a retail establishment under this division shall not operate such business in the same store together with any other business, except licensed packaged beer and wine, which may be in a connected adjoining store selling packaged beer and wine if such packaged beer and wine store sells only beer, wine and the following items: wine and beer coolers and ice chests, bar tools, glasses, nuts, crackers, chips, pretzels, cheese, packaged ice, packaged cups, tobacco products, soft drinks and mixes, napkins, and then only if such packaged beer and wine is sold for carry-out purposes and provided further that there shall be a cash register in both such authorized adjoining operations.

(b) No such retailer shall sell, offer for sale, display or keep in stock in his place of business where packaged alcoholic beverages are offered for sale any other commodity or product, except:

- (1) Packaged wine (if licensed);
- (2) Beverages containing no alcohol and commonly used to dilute distilled spirits, but no beverages of any kind may be opened or consumed in such place of business;
- (3) Packaged beer (if licensed);
- (4) Packaged ice;
- (5) Tobacco products; and
- (6) Sealed packages of empty cups.

(c) Notwithstanding any other provisions of this section, any legal business may adjoin or abut either or both a package liquor store and package beer and wine store, provided all building requirements in this section are met, and provided further that there shall be no doorways whatsoever located between any adjoining businesses other than between businesses neither of which is licensed to sell beer wine or distilled spirits, except a door is authorized between adjoining package liquor and package beer and wine stores which may be unlocked only between the hours of 8:00 a.m. and 11:00 p.m., Monday through Saturday.

Section 3-76 Reserved.

Section 3-77 Coin-operated amusement devices prohibited; exceptions.

No retail dealer in spirituous liquors by the package shall permit on his premises any slot machine, mechanical music boxes, pinball machines, machines operated for amusement purposes, except only coin-operated machines for dispensing tobacco products or packaged ice.

Section 3-78 Consumption on premises prohibited.

It shall be unlawful for any person to consume any alcoholic beverage on premises licensed for the sale of packaged liquor and it shall be unlawful for any licensee to permit the consumption of alcoholic beverages on such premises. If such licensee shall also have a license to sell beer or wine, it shall likewise be unlawful for any of such items to be consumed on the premises where alcoholic beverage sale is licensed.

Section 3-79 Outside sales prohibited.

Curb service or other sales of alcoholic beverages outside the building licensed to sell is hereby expressly prohibited.

Section 3-80 Dispensing cups and ice prohibited.

It shall be unlawful to dispense unpackaged cups, ice or other containers for use in consumption of alcoholic beverages from any premises licensed hereunder.

Section 3-81 3-81--3-95. Reserved.

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Section 3-95D DIVISION 3. SPECIAL PROVISIONS FOR LIQUOR POURING AND OTHER MATTERS RELATING TO ALCOHOLIC BEVERAGES

Section 3-96 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:

Fortified wines, as defined in section 3-1, are classed as liquor.

License means the authorization by the governing authority of the city to engage in the sale of distilled spirits or alcoholic beverages by the drink on the premises.

Licensee means a person, real or artificial, holding any class of license issued under the terms of this division.

Lounge means a separate room connected with a part of and adjacent to the licensed premises of a restaurant and/or its adjacent lobby or reception area, with all booths, stools and tables being open to view only from within the lounge. All lounges shall have a seating capacity for at least twenty (20) persons. All access and all exits to and from the lounge shall open into the restaurant and/or lobby or reception area adjoining the restaurant except that emergency exits or doors solely for service or delivery personnel are authorized.

Manufacturer means a producer or bottler of beer, wine or distilled spirits.

Premises means the definite closed or partitioned-in locality, whether room, shop or building, wherein distilled spirits are sold.

Private club means an organization existing under the laws of the state or a charter from a state or national parent organization, and having a tax-exempt status under Section 501 of the U.S. IRS Code, having at least fifty (50) members regularly paying monthly, quarterly, semiannual or annual dues, organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, owning, hiring or leasing a building or space therein for the reasonable use of its members with suitable kitchen and dining room space and equipment for cooking, preparing and serving meals for its members or guests, provided that no member or officer, agent or employee of the club is paid or directly receives, in the form of salary or other compensation, any profits from the sale of alcoholic beverages to the club or its members beyond the amount of such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club.

Private residence means a house, dwelling or building wherein not less than one (1) family customarily resides. This shall not apply to any of the above which has been unoccupied for a period of twelve (12) consecutive months immediately prior to the filing of an application hereunder.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are actually and regularly prepared and served at any time when mixed drinks are sold or served; provided, however, that a restaurant shall not be required to serve food after 10:00 p.m., and mixed drinks shall not be sold or served at any time not allowed by this chapter. A restaurant as contemplated by this chapter shall be open for business at least five (5) days a week, with the except of holidays, vacations, and periods of redecorating, and shall also meet and maintain the requirements for restaurants with liquor pouring licenses as listed in section 3-101(2) and (3). Any establishment operated as a restaurant under the provisions of this chapter may cease to serve meals no more than thirty (30) days during any calendar year for purposes of undergoing redecorating or renovations and while continuing to serve alcoholic beverages under a liquor pouring license. Any exception from this requirement will be allowed only by the city council, in its discretion, upon request by the license holder.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public by pouring for on-the-premises consumption.

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

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special subjects are taught.

Wholesaler means any person, firm or corporation engaged in distribution or selling to retailers for the purpose of resale any alcoholic beverages as defined herein.

Section 3-97 Application--Information required; fingerprinting.

All applicants shall furnish all reasonable data, information and records requested of them by the police department and failure to furnish such data, information and records within thirty (30) days from the date of such request shall automatically serve to dismiss, with prejudice, the application. The individual owner applying, or one (1) partner, or one (1) corporate officer, shall be fingerprinted for city purposes except that in the case any of the above has current prints on file as a privilege licensee of the city this requirement may be waived. Notwithstanding this provision, however, city officials may require fingerprints from other partners or corporate officers, and a new set of prints from the above referred to privilege licensees. Applicants by filing an application agree to produce for oral interrogation any person requested by the police department and considered as being important in the ascertainment of the facts relative to such license. The failure to produce such person within thirty (30) days after being requested to do so shall result in the automatic dismissal of such application.

Section 3-98 Same--Processing time.

The city may require sixty (60) days for processing any application for license required under this division.

Section 3-99 Same--Notice of intent to be advertised; signs posted.

(a) Any applicant for a liquor pouring license at a location which has not been licensed for such sales within the twelve-month period preceding the filing of such application shall give notice of the purpose of making such application, unless the applicant or the location has been determined to be disqualified under the terms of section 3-22 of this chapter, by advertisement at least twice a week for two (2) consecutive weeks prior to the hearing, in the daily paper published in the city in which legal advertisements of the city are carried, which notice shall contain the location of the proposed business and shall give the name of the applicant, and, if a partnership, the name of the partners, and, if a corporation, the names of the officers, and the date and time the city council would hear the application. The advertisement referred to in this section shall be of type not smaller than ten-point capital and lower case and shall be at least a two-inch, two-column advertisement. It shall be the responsibility of the applicant for such a license to advertise the notice of hearing as required as follows:

"Notice of application for retail license for liquor pouring (mixed drinks).

The undersigned has made application to the Council of the City of Thomasville for a retail license for liquor pouring (mixed drinks) at _____.

This application will be heard by the City Council at its meeting to be held at ____ o'clock p.m. on the ____ day of ____, 2____.

/s/ _____
Applicant"

(b) The applicant shall cause to be placed on the location of the proposed business, unless such location has been determined to be disqualified under the terms of section 3-22 of this chapter, for a week before the hearing, a sign stating the following:

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"LIQUOR POURING LICENSE APPLIED FOR. HEARING BEFORE THE CITY COUNCIL OF THE CITY OF THOMASVILLE, GEORGIA, ON THE ____ DAY OF _____, 2____."

The sign shall be not less than twenty-four (24) inches by thirty-six (36) inches and shall face towards all public property which adjoins the location. Such signs shall be placed where they can be easily seen from all public properties adjoining the location.

Section 3-100 Same--Police investigation; action by council.

All applications required by this division shall be investigated by the city police department and acted upon by the city council after investigation has been completed by the police department and their report presented to the city council.

Section 3-101 Qualifying conditions.

No application for any license hereunder shall be granted unless the following conditions are met:

- (1) Licenses shall be granted only to private clubs or restaurants which may include lounges operated in conjunction with such restaurants.
- (2) All restaurants applying for or having pouring licenses must, in addition to all other requirements relating to the sale of alcoholic beverages by the drink, meet and maintain the following requirements:
 - a. Meet all health and sanitation requirements set forth for food service establishments by the city, state and federal government.
 - b. Must have installed and operative cooking facilities and kitchen equipment for accommodating the demands of sixty (60) food customers.
 - c. Must have a complete place setting of metal cutlery and china dishes in regular use for each of sixty (60) food customers.
 - d. Must have seating, at booths or tables designed for food service, sufficient for at least sixty (60) persons, and such booths or tables shall be large enough to accommodate at least two (2) place settings of metal cutlery and china dishes.
 - e. Such a restaurant as contemplated by this section shall be, at all times during the hours set forth in subsection (2)f., prepared to serve full-course meals with a substantial variety of culinary choices, or substantial substitutes therefor, and shall print and maintain a complete menu of same and furnish such printed menu to each food customer, with prices which are competitive with other restaurants within the city, whether or not those restaurants engage in the business of pouring mixed drinks.
 - f. All foods listed on the required printed menu or substantial substitutes therefor must be available at any time when mixed drinks are sold or served; provided, however, that a restaurant shall not be required to serve food after 10:00 p.m., and mixed drinks shall not be sold or served at any time not allowed by this chapter. A restaurant as contemplated by this chapter shall be open for business at least five (5) days a week, with the exception of holidays, vacations, and periods of redecorating. The hours for serving of food may be prolonged, but in no event shall mixed drinks be sold or served at any time not allowed by this chapter.
- (3) The gross square footage of the dining area, lounge area, serving area, kitchen, restrooms and storage rooms of any restaurant business, other than private clubs, licensed hereunder must be a minimum of two thousand (2,000) square feet. Parking requirements for restaurants licensed hereunder shall be the same as those required in the present ordinances of the city, except that existing restaurants and non-conforming structures will be exempt from such requirements.

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Section 3-102 Special qualifications for private clubs.

Private clubs, as defined herein, shall furnish with license applications a copy of the articles of incorporation from the state, if incorporated by the state, and documentation of the valid up-to-date status of its national or state charter from its parent organization, together with documentation of its compliance denoting a tax-exempt status under Section 501 of the U.S. IRS Code. Private clubs whose primary purpose is not categorized by the term "lodge," "fraternal order," or "veterans post," such as private clubs for golf, tennis and other similar recreation, are exempt from the above provision which relates to a national or state charter from a parent organization. Private clubs selling alcoholic beverages under the provisions of this chapter are expressly prohibited from selling or giving away "memberships" on a per occasion basis or on any temporary basis, or charging a fee to admit non-members on a per occasion basis. Except as permitted under Section 3-29 of this Chapter, private clubs selling alcoholic beverages under the provisions of this chapter are further prohibited from selling any alcoholic beverage to any guest at the private club or to any nonmember, regardless of the occasion of any such person to be present on the premises of the private club.

Section 3-103 Advance approval for structure to be built.

Where a building in which a retailer intends to operate under the provisions of this division is at the time of the application for such license not in existence or not yet completed, a license may be issued for such location provided the plans for the proposed building show clearly a compliance with the other provisions of this section. No sales or consumption will be allowed in such establishment until it has been completed in accordance with such plans and is in conformity with all other provisions of this division

Section 3-104 Plot plan and floor plan to accompany application for new license.

(a) Each applicant for an original license, except private clubs, shall submit a plot plan and floor plan prepared by an architect, engineer, contractor, surveyor or other qualified person, showing all compliance with all distance, square foot, kitchen arrangement and food serving area table and seating arrangement requirements contained herein.

(b) On renewals the same as the preceding shall be accomplished unless the applicant states in the reapplication that there has been no change in any of the above compliance items.

Section 3-105 Deliveries off premises prohibited.

It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverage by the drink beyond the boundaries of the premises covered by the license.

Section 3-106 – 3-130. Reserved.

Section 3-130A ARTICLE IV. EXCISE TAX

Section 3-130D DIVISION 1. GENERALLY

Section 3-131 3-131--3-155. Reserved.

Section 3-155D DIVISION 2. MALT BEVERAGES

Section 3-156 Levied on wholesale dealers.

(a) Except as provided in subsection (b), there is hereby levied and imposed upon all wholesale

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dealers selling malt beverages within the city a specific excise tax computed on the basis of .4166 cent (\$.004166) per ounce or metric equivalent of malt beverages sold by each wholesale dealer within the corporate limits of the city.

(b) All malt beverages sold in or from a barrel or bulk container and being commonly known as tap or draft beer shall not be subject to the excise tax provided for in subsection (a), but in lieu thereof there is hereby levied and imposed upon each wholesale dealer selling such malt beverages within the corporate limits of the city an excise tax of six dollars (\$6.00) for each barrel or bulk container having a capacity of fifteen and one-half (15 1/2) gallons or metric equivalent sold by such wholesale dealer within the city, and at a like rate for fractional parts thereof.

Section 3-157 Monthly reports; payments.

Each wholesale dealer selling malt beverages within the city shall file a report with the city clerk by the fifteenth day of each month showing for the preceding calendar month the exact quantities of malt beverages, by size and type of container, sold by him within the city. Each such wholesale dealer shall remit to the city, not later than the fifteenth day of the month next succeeding the calendar month in which such sales were made, the amount of excise tax due in accordance with section 3-156.

Section 3-158 Additional to other taxes or license fees.

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

Section 3-159 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad valorem property taxes.

Section 3-160 False reports or nonpayment declared grounds for revocation of licenses of wholesale dealers of malt beverages.

At any time it is found that false and fraudulent reports have been made by the wholesale dealer, his agents, officers, or employees, and upon which payment of malt beverages excise tax was reported or paid to the city, and at any time the monthly report and payment called for in section 3-157 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell malt beverages in the city should not be suspended or revoked because of such false and fraudulent reports or nonpayment of taxes past due more than thirty (30) days

Section 3-161 Sale of malt beverages upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any malt beverage on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this division shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell malt beverages within the city.

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(Code 1958, § 5-66)

Section 3-162 3-162--3-180. Reserved.

Section 3-180D DIVISION 3. WINE AND SPIRITUOUS LIQUORS

Section 3-181 Levied on retail dealers.

There is hereby levied and imposed upon all retail dealers selling wine or spirituous liquors within the city a specific excise tax computed on the basis of eighty cents (\$0.80) per gallon or metric equivalent of wine or spirituous liquors sold by each retail dealer within the corporate limits of the city.

Section 3-182 Collection, custody of taxes.

At any time of delivery of wine or spirituous liquors to any retail dealer, the wholesaler shall collect from the retail dealer the excise taxes imposed in section 3-181 and hold such taxes in trust for the city until said tax is remitted to the city as provided in this division.

Section 3-183 Additional to other taxes or license fees.

The excise tax provided for in this division shall be in addition to any license fee, tax or charge which may now or in the future be imposed upon the business of selling at retail wine or spirituous liquors

Section 3-184 Invoices required to be kept as records by wholesaler and retailer.

Upon each and every delivery by a licensed wholesaler to a licensed retailer, an invoice in duplicate shall be prepared showing the number and size of each container of wine and spirituous liquors delivered, together with the price therefor and the excise taxes due and collected thereon. The original of such invoice shall be delivered by the wholesaler to the retailer simultaneously with such delivery, and the second copy of such invoice shall be retained by the wholesaler. Each retailer or wholesaler shall keep such invoices or copies for a period of twelve (12) months after the date of delivery and, during such twelve-month period, such invoices shall be made available for inspection by representative of the city.

Section 3-185 Monthly reports; payments.

Each wholesale dealer selling wines or spirituous liquors within the city shall file a report with the city clerk by the fifteenth day of each month which shall correctly show the name of each retail dealer to whom a delivery was made during the preceding calendar month, the quantities of wine and spirituous liquors delivered to each dealer, the amount of excise tax collected under the terms of section 3-182, and such other reasonable information as may be required by the city. The report shall be accompanied by remittance made payable to the city for all taxes collected or due, as shown on such report.

Section 3-186 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad valorem property taxes.

Section 3-187 Noncompliance, false reports, or nonpayment declared grounds for revocation of licenses of wholesale dealers.

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At any time it is found that a wholesale dealer has not complied with the terms imposed in this article, or that a wholesale dealer has made a false and fraudulent report to the city upon which excise taxes were reported or paid to the city, or at any time the monthly report and payment called for in section 3-185 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell wine or spirituous liquors in the city should not be suspended or revoked because of such noncompliance, or false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 3-188 Sale of wine or spirituous liquors upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any wine or spirituous liquors on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell wine or spirituous liquors within the city.
(Code 1958, § 5-74)

Section 3-189 3-189--3-205. Reserved.

Section 3-205D DIVISION 4. MIXED DRINKS

Section 3-206 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:

Mixed drinks means alcoholic beverages served for consumption on the premises which may or may not be diluted by any other liquid.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax herein provided for consumption on the premises.

Purchaser means any person who orders and gives present or future consideration for any alcoholic beverage by the drink.

Licensee means a person who holds a liquor pouring license from the city to sell alcoholic beverages by the drink.

Section 3-207 Imposition, rate, remittance of tax.

There is hereby levied and imposed, in addition to all other excise taxes now imposed by law, a tax on the retail purchase of distilled spirits or alcoholic beverages for beverage purpose by the drink, including fortified wine, excluding the sales of fermented beverages made whole or in part from malt, or any similar fermented beverage, to be collected at the rate and in the manner set forth in this division.

- (1) Every purchaser of distilled spirits or alcoholic beverages for beverage purposes by the drink at retail in the city shall be liable for a tax thereon at the rate of three (3) percent of the sale price or charge for such beverages. Such tax shall be paid by the purchaser to the licensee, as defined in this division, making such sales, as hereafter provided, and such licensee shall remit such tax to the city clerk on or before the twentieth day of the succeeding month, to be delinquent if remitted thereafter, with a summary of the licensee's gross sales derived from the sale of distilled spirits or

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alcoholic beverages for beverage purposes by the drink and the amount of taxes collected by him from his purchasers, on such form as may be required by the city clerk. When received by the city clerk it shall be a credit against the tax imposed hereunder on such licensee. Every licensee, as defined in this division, making a sale of such beverages shall be liable for a tax thereon at the rate of three (3) percent of such gross sales or gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink or the amount of taxes collected by him from his purchaser or purchasers, as provided in this division, whichever is greater.

- (2) Gross sales shall include all credit sales to the extent permitted by the laws of the state and shall be reported and the taxes collected thereon remitted to the city clerk to the same extent as required of cash sales. The fact that the licensee may receive payment from such credit sale or sales in a later reporting period shall not relieve or excuse the licensee's responsibility for collecting and remitting the taxes as provided in this division.
- (3) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

Section 3-208 Persons liable for tax.

(a) The taxes imposed by this division are upon the purchaser and shall be collected by the licensee from the purchaser. Therefore, the licensee shall collect the tax imposed by this division from the purchaser and shall pay such taxes over to the city as provided in this division.

(b) The licensee shall, as far as practicable, add the amount of the tax imposed to the sales price or charge, which shall be a debt from the purchaser to the licensee, until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail, or refuse to collect the tax upon any, every and all retail sales made by him, or his agents, or employees, of alcoholic beverages, as defined in this division, which are subject to the tax imposed by this division, shall be liable for and pay the tax himself.

(c) A licensee shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any of the tax.

(d) If any licensee liable for any tax levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business.

Section 3-209 Deduction from payment of tax due.

In reporting and paying the amount of tax due under this division, each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A., Title 48, chapter 8; provided that the tax due is not delinquent at time of payment.

Section 3-210 Failure to pay tax.

(a) The tax imposed by this division shall for each month become delinquent on the twenty-first day of each succeeding month. The city clerk is empowered and it shall be his duty when any tax becomes delinquent under this division to pursue any remedy or right allowed by law for the enforcement of the collection and payment of taxes lawfully levied by the city as may be allowed under the laws of the state and this Code.

(b) Any default or delinquency of the tax levied by this division shall constitute cause for suspension or revocation of alcoholic beverage licenses.

(c) No license shall be issued by the governing authority to any applicant who at the time of application is in default or is delinquent in any amount as to any tax imposed by this division.

(d) When the governing authority determines that a licensee has been chronically delinquent or

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chronically in default under this division, the governing authority when acting upon the application of such licensee for renewal of his license, may in the exercise of its discretion deny such application upon the grounds of such chronic delinquency.

(e) Any licensee who fails to pay the tax imposed by this division to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a penalty of ten (10) 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 at a rate of one (1) percent per month from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until date of payment.

Section 3-211 Retention of records.

It shall be the duty of every licensee required to make a report and pay any tax levied by this division to keep and preserve suitable records of the sales taxable by this division, such other books of account as may be necessary to determine the amount of tax due, and any other information as may be required by the city clerk; and it shall be the duty of every such licensee, moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of such alcoholic beverages which are taxable by this division, and the sales of such alcoholic beverages. All such books, invoices, and other records shall be open to examination by the city clerk or his duly authorized agents at all reasonable hours.

Section 3-186 Penalty and accrued interest on late reports and delinquent payments; city clerk to issue execution.

The failure to make a timely report and remittance shall render a wholesale dealer liable for a penalty equal to ten (10) percent of the total amount due, plus interest accrued at the rate of twelve (12) percent per annum. The clerk of the city shall issue an execution against such wholesale dealer, firm, or corporation so delinquent on his or its property for the amount of the excise tax due and delinquent, plus penalty and interest accrued, and shall proceed to collect such amount in the same manner as is done in the case of executions issued for collection of city ad valorem property taxes.

Section 3-187 Noncompliance, false reports, or nonpayment declared grounds for revocation of licenses of wholesale dealers.

At any time it is found that a wholesale dealer has not complied with the terms imposed in this article, or that a wholesale dealer has made a false and fraudulent report to the city upon which excise taxes were reported or paid to the city, or at any time the monthly report and payment called for in section 3-185 is past due over thirty (30) days, the wholesale licensee shall be given not less than three (3) days' nor more than ten (10) days' notice of a hearing before the city council to show cause why his license to sell wine or spirituous liquors in the city should not be suspended or revoked because of such noncompliance, or false and fraudulent reports, or nonpayment of taxes past due more than thirty (30) days.

Section 3-188 Sale of wine or spirituous liquors upon which tax was not paid prohibited; penalties.

It shall be a violation of this Code for any person to sell at retail or otherwise within the city any wine or spirituous liquors on which the tax as above set out has not been paid to the wholesaler for the city as above provided. In addition to the penalties provided for in section 1-6, the violation of this article shall be deemed a sufficient ground for the revocation of the license of any retail or wholesale dealer holding a license or permit to sell wine or spirituous liquors within the city.

Section 3-189 3-189--3-205. Reserved.

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Section 3-205D DIVISION 4. MIXED DRINKS

Section 3-206 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:

Mixed drinks means alcoholic beverages served for consumption on the premises which may or may not be diluted by any other liquid.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the city is without power to impose the tax herein provided for consumption on the premises.

Purchaser means any person who orders and gives present or future consideration for any alcoholic beverage by the drink.

Licensee means a person who holds a liquor pouring license from the city to sell alcoholic beverages by the drink.

Section 3-207 Imposition, rate, remittance of tax.

There is hereby levied and imposed, in addition to all other excise taxes now imposed by law, a tax on the retail purchase of distilled spirits or alcoholic beverages for beverage purpose by the drink, including fortified wine, excluding the sales of fermented beverages made whole or in part from malt, or any similar fermented beverage, to be collected at the rate and in the manner set forth in this division.

- (1) Every purchaser of distilled spirits or alcoholic beverages for beverage purposes by the drink at retail in the city shall be liable for a tax thereon at the rate of three (3) percent of the sale price or charge for such beverages. Such tax shall be paid by the purchaser to the licensee, as defined in this division, making such sales, as hereafter provided, and such licensee shall remit such tax to the city clerk on or before the twentieth day of the succeeding month, to be delinquent if remitted thereafter, with a summary of the licensee's gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink and the amount of taxes collected by him from his purchasers, on such form as may be required by the city clerk. When received by the city clerk it shall be a credit against the tax imposed hereunder on such licensee. Every licensee, as defined in this division, making a sale of such beverages shall be liable for a tax thereon at the rate of three (3) percent of such gross sales or gross sales derived from the sale of distilled spirits or alcoholic beverages for beverage purposes by the drink or the amount of taxes collected by him from his purchaser or purchasers, as provided in this division, whichever is greater.
- (2) Gross sales shall include all credit sales to the extent permitted by the laws of the state and shall be reported and the taxes collected thereon remitted to the city clerk to the same extent as required of cash sales. The fact that the licensee may receive payment from such credit sale or sales in a later reporting period shall not relieve or excuse the licensee's responsibility for collecting and remitting the taxes as provided in this division.
- (3) The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied.

Section 3-208 Persons liable for tax.

(a) The taxes imposed by this division are upon the purchaser and shall be collected by the licensee from the purchaser. Therefore, the licensee shall collect the tax imposed by this division from the purchaser and shall pay such taxes over to the city as provided in this division.

(b) The licensee shall, as far as practicable, add the amount of the tax imposed to the sales price or

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charge, which shall be a debt from the purchaser to the licensee, until paid, and shall be recoverable at law in the same manner as other debts. Any licensee who shall neglect, fail, or refuse to collect the tax upon any, every and all retail sales made by him, or his agents, or employees, of alcoholic beverages, as defined in this division, which are subject to the tax imposed by this division, shall be liable for and pay the tax himself.

(c) A licensee shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser of the payment of all or any of the tax.

(d) If any licensee liable for any tax levied shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business.

Section 3-209 Deduction from payment of tax due.

In reporting and paying the amount of tax due under this division, each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under O.C.G.A., Title 48, chapter 8; provided that the tax due is not delinquent at time of payment.

Section 3-210 Failure to pay tax.

(a) The tax imposed by this division shall for each month become delinquent on the twenty-first day of each succeeding month. The city clerk is empowered and it shall be his duty when any tax becomes delinquent under this division to pursue any remedy or right allowed by law for the enforcement of the collection and payment of taxes lawfully levied by the city as may be allowed under the laws of the state and this Code.

(b) Any default or delinquency of the tax levied by this division shall constitute cause for suspension or revocation of alcoholic beverage licenses.

(c) No license shall be issued by the governing authority to any applicant who at the time of application is in default or is delinquent in any amount as to any tax imposed by this division.

(d) When the governing authority determines that a licensee has been chronically delinquent or chronically in default under this division, the governing authority when acting upon the application of such licensee for renewal of his license, may in the exercise of its discretion deny such application upon the grounds of such chronic delinquency.

(e) Any licensee who fails to pay the tax imposed by this division to the city, or fails to pay any amount of such tax required to be collected and paid to the city, within the time required, shall pay a penalty of ten (10) 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 at a rate of one (1) percent per month from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until date of payment.

Section 3-211 Retention of records.

It shall be the duty of every licensee required to make a report and pay any tax levied by this division to keep and preserve suitable records of the sales taxable by this division, such other books of account as may be necessary to determine the amount of tax due, and any other information as may be required by the city clerk; and it shall be the duty of every such licensee, moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of such alcoholic beverages which are taxable by this division, and the sales of such alcoholic beverages. All such books, invoices, and other records shall be open to examination by the city clerk or his duly authorized agents at all reasonable hours.