

GWINNETT COUNTY ALCOHOLIC BEVERAGE ORDINANCE

Adopted and Enacted by

Board of Commissioners of Gwinnett County

Revised October 17, 1989

Revised December 6, 1994

Revised October 28, 1997

Revised April 28, 1998

Revised June 23, 1998

Revised September 19, 2000

Revised February 5, 2002

Revised May 20, 2003

Revised October 21, 2003

Revised February 21, 2006

Revised March 17, 2009

Revised May 5, 2009

Revised April 17, 2012

TABLE OF CONTENTS

Article I. In General

- SECTION 6-1 Sale in unincorporated area of county; license a privilege
- SECTION 6-2 Definitions
- SECTION 6-3 Penalties
- SECTION 6-4 Sale or possession for sale without license or beyond boundaries of premises covered by license
- SECTION 6-5 Distance requirements
- SECTION 6-6 Separate application and separate license for each location of sale
- SECTION 6-7 Application forms
- SECTION 6-8 Withdrawal of application
- SECTION 6-9 Licensing qualifications

- SECTION 6-10 Fee scale
- SECTION 6-11 Fees enumerated
- SECTION 6-12 Collection of sums due
- SECTION 6-13 Transferability of license
- SECTION 6-14 Display at place of business
- SECTION 6-15 Expiration; renewal
- SECTION 6-16 Automatic license forfeiture for non-use
- SECTION 6-17 Suspension or revocation of license
- SECTION 6-18 Hearings
- SECTION 6-19 Notice
- SECTION 6-20 Advertising; location requirements; signs
- SECTION 6-21 Audits

- SECTION 6-22 Retailer to purchase from licensed wholesaler only
- SECTION 6-23 Retail consumption dealers to store inventory only on premises
- SECTION 6-24 No adding to contents
- SECTION 6-25 Poured alcohol to be transported by employees
- SECTION 6-26 Licensees to maintain a copy of this ordinance; employees to be familiar with terms; licensee responsible for violations
- SECTION 6-27 Employment of underage persons prohibited; exceptions
- SECTION 6-28 Failure to require and properly check identification
- SECTION 6-29 Sales to underage persons prohibited
- SECTION 6-30 Purchase or possession of alcoholic beverages by underage persons
- SECTION 6-31 Reserved
- SECTION 6-32 Regulations as to employees
- SECTION 6-33 Obtaining identification card (permit)
- SECTION 6-34 Open area and patio sales
- SECTION 6-35 No outside consumption
- SECTION 6-36 Premises
- SECTION 6-37 Solicitation prohibited
- SECTION 6-38 Noise from establishments prohibited
- SECTION 6-39 Inspection of licensed establishments by the Gwinnett County Police Department
- SECTION 6-40 Establishment can be closed in cases of emergency
- SECTION 6-41 Sale on election days
- SECTION 6-42 Bring your own bottle "brown bagging" prohibited
- SECTION 6-43 Types of entertainment, attire and conduct prohibited

SECTION 6-44 -6-65. Reserved.

Article II. Retail Sales of Distilled Spirits for Consumption on the Premises

SECTION 6-66 Locations where permitted
SECTION 6-67 Investigative and administrative costs
SECTION 6-68 Advertising in official gazette of Gwinnett County
SECTION 6-69 Hours and days of sale
SECTION 6-70-6-90. Reserved.

Article III. Retail Sales of Malt Beverages and Wine for Consumption on the Premises

SECTION 6-91 Type of retail establishments
SECTION 6-92 License fee and amount to defray investigative and administrative costs to
accompany application SECTION 6-93 Hours and days of sale
SECTION 6-94-6-115. Reserved.

Article IV. Retail Package Sales of Malt Beverage and Wine

SECTION 6-116 Type of retail establishment
SECTION 6-117 Hours and days of sale
SECTION 6-118 Use of tags or labels to indicate prices
SECTION 6-119 Quantity sale requirements
SECTION 6-120 License fee and amount to defray investigative and administrative costs to
accompany application
SECTION 6-121-6-140. Reserved.

Article V. Wholesalers

SECTION 6-141 Special provisions applicable to wholesale purchases
SECTION 6-235 Excise tax and bond required on wholesalers
SECTION 6-142 Hours and days of sale
SECTION 6-143 Audit and penalties
SECTION 6-144-6-165. Reserved.

Article VI. Private Clubs

SECTION 6-166 Definitions
SECTION 6-167 Regulation of sale of alcoholic beverages
SECTION 6-168 Certain organizations exempt from food establishment requirements
SECTION 6-169 Investigative and administrative costs
SECTION 6-170 Hours and days of sale
SECTION 6-171 Eligible for issuance of temporary license
SECTION 6-172-6-190. Reserved.

Article VII. Hotel-Motel In-Room Service

SECTION 6-191 Hotel-motel in-room service license

SECTION 6-192-6-210. Reserved.

Article VIII. Happy Hour

SECTION 6-211 "Happy hour" promotions and sales

Article IX. Excise Taxes

SECTION 6-234 Per drink excise

SECTION 6-235 Excise tax and bond requirement on wholesalers

Article x. Brewpubs

SECTION 6-236 Brewpub Definition, Regulation, Excise Tax and Administration

SECTION 6-237 Severability

***Editor's note** - An ordinance adopted September 16, 1986, amended ordinance 2 in its entirety to read as herein set out, except that SS 7-2042, providing for the repeal of former chapter 2 provision, and SS 7-2043, providing for severability, have been omitted as duplicative of provisions contained in article L hereof. Also, provisions added as article N hereto by an ordinance of November 18, 1986, have been omitted as being of temporary effect. This article was repealed by and ordinance adopted July 19, 1989. Former chapter 2, SS SS 7-2001 - 7-2026, 7-2028 - 7-2038, 7-2041 - 7-2071, was derived from the following ordinances:

Adoption Date	Section	Adoption Date	Section
02-27-73	III-VI, VIII, IX-XI, XIII-XVII, XIX, XX, XXIII, XXIV	05-28-85	
		09-24-85	
		10-01-85	
		12-17-85	
		12-17-85	1-29, 32, 33
03-27-73			
03-06-79			
05-06-79			
09-02-80			

Cross references-Business and occupation taxes, SS 3-2071 et seq.; beer, wine and liquor excise taxes, SS 3-2091 et seq.

State law reference-Intoxicating liquors generally, O.C.G.A. SS 3-3-1 et seq.

ARTICLE I. IN GENERAL

SECTION 6-1 SALE IN UNINCORPORATED AREA OF COUNTY; LICENSE A PRIVILEGE

- (a) Alcoholic beverages may be sold in the unincorporated area of the county under a license granted by the board of commissioners upon the terms and conditions hereafter provided.
- (b) All licenses herein shall be a mere grant of privilege to carry on the business during the term of the license subject to all terms and conditions imposed by the county code and state law.
- (c) All licenses hereunder shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled, and is subject to any further ordinances which may be enacted." (Ord. of 9-16-86)
- (d) Any holder of a license issued pursuant to this ordinance is required to apply for and obtain an alcoholic beverage license from the State of Georgia before any sales commence. Additionally, Gwinnett County licensees are required to abide by all applicable state regulations and laws.

SECTION 6-2 DEFINITIONS

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

- (a) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.
- (b) "Alcoholic beverage" means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.
- (c) "Beer" or "malt beverage" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than fourteen percent (14%) alcohol by volume, and including ale, porter, brown, stout, lager beer, small beer, and strong beer. Also included are beverages known as "non-alcoholic beer" which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent (3%), but more than zero point one percent (0.1%) alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.
- (d) "Distilled spirits" or "spirituous liquor" means any alcoholic beverage obtained by distillation or containing more than twenty-one percent (21%) alcohol by volume including, but not limited to, all fortified wines.
- (e) "Fortified wine" means any alcoholic beverage containing more that twenty-one percent (21%) 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.
- (f) "Liter" means metric measurement currently used by the United States.
- (g) "Licensee" means the individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers, and directors of said partnership or corporation.
- (h) "Manufacturer" means any maker, producer, or bottler of an alcoholic beverage. "Manufacturer" also means:
 - (a) in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits;
 - (b) in the case of malt beverage, any brewer.

- (i) "Package" means a bottle, can, keg, barrel, or other original consumer container. "Retail package alcoholic beverages" shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.
- (j) "Person" means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi-public.
- (k) "Retail package dealer" means any person who sells unbroken packages, at retail only to consumers and not for resale.
- (l) "Wholesaler" or "wholesale dealer" means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.
- (m) "Wine" means any alcoholic beverage containing not more than twenty-one (21%) percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. "Wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.
- (n) "Retail consumption dealer" means any person who sells alcoholic beverages for consumption on the premises at retail only to consumers and not for resale.
- (o) "Governing authority" means the board of commissioners of Gwinnett County.
- (p) "Eating establishment" means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen (a full service kitchen will consist of a three compartment pot sink, a stove or grill permanently installed, and refrigerator all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.
- (q) "Hotel" means any building or other structure providing sleeping accommodations for hire to the general public either transient, permanent or residential. Such hotels shall maintain a minimum of fifty (50) rooms available for hire and have one or more public dining rooms with adequate kitchen. Motels meeting the qualifications set out herein for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment herein and the holder of such franchise shall be included in the definition of a hotel hereunder.
- (r) "Indoor commercial recreational establishment" is limited to establishment (1) regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator all of which must be approved by the health and fire departments), prepared to serve food every hour they are open and deriving at least seventy (70) percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities, and (2) wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally to mean a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be

permitted. Bingo parlors, dance halls, night clubs, taverns, billiard parlors, video arcades, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments. Provided, that no indoor commercial recreational establishment shall offer alcoholic beverages for sale during the time it is sponsoring events which primarily attract persons under the lawful drinking age in Georgia.

- (s) "Indoor publicly owned civic and cultural center" is limited to publicly owned establishments (1) regularly serving food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open deriving at least seventy (70) percent of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities and (2) wherein the sale of food and alcoholic beverages are incidental to its primary enterprise and activity on the premises. "Indoor publicly owned civic and cultural centers" may include renovated courthouses used as civic and cultural centers. (Ord. of 9-16-86; Ord. of 12-2-86; Ord. of 7-7-87; Ord. of 6-4-91, SS 1)
- (t) "License" means an authorization granted by the County to operate as a retail consumption dealer, retail package dealer or wholesale dealer.
- (u) "Pouring permit" means an authorization granted by the County to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.
- (v) "Gender" - For convenience in construction, the masculine pronouns "he", or "his" may sometimes be used; however, such usage shall, where appropriate, imply the feminine gender and may be construed as "she", "her" or any other feminine usage as may be necessary.
- (w) "Indoor Entertainment Hall" shall mean a publicly or privately owned commercial establishment which: (i) provides professional, live musical entertainment or concerts, performed on-site indoors, at least four nights a week on average over the course of a calendar year; (ii) regularly serves prepared food, with a full service kitchen, consisting of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator, all of which must be approved by the health and fire departments; (iii) is prepared to serve food every hour it is open; (iv) derives at least thirty-five percent (35%) of its total annual gross sales from the sale of prepared meals or foods, admission charges, ticket sales, sale of merchandise, vending sales, attendance fees, or other recreational, promotional or operational activities; (v) does not ever provide sexually related adult entertainment; (vi) has at least 50,000 square feet of enclosed heated space; (vii) has an occupant capacity of at least 3,500; (viii) is located on a major thoroughfare; (ix) does not provide the sale of alcohol on Sundays; and (x) does not allow the admission of persons under the age of eighteen (18) during hours when alcohol is served. Indoor Entertainment Halls shall be allowed to sell alcoholic beverages through concession sales.
- (x) "Public Stadium, Coliseum, Auditorium" means a facility owned or controlled by Gwinnett County with a seating capacity of at least 2,500 people and which derives at least 50 percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food. (ord. 3/17/09)

SECTION 6-3 PENALTIES

Any person who violates any provisions of the sections in this article may upon conviction be punished by a fine of not less than three hundred dollars (\$300.00) for each offense and/or thirty (30) days in the county jail, unless a different penalty is set out herein. (Ord. of 9-16-86)

SECTION 6-4 SALE OR POSSESSION FOR SALE WITHOUT LICENSE OR BEYOND BOUNDARIES OF PREMISES COVERED BY LICENSE

It shall be unlawful for any person, corporation, partnership or other legal entity to possess, sell, or possess for the purpose of sale at any retail business location within a C-1, C-2 or C-3 zoning district, any alcoholic beverage where the person does not have a license granted by Gwinnett County to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license. Violations of this section shall result in a fine of not less than three hundred dollars (\$300.00) and/or thirty (30) days in jail. (Ord. of 9-16-8

SECTION 6-5 DISTANCE REQUIREMENTS

- (a) No person may sell or offer to sell any alcoholic beverage in or within one hundred (100) yards of a church building or within two hundred (200) yards of any school grounds or college campus.
- (b) As used in this section, the term “school building”, “school”, “school grounds” or “educational building” shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools, universities and colleges of this state and which are public schools or private schools as defined in O.C.G.A. 20-2-690(b). The term “school building” and “educational building” includes only those structures in which instruction is offered. The term “school grounds” and “college campus” shall apply only to the parcel or parcels of land on which a school, school building or educational building is located. The term “college” shall mean an educational institution authorized by the state to award associate, baccalaureate or higher degrees.
- (c) The term "church building" as used herein shall mean the main structure used by any religious organization for purposes of worship.
- (d) The requirements for minimum distance from a church building, college or university located in a shopping center, as defined by the latest Illustrated Book of Development Definitions (copyright 2004 by Rutgers), shall not apply to any new license for retail package or retail consumption.
- (e) For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
 - (1) From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;
 - (2) In a straight line, regardless of obstructions, to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
 - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - (4) To the main entrance of the church building, or to the nearest portion of the school grounds or college campus.
- (f) No location which is licensed to sell alcoholic beverages on the effective date of this ordinance shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of said location be denied a new license based upon the measurements set forth in this section.
- (g) As to any location licensed in the future, if the distance requirements herein are met at the time of issuance of any license, the subsequent opening and operation of a church, school, or college within the distance prohibited herein shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property (Ord. of 9-16-86), provided, however, that the distance requirements herein shall not apply at any location for which a new license is applied

for if the sale of alcoholic beverages was lawful at such location at any time during the twelve months immediately preceding such application.

SECTION 6-6 SEPARATE APPLICATION AND SEPARATE LICENSE FOR EACH LOCATION OF SALE

Separate applications must be made for each location and separate licenses must be issued. (Ord. of 9-16-86)

SECTION 6-7 APPLICATION FORMS

- (a) All persons, firms or corporations desiring to sell alcoholic beverages shall make application on the form prescribed by the Licensing and Revenue Manager.
- (b) The application shall include but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and residence address of the partners; if a Limited Liability Company, L.L.C., the name and address of the manager(s) and the name of any person or legal entity owning twenty percent (20%) of the L.L.C.; if a corporation, the names of the officers, the name and address of the registered agent for service of process, the name of the manager(s), and the name of all shareholders holding more than twenty percent (20) of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought. If the manager changes, the applicant must furnish the business license director and the Gwinnett County Police Department the name and address of the new manager and other information as requested within ten (10) days of such change.
- (c) All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the Licensing and Revenue Manager and to ensure compliance with the provisions of this article. Failure to furnish data, pursuant to such request shall automatically serve to dismiss the application with prejudice.
- (d) All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.
- (e) In all instances in which an application is denied under the provisions of this ordinance the applicant may not reapply for a license for at least one (1) year from the final date of such denial.
- (f) The Licensing and Revenue Manager shall provide written notice to any applicant whose application is denied under the provision of this ordinance. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this ordinance. (Ord. of 9-16-86)

SECTION 6-8 WITHDRAWAL OF APPLICATION

Any license application made pursuant to this ordinance may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative expenses required herein. (Ord. of 9-16-86)

Note-See the editor's note to ss 7-2042.

SECTION 6-9 LICENSING QUALIFICATIONS

- (a) No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- (b) Where the applicant is a partnership, limited liability company or corporation, the provisions of this section shall apply to all its partners, officers, manager(s) and majority stockholders. In the case of a corporation the license shall be issued jointly to the corporation and the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this ordinance. In the case of a partnership the license will be issued to all the partners owning at least twenty (20%) percent of the partnership. If no partner owns twenty (20%) percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed. In the case of a limited liability company, the license will be issued jointly to the limited liability company and manager(s).
- (c) No person, firm limited liability company or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the Licensing and Revenue Manager or his designee that such person, manager(s) partners in the firm, or officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere to, and have been released from parole or probation concerning any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten (10) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment has been convicted or has pleaded guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual-related crime within a period of ten (10) years immediately prior to the filing of such application. An applicant's first conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. Should any applicant, partner, or officer instrumental in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual-related crime, the license shall be immediately revoked and cancelled.
- (d) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten (10) years prior to the filing of application for such license.
- (e) It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this ordinance, to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.
- (f) No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two (2) years prior to the filing of the application.
- (g) The Licensing and Revenue Manager may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the

same character requirements as herein set forth for the licensee.

- (h) All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this ordinance to be served upon the licensee or owner may be served. This person must be a resident of Gwinnett County. The licensee shall file the name of such agent, along with the written consent of such agent with the Licensing and Revenue Manager and shall be in such form as he may prescribe.
- (i) All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks, or other employees shall be of like character. Corporate or firm applicants shall be of good business reputation.
- (j) A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- (k) For purposes of this ordinance, a conviction or plea of guilty or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (Ga. Laws 1968, p. 324) as amended. Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender. (Ord. of 9-16-86; Ord. of 11-3-86; Ord. of 7-19-89)

SECTION 6-10 FEE SCALE

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the board of commissioners regulating the sale of alcoholic beverages and each applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the board of commissioners contained in Article M of this ordinance and kept on file in the office of the Licensing and Revenue Manager. (Ord. of 9-16-86)

SECTION 6-11 FEES ENUMERATED

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

- (1) Retail dealers of distilled spirits to be consumed on the premises, \$4,500.00 per year for first fixed bar; Sunday sales, \$1,000.00 per year additional.
- (2) Retail dealers of beer to be consumed on the premises, \$600.00 per year; Sunday sales, \$250.00 per year additional.
- (3) Retail dealers of wine to be consumed on the premises, \$600.00 per year; Sunday sales, \$250.00 per year additional.
- (4) Retail dealers of beer and wine to be consumed on the premises, \$1,200.00 per year; Sunday sales, \$500.00 per year additional.
- (5) Retail dealers of beer sold in original packages for consumption off the premises, \$600.00 per year. Sunday sales, \$250.00 per year additional.
- (6) Retail dealers of wine sold in original packages for consumption off the premises, \$600.00 per year. Sunday sales, \$250.00 per year additional.

- (7) Retail dealers of beer and wine sold in original packages for consumption off the premises, \$1,200.00 per year. Sunday sales, \$500.00 per year additional.
- (8) Wholesale dealers in beer, whose principal place of business is in the county, \$750.00 per year.
- (9) Wholesale dealers in wine, whose principal place of business is in the county, \$750.00 per year.
- (10) Wholesale dealers in beer and wine, whose principal place of business is in the county, \$1,500.00 per year.
- (11) Any additional fixed bar at any previously licensed location for consumption of distilled spirits on the premises, \$750.00 per year.
- (12) Any movable bar at any previously licensed location for consumption of distilled spirits on the premises, \$250.00 per year.
- (13) Temporary license for nonprofit civic organizations, \$25.00 per day, maximum ten (10) days per year.
- (14) Nonprofit private club, beer to be consumed on the premises, \$150.00 per year; Sunday sales, \$35.00 per year additional.
- (15) Nonprofit private club, wine to be consumed on the premises, \$150.00 per year; Sunday sales, \$35.00 per year additional.
- (16) Nonprofit private club, beer and wine to be consumed on the premises, \$300.00 per year; Sunday sales, \$70.00 per year additional.
- (17) Nonprofit private club, distilled spirits to be consumed on the premises, \$1,000.00 per year; Sunday sales, \$200.00 per year additional.
- (18) Hotel-motel "in-room service," \$250.00 per year.
- (19) Wholesale dealers in distilled spirits whose principal place of business is in the county, \$2,000.00 per year.
- (20) Wholesale dealers in alcoholic beverages whose principal place of business is not in the county, \$500.00 per year. (Ord. of 9-16-86; Ord. of 11-18-86; Ord. of 7-19-89)
- (21) Brewpub, \$750.00 per year.

SECTION 6-12 COLLECTIONS OF SUMS DUE

In the event any person, firm or corporation shall fail to pay the sum due under this ordinance, the Licensing and Revenue Manager or designee shall issue an execution against the person, firm or corporation so delinquent, and his or its property, for the amount of the delinquent fee or tax. (Ord. of 9-16-86)

SECTION 6-13 TRANSFERABILITY OF LICENSE

- (a) No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided herein.
- (b) In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of forty-five (45) days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur. Provided, that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent

jurisdiction, shall make application for authorization with the Licensing and Revenue Manager.

- (c) In the event that a license is surrendered, or a licensee severs his association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of forty-five (45) days from the date of surrender, or from the date determined by the Licensing and Revenue Manager to be the date of severance. Provided, no such sale shall be authorized until such time as a new application for a license is made, said application indicating that no change of ownership has occurred, except as excepted herein. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- (d) Nothing in this section, however, shall prohibit one (1) or more of the partnership holding a license to withdraw from the partnership in favor of one (1) or more of the partners who were partners at the time of the issuance of the license.

This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a total of ten (10) percent or more of any class of stock.

- (e) Except as provided above, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license hereunder automatically, without the necessity of any hearing.
- (f) Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than three hundred dollars (\$300.00) and/or thirty (30) days in jail. No license will be issued to the old or the new owner in the county for one year from the date of the violation. (Ord. of 9-16-86)
- (g) Should a licensee make application to the Licensing and Revenue Manager for a transfer of location and should such a transfer of a location be approved, with no change of ownership of the business, the license fee paid for the previous license shall be applied to the new location. Each applicant for a transfer of location shall pay a transfer fee in the amount of three hundred dollars (\$300).

SECTION 6-14 DISPLAY AT PLACE OF BUSINESS

The county alcoholic beverage license shall at all times be kept plainly exposed to view, to the public, at the place of business of the licensee. (Ord. of 9-16-86)

SECTION 6-15 EXPIRATION; RENEWAL

- (a) All licenses granted hereunder shall expire on December 31 of each year. Licensees who desire to renew their license shall file application, with the requisite fee heretofore provided, with the Licensing and Revenue Manager on the form provided for renewal of the license for the ensuing year. Applications for renewal must be filed before November 30 of each year. Any renewal applications received after November 30, shall pay in addition to said annual fee, a late charge of twenty percent (20%). If license application is received after January 1, such application shall be treated as an initial application and the applicant shall be required to comply with all rules and regulations for the granting of licenses as if no previous license had been held. If license application is received after January 1, investigative and administrative costs will be assessed.
- (b) All licenses granted hereunder shall be for the calendar year and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half (1/2) of a full license fee shall be paid for a license application filed after July 1 of the license year except for applications for temporary licenses under Section 6-171 which shall not be halved.
- (c) Any person renewing any license issued hereunder who shall pay the required fee, or any portion thereof,

after January 1, shall, in addition to said annual fee and late charges, pay simple interest on the delinquent balance at the annual rate then charged by the Internal Revenue Service of the United States on unpaid federal income taxes. (Ord. of 9-16-86)

SECTION 6-16 AUTOMATIC LICENSE FORFEITURE FOR NONUSE

Any holder of any license hereunder who shall for a period of three (3) consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall after the said three (3) month period automatically forfeit the license without the necessity of any further action except that a public stadium, coliseum or auditorium shall not forfeit its license until after nine (9) consecutive months for nonuse. (Ord. of 3-17-09)

SECTION 6-17 SUSPENSION OR REVOCATION OF LICENSE

- (a) A license may be suspended or revoked by the Licensing and Revenue Manager where the licensee furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this ordinance.
- (b) Whenever the state shall revoke any permit or license to sell alcoholic beverages, the county license shall thereupon be automatically revoked. The chief of police or his designee upon notice of this revocation from the Licensing and Revenue Manager, shall take the necessary steps to see that signs are removed and that all alcoholic beverage sales cease.
- (c) Any licensed establishment that is found to be in violation of section, 6-37 or 6-43 of this code shall be subject to immediate license revocation. (Ord. of 3-17-09)
- (d) The Licensing and Revenue Manager shall revoke the license of any licensee whose license has been suspended three (3) or more times in any consecutive twelve-month period.
- (e) The Licensing and Revenue Manager shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- (f) The Licensing and Revenue Manager may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this ordinance any time such knowledge becomes known to him/her.
- (g) An act or omission of a licensee, owner of more than twenty (20) percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this ordinance will subject the licensee to suspension or revocation of its license in accordance with the provisions of this ordinance, when the Licensing and Revenue Manager determines to his own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues. Provided, however, in the case of an employee, the Licensing and Revenue Manager or his designee must determine that the acts of the employee were known to or under reasonable circumstances should have been known to the licensee, were condoned by the licensee, or where the licensee has not established practices or procedures to prevent the violation from occurring.
- (h) Whenever it can be shown that a licensee hereunder no longer maintains adequate financial responsibility upon which issuance of the license was conditioned or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to Gwinnett County.
- (i) Wherever this ordinance permits the Licensing and Revenue Manager suspend any license issued hereunder but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.

- (1) No suspension shall be for a period of time longer than the time remaining on such license.
- (2) The following factors shall be considered on any revocation or suspension as set out above:
 - (a) Consistency of penalties mandated by this ordinance and those set by the Licensing and Revenue Manager.
 - (b) Likelihood of deterring future wrongdoing.
 - (c) Impact of the offense on the community.
 - (d) Any mitigating circumstances or remedial or corrective steps taken by licensee.
 - (e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps. (Ord. of 9-16-86; Ord. of 7-19-89)

SECTION 6-18 HEARINGS

- (a) No license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. This provision does apply to pouring permits for employees.
- (b) The Licensing and Revenue Manager shall provide written notice to the applicant or licensee of his or her order to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such action and shall notify the applicant or licensee of the right to appeal under the provisions of this ordinance. Any applicant or licensee who is aggrieved or adversely affected by a final action of the Licensing and Revenue Manager may have a review thereof by appeal to the Licensing and Revenue Board of Appeals. Such appeal shall be by written petition, filed in the office of the Licensing and Revenue Manager within fifteen (15) days after the final order or action of the Licensing and Revenue Manager and in order to defray administrative costs, must be accompanied by a filing fee of fifty dollars (\$50.00). The Licensing and Revenue Manager, at his/her discretion, may waive or reduce the filing fee amount if its determined the fee would create a hardship on the individual filing said appeal. The Licensing and Revenue Board of Appeals may, at the request of the appellant, refund the filing fee by a majority vote.
- (c) The Licensing and Revenue Board of Appeals shall consist of five (5) members and shall determine all issues by a majority vote. The Board shall select one (1) of its members as Chairperson. Should the Licensing and Revenue Board of Appeals be unable to reach a decision by majority vote, the action taken by the Licensing and Revenue Manager shall be upheld automatically. Any three (3) members constitute a quorum. The members shall be the Director of the Gwinnett County Planning and Development Department or his designated staff member, the Director of the Gwinnett County Board of Health or his designated staff member, a member of the Gwinnett County Visitors and Convention Bureau to be named by that organization, a resident of Gwinnett County appointed by the Gwinnett County Board of Commissioners, and a resident of Gwinnett County to be named by the Gwinnett County Grand Jury. The last three (3) members shall be named by the respective organizations immediately to a two-year term. Each second year thereafter these organizations shall appoint their member at any time during the year provided that members shall serve until their successor is named. The members of the Licensing and Revenue Board of Appeals who are county employees shall not receive additional compensation for their service on that Board. Non-county employees on the Licensing and Revenue Board of Appeals shall be compensated seventy five dollars (\$75.00) per day for their services.
- (d) A hearing shall be conducted on each appeal within thirty (30) days of the date of filing with the Licensing and Revenue Manager unless a continuance of such date is agreed to by the appellant and the Licensing and Revenue Manager. The appellant at such hearing shall have the right to be represented by an attorney, at the expense of the appellant, and to present evidence and cross-examine witnesses. Should the appellant desire an official transcript of the appeal proceedings, then such request must be made at least three (3) days prior to such hearing. The appellant shall have the burden of proof on any such appeal. Before hearing an appeal, each member of the Licensing and Revenue Board of Appeals shall sign an affidavit to be part of the record

that he or she is not related to or personal friends with any owner of the licensed establishment in question in the appeal being considered and that he or she has no financial interest in the outcome of the appeal. Should any member be unable to sign such an affidavit, that member shall not serve on that appeal and the case shall be heard by the remaining members of the Licensing and Revenue Board of Appeals.

- (e) The findings of the Licensing and Revenue Board of Appeals shall be forwarded to the Licensing and Revenue Manager within fifteen (15) days after the conclusion of the hearing, and it shall be the duty of the Licensing and Revenue Manager to notify the appellant of the action of the Licensing and Revenue Board of Appeals.
- (f) The findings of the Licensing and Revenue Board of Appeals shall not be set aside unless found to be (1) contrary to law or ordinances, or (2) unsupported by substantial evidence on the records as a whole, or (3) unreasonable.
- (g) The findings of the Licensing and Revenue Board of Appeals shall be final unless appealed within thirty (30) days of the date of said finding by certiorari to the superior court of the county. (Ord. of 9-16-86; Ord. of 7-7-87; Ord. of 7-19-89; Ord. of 10-17-89)

SECTION 6-19 NOTICE

For the purpose of this ordinance, notice shall be deemed delivered three (3) days after the date of deposit to the United States Postal Service by certified mail. (Ord. of 3-17-09)

SECTION 6-20 ADVERTISING; LOCATION REQUIREMENTS; SIGNS

- (a) No outdoor advertising or signs with respect to the promotions of the sale of alcoholic beverages, or the prices of such beverages, shall be permitted on the exterior of any retail package outlet, on the premises of consumption dealer or in the windows of any such establishment that may be viewed from outside. (Ord. of 3-17-09)
- (b) Sign limitations. Retail package licensees shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed, the price of an alcoholic beverage exposed or offered for sale. No other sign may be exposed prominently within or without the retail establishment showing prices or indicating that alcoholic beverages are for sale on the premises.(Ord. of 3-17-09)
- (c) Alcoholic beverages may not be priced on signs, menus or any place else allowed by this Code except as to single units or unbroken package quantities. (Ord. of 3-17-09)

SECTION 6-21 AUDITS

- (a) In the event the Licensing and Revenue Manager deems it necessary to conduct an audit of the records and books of the licensee, he shall notify the licensee of the date, time and place of the audit. The Licensing and Revenue Manager may designate the county's internal auditor or other designated person to perform any audit authorized in this Code. The licensee shall cooperate with the audit or forfeit any license(s) issued hereunder.
- (b) All licensed establishments must maintain the following records for a three (3) year period and make them available for audit at the licensed premises:
 - (1) Monthly income or operating statements.

- (2) Daily sales receipts showing liquor, beer, wine and food sales separately (this requirement does not apply to package beer and wine licensees).
- (3) Daily cash register receipts such as Z tapes or guest tickets.
- (4) Monthly Georgia sales and use tax reports.
- (5) Federal income tax return with all Form 1099's. The Licensing and Revenue Manager can waive all or some of the requirements of the foregoing sentence if the Licensing and Revenue Manager finds that no such records exist and it is not financially practical based on the net income of the licensed establishment to require them to keep such records. (Ord. of 9-19-86; Ord. of 7-16-89)

SECTION 6-22 RETAILER TO PURCHASE FROM LICENSED WHOLESALER ONLY

- (a) No retailer shall purchase alcoholic beverages from any person, firm or corporation other than a wholesaler licensed under this ordinance. No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this ordinance. Provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (b) The Licensing and Revenue Manager, or his designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers. (Ord. of 9-16-86)

SECTION 6-23 RETAIL CONSUMPTION DEALERS TO STORE INVENTORY ONLY ON PREMISES

No retail consumption dealer licensed hereunder shall keep any beer or wine or other alcoholic beverages at any place except the licensed place of business. No retail consumption dealer shall be permitted to enter into any type of arrangement whereby distilled spirits ordered by a licensee are stored by a licensed wholesaler. (Ord. 9-16-86)

SECTION 6-24 NO ADDING TO CONTENTS

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

SECTION 6-25 POURED ALCOHOL TO BE TRANSPORTED BY EMPLOYEES

Poured alcoholic beverages will be transported from point of dispensing to the customer by permitted employees only. (Ord. of 9-16-86)

SECTION 6-26 LICENSEES TO MAINTAIN A COPY OF THIS ORDINANCE; EMPLOYEES TO BE FAMILIAR WITH TERMS; LICENSEE RESPONSIBLE FOR VIOLATIONS

Each licensed alcoholic beverage dealer hereunder shall keep a current copy of this ordinance in the licensed premises and shall instruct any person working there with respect to the terms hereof; and each licensee, the licensee's agents and employees selling alcoholic beverages shall at all times be familiar with the terms hereof. (Ord. of 9-16-86; Ord. of 7-19-89)

SECTION 6-27 EMPLOYMENT OF UNDERAGE PERSONS PROHIBITED; EXCEPTIONS

- (a) No person shall allow or require a person in his/her employment under eighteen (18) years of age to dispense, serve, sell, or take orders for any alcoholic beverage. (Ord. of 3-17-09)

- (b) The provisions of this section shall not prohibit persons under eighteen (18) years of age who are employed in supermarkets or convenience stores from selling or handling alcoholic beverages which are sold for consumption off the premises. (Ord. of 3-17-09)

SECTION 6-28 FAILURE TO REQUIRE AND PROPERLY CHECK IDENTIFICATION

- (a) It shall be a violation not to require and properly check identification to ensure an underage person is not sold, served, permitted to have in his possession, alcoholic beverages while in a licensed establishment. "Identification" in this section shall mean any document issued by a governmental agency containing a description of the person, such person's photograph, and giving such person's date of birth and shall include, without being limited to, a passport, military ID card, driver's license or state department of public safety ID card. (Ord. of 9-16-89)
- (b) Licensee must have written policies and procedures for checking identification and train, instruct and supervise employees to ensure compliance with this section.

SECTION 6-29 SALES TO UNDERAGE PERSON PROHIBITED

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

- (1) Sell or offer to sell any distilled spirits, wines, malt beverages, or any other alcoholic beverage to any person under the age of twenty-one (21) years.
- (2) The prohibition in paragraph (a) shall not apply with respect to the sale of distilled spirits to a person when such person has furnished proper identification showing that the person to whom the distilled spirits are being sold is twenty-one (21) years of age or older. For the purpose of this subsection "proper identification" means any document issued by a government agency containing a description of the person, such person's photograph or both, and giving such person's date of birth, including but not limited to a passport, military identification card, driver's license, or identification card authorized under an act to require the Department of Public Safety to issue identification cards to persons who do not have a motor vehicle driver's license. Proper identification shall not include a birth certificate.
- (3) Sell or offer to sell any alcoholic beverages to any person who is noticeably intoxicated, or who is of unsound mind, or who is a habitual drunkard whose intemperate habits are known to said licensee or his employees.
- (4) Sell alcoholic beverages upon the licensed premises or permit alcoholic beverages to be consumed thereon, on any day or at any time when the sale or consumption is prohibited by law.
- (5) No person who holds a license to sell alcoholic beverages by the drink shall allow any minors to be in, frequent or loiter about the licensed premises of the establishment or lounge unless such minors are accompanied by a parent, legal guardian, or custodian, provided however, that such minors shall be permitted in eating establishments, indoor commercial recreational establishments, or private clubs as defined in this ordinance without being accompanied by a parent, legal guardian, or custodian and provided further that this section shall not apply to minors who are employees under the terms of this ordinance.
- (6) The penalty for violation of this section by an individual shall be as follows:
 - (a) For the first offense, a minimum fine of two hundred fifty dollars (\$250.00).
 - (b) For the second offense and subsequent violations within one (1) year, a minimum fine of five hundred dollars (\$500.00).

- (7) Any licensed establishment where two (2) or more violations of this section, or section 3-3-23 of Georgia Alcoholic Beverage Laws and Regulations have occurred within any thirty-six-month period shall be punished as follows:
- (a) For the second offense within any thirty-six-month period, suspension of license(s) for a period not to exceed ninety (90) days.
 - (b) For the third and any subsequent violation within any thirty-six-month period, suspension of license(s) for a period not to exceed one (1) year.

As to the penalties in this subsection (8), if there is a change in a majority of the licensed establishment's owners, partners or shareholders, the violations under the old ownership shall not count against the new owners; however, a different corporation, partnership or other association will be charged with the violations of its predecessor(s) if a majority of the owners, partners or shareholders are the same. (Ord. of 9-16-86; Ord. of 11-3-86; Ord. of 11-3-87; Ord. of 7-19-89; Ord. of 10-17-89)

SECTION 6-30 PURCHASE OR POSSESSION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS

- (a) No person under the age of twenty-one (21) shall purchase or possess any alcoholic beverage.
- (b) No person under the age of twenty-one (21) years of shall attempt to purchase any alcoholic beverage or misrepresent his/her age in any manner whatever for the purpose of obtaining alcoholic beverages. (Ord. of 9-16-86)

SECTION 6-32 REGULATIONS AS TO EMPLOYEES AND MANAGERS

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

- (1) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person has been fingerprinted or cleared by the Chief of Police or his designee, indicating that the person is eligible for such permit.
- (2) This section shall not be construed to include volunteer groups with non-profit tax exempt status from the Internal Revenue Service whose volunteer efforts financially benefit a non-profit organization with no direct financial benefit, either by wages, tips or donations, to the individual volunteer. No volunteer under the age of eighteen (18) shall be allowed to dispense, sell, serve, take orders or mix alcoholic beverages. Employees of a licensed establishment whose duties are limited solely to those of busboy(s), cook(s), or dishwasher(s) shall also be excluded from this section.
- (3) No permit shall be issued until such time as a signed application has been filed with the Gwinnett County Police Department, Chief of Police or designee, and upon paying a fee which shall be established by the Gwinnett County Board of Commissioners, and a search of the criminal record of the person completed. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the person though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall be regarded as confidential and shall not be produced for public inspection without a court order.
- (4) The Chief of Police or his designee shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this ordinance, the Chief of Police or his designee shall issue a permit to the person, by mail, stating that the person is

eligible for employment. If it is found that the person is not eligible for employment, the Chief of Police or his designee shall notify the person, in writing, that they are not eligible for employment, the cause of such denial and their right to appeal.

- (5) No person shall be granted a pouring permit unless it appears to the satisfaction of the Chief of Police or his designee, that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five (5) years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit.

No person shall be granted a pouring permit who has been convicted, plead guilty or entered a plea of nolo contendere to any Federal, State, or local law for any felony within five (5) years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit.

For purposes of this ordinance, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for which defendant who was allowed to avail themselves of the Georgia First Offender Act (GA Laws 1968, p. 324) as amended. Except; however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender. (Ord. of 9-16; Ord. of 11-3-86; Ord. of 7-19-89).

- (6) An alcohol pouring permit shall be issued for a period of one (1) calendar year from the date of the original application. As noted in subsection (k) below, the alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by members of the Gwinnett County Police Department or the Licensing and Revenue Manager's staff.
- (7) No person shall be issued a permit if it is determined that the person falsified, concealed, or covered up any material fact by any device, trick, or scheme while making application to the Police Department for an alcoholic beverage pouring permit under this section.

If it is determined that a person is in violation of this subsection and a permit is denied for this reason, then thirty (30) calendar days must elapse from date of notification per certified mailing before a new application and fee may be resubmitted.

- (8) All permits issued through administrative error can be terminated and seized by the Chief of Police or his designee, or the Licensing and Revenue Manager or his designee.
- (9) Replacement permits will be issued within thirty (30) days of original date, upon paying one-half (1/2) of the fee charged for alcohol pouring permits. After thirty (30) days of original application date, a new application and fee must be submitted.
- (10) All permits issued hereunder remain the property of the Gwinnett County Police Department, and shall be produced for inspection upon the demand of any officer or designee of the Gwinnett County Police Department or employee of the business license department.
- (11) No licensee shall allow any employee or manager required to hold a permit to work on the premises unless

the employee or manager has in their possession a current valid Gwinnett County pouring permit. For new employees, a receipt issued by the Gwinnett County Police Permit Unit may be used for a maximum of thirty (30) days from the date of its issue. Licensees are required by this ordinance to inspect and verify that each employee required to do so has in their possession a valid current alcohol pouring permit.

- (12) It shall be the duty of all persons holding any license to sell alcoholic beverages to file with the Chief of Police or his designee, the name of the establishment, the license number and a list of all employees, with their home address and home telephone numbers twice annually; during the month of June and again during the month of December.
- (13) Any person(s) convicted of any violation(s) of this section shall receive a minimum fine of two hundred dollars (\$200).

SECTION 6-34 OPEN AREA AND PATIO SALES

- (a) Alcoholic beverage sales can be made by a licensed consumption on premises establishment in a patio/open area type environment if the establishment has been approved to do so by the Licensing and Revenue Manager.
- (b) The requirement for approval is that the patio/open area be enclosed by some structure providing for public ingress/egress only through the main licensed premises. The purpose of this requirement is to prevent a customer from leaving the outside sales area with an open drink without the licensee's knowledge.
- (c) The height of such structure shall be a minimum of three (3) feet above ground level. It does not have to be solid nor does it have to restrict visibility into or out of the patio/open sales area. It must be permitted and approved by the County's building inspection department and the county's fire department as required by their governing regulations or codes.
- (d) The only exit from this type area is to be through the licensed establishment's main premises and through an approved fire exit (not for general public use unless an emergency exists). The fire exit should be of the type that sounds an alarm so that the establishment will be alerted in the event of unauthorized use when no emergency exists.
- (e) In the event that a licensee desires a patio/open sales area inside an existing structure, plans will be reviewed and approved on an individual basis by the Licensing and Revenue Manager. Interior type patio/open sales areas must also meet the requirements of the county's development and fire codes.
- (f) Nothing contained herein shall prohibit a hotel or motel with a consumption on the premises license from making sales and allowing consumption of alcoholic beverages in ballrooms, meeting rooms, reception rooms, or patio areas of such hotel or motel provided such functions are catered in connection with a meeting, conference, convention or similar type gathering at such hotel or motel. "Patio areas," as that term is used herein, do not have to conform to the standards in this section. (Ord. of 9-16-86; Ord. of 7-19-89; Ord of 10-17-89)

SECTION 6-35 NO OUTSIDE CONSUMPTION

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

beverages.

- (c) It is prohibited for the manager or any employee to allow persons to gather outside an alcoholic beverage establishment and consume alcoholic beverages. (Ord. of 9-16-86)
- (d) Notwithstanding any other contrary provision of law, any restaurant which is licensed to sell alcoholic beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine per patron for consumption off premises, if the patron has purchased a meal and consumed a portion of the bottle of wine which has been purchased on the premises with such meal on the restaurant's premises. A partially consumed bottle of wine that is to be removed from the premises must be securely resealed by the licensee or its employees before removal from the premises. The partially consumed bottle of wine shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently opened or tampered with, and a dated receipt for the bottle of wine and meal shall be provided by the licensee and attached to the container. If transported in a motor vehicle, the container with the resealed bottle of wine shall be placed in a locked glove compartment, a locked trunk, or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk. (Ord. of 3-17-09)

SECTION 6-36 PREMISES

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is complete and detailed plans of said building and outside premises are attached to the application, or unless proposed plans and specifications and a building permit of a proposed building to be built are attached to the application. The completed building or the proposed building shall comply with ordinances of Gwinnett County, regulations of the state revenue commissioner and the State of Georgia. The proposed building shall also be subject to final inspection and approval when completed by the building inspector. Each building in which the business will be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all times from the front of the street on which the building is located so as to reveal all of the outside premises of such building. Each applicant for an alcoholic beverage license shall attach to the application evidence of ownership of the building or proposed building or a copy of the lease if the applicant is leasing the building. If the applicant is a franchisee, then such applicant shall attach a copy of the franchise agreement or contract with the application. All premises for which an alcoholic beverage license shall be issued shall afford therein adequate sanitary toilet facilities and shall be adequately illuminated so that all hallways, passage ways and open areas may be clearly seen by the customers therein. (Ord. of 9-16-86)

SECTION 6-37 SOLICITATION PROHIBITED

No retail consumption dealers licensed hereunder shall require, permit, suffer, encourage, or induce any employee or person to solicit in the licensed premises for herself/himself, or for any person other than the patron and guest of the patron, the purchase by the patron of any drink; whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the same; nor shall any licensee pay a commission or any other compensation to any person frequenting his establishment or to his agent or manager to solicit for herself/himself or for others, the purchase by the patron of any drink; whether alcoholic beverage or nonalcoholic beverage or money with which to purchase the same. (Ord. of 9-16-86)

SECTION 6-38 NOISE FROM ESTABLISHMENTS PROHIBITED

It shall be unlawful for any establishment licensed under this ordinance to make or cause to be made any loud, unnecessary or unusual sound or noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others in Gwinnett County, and which is audible to a person of normal hearing ability from the nearest property line of the business in question. In no event, however, shall any such loud, unnecessary or unusual sound or noise be made by an establishment licensed under this ordinance between the hours of 10:00 P.M. and 8:00 A.M.. Loud sound or noise resulting from outdoor activities associated with a public stadium, coliseum or auditorium shall not be considered a violation of this section. (Ord. of 3-17-09)

SECTION 6-39 INSPECTION OF LICENSED ESTABLISHMENTS BY THE GWINNETT COUNTY POLICE DEPARTMENT

Sworn officers of the Gwinnett County Police Department shall have the authority to inspect establishments licensed under the Alcoholic Beverage Ordinances of the county during the hours in which the premises are open for business. These inspections shall be made for the purpose of verifying compliance with the requirements of this ordinance and state law. This section is not intended to limit the authority of any other county officer to conduct inspections authorized by other provisions of the county code. (Ord. of 9-16-86)

SECTION 6-40 ESTABLISHMENT CAN BE CLOSED IN CASES OF EMERGENCY

The chief of police or his designee, of the Gwinnett County Police Department, may immediately close an establishment licensed under this ordinance in case of emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed twenty-four (24) hours. (Ord. of 9-16-86)

SECTION 6-41 SALE ON ELECTION DAYS

- (a) Pursuant to the delegation of authority granted to this governing authority by Act No. 750 (House Bill No. 247) approved April 10, 1985, amending Official Code of Georgia Annotated section 3-3-20(b)(2)(B), the sale by wholesale and retail of alcoholic beverages, to wit: distilled spirits, wine and malt beverages, shall be lawful during the polling hours of any election; provided however, nothing herein shall authorize the sale of alcoholic beverages within two hundred fifty (250) feet of a polling place during such time as the polls are open.
- (b) All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed. (Ord. of 9-16-86)

SECTION 6-42 BRING YOUR OWN BOTTLE "BROWN BAGGING" PROHIBITED

It is prohibited for any person to bring in his own alcoholic beverage (brown bag) in any establishment either licensed or unlicensed to serve alcoholic beverages. (Ord. of 9-16-86)

SECTION 6-43 TYPES OF ENTERTAINMENT, ATTIRE AND CONDUCT PROHIBITED

- (a) Preamble and Purpose:
 - (1) Based upon the experiences of other urban counties and municipalities, including but not limited to Atlanta and Fulton County, Georgia; DeKalb County, Georgia; Austin, Texas; Seattle and Renton, Washington; New York, New York; Los Angeles, California; and Ft. Lauderdale and Palm Beach, Florida; which experiences the board of commissioners believes are relevant to the problems faced by the county and based upon the evidence and testimony of the citizens and experts who have appeared before such bodies, the board of commissioners takes note of the notorious and self-evident conditions attendant to the commercial exploitation of human sexuality, which do not vary greatly among generally comparable communities within our country.
 - (2) Moreover, it is the finding of the board of commissioners that public nudity and semi-nudity, under certain circumstances, particularly circumstances relating to the sale and consumption of alcoholic beverages in so-called "nude bars" or establishments offering so-called "nude entertainment," "adult entertainment," or "erotic entertainment" begets criminal behavior and tends to create undesirable community conditions. Among the acts of criminal behavior identified with nudity and alcohol are disorderly conduct, prostitution, and drug trafficking and use. Among the undesirable community conditions identified with nudity and alcohol are depression of property values in the surrounding neighborhoods, increased expenditure for and allocation of law enforcement personnel to preserve law and order, increased burden on the judicial system as a consequence of the criminal behavior herein

above described, and acceleration of community blight by the concentration of such establishments in particular areas. Therefore, the limitation of nude or semi-nude conduct in establishments licensed to sell alcohol for consumption on the premises is in the public welfare and is a matter of governmental interest and concern to prevent the occurrence of criminal behavior and undesirable community conditions normally associated with establishments which serve alcohol and also allow and/or encourage nudity or semi-nudity.

- (b) Any establishment licensed under the provisions of this ordinance is prohibited from permitting or engaging in the following activities:
 - (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals; or
 - (2) Live entertainment which provides or features nude or semi-nude or erotic dancing, or the performance of obscene acts or acts which simulate:
 - (a) Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law or:
 - (b) The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - (c) The displaying of the pubic hair, anus, vulva or genitals; or
 - (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of the acts described in subsection (2) above which are obscene under state law; or
 - (4) The holding, promotion or allowance of any contest, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- (c) Mainstream Activity Excluded.

Notwithstanding the prohibitions in section (b) above, nothing in this chapter shall or is intended to apply to theatrical or motion picture performance houses, museums, or the like where the consumption or service of alcohol is not a primary purpose or mainstream activity of such establishment.

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

SECTION 6-66 LOCATIONS WHERE PERMITTED

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

- (1) In eating establishments regularly serving prepared food, with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments), regularly serving food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

When eating establishments are located in hotels, motels, and high-rise office and apartment

buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

- (2) In indoor commercial recreation establishments
- (3) In an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the health and fire departments) prepared to serve food every hour it is open and deriving at least seventy percent (70%) of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities.
- (4) Indoor Entertainment Halls.
- (5) Public stadium, coliseum or auditorium. (Ord. of 3-17-09)

SECTION 6-67 INVESTIGATIVE AND ADMINISTRATIVE COSTS

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of five hundred dollars (\$500.00) to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the five hundred dollars (\$500.00) cost paid for investigation and administrative costs shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs. (Ord. of 9-16-86; Ord. of 7-19-89)

SECTION 6-68 ADVERTISING IN OFFICIAL GAZETTE OF GWINNETT COUNTY

A notice of each application to sell distilled spirits by consumption shall be advertised in the official gazette of Gwinnett County, once a week for two (2) weeks immediately preceding consideration of the application. (Ord. of 9-16-86)

SECTION 6-69 HOURS AND DAYS OF SALE

- (a) Distilled spirits shall not be sold for consumption on the premises except between the hours of 9:00 a.m. until 1:55 a.m. Monday through Saturday.
- (b) Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- (c) The sale of distilled spirits for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed establishment which derives at least fifty percent (50%) of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served; (ii) any licensed establishment which derives at least fifty percent (50%) of its total annual gross income from the rental of rooms for overnight lodging, and (iii) in any publicly owned civic and cultural center capable of serving prepared food with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and Fire departments) prepared to serve food every hour it is open and deriving at least seventy percent (70%) of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities.(iv) a public stadium, coliseum or auditorium which derives at least 50 percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food. (Ord. of 3-17-09)

- (d) Distilled spirits may be sold for consumption on the premises from 12:00 midnight to 1:55 a.m. on any Monday which is New Year's Day, January 1 of any year. (Ord. of 9-16-86; Ord. of 11-18-86; Ord. of 7-7-87; Ord. of 10-17-89)
- (e) It shall be unlawful for businesses holding a distilled spirits consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises 1 hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business. A public stadium, coliseum or auditorium shall remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages within twenty four (24) hours following any event. (Ord. of 3-17-09)

A violation of paragraphs (a), (b) or (e) of this section by a licensee, majority stockholder, general manager or managing partner of the licensee or licensed establishment shall result in license suspension for a period of two (2) days, which shall be scheduled to include a Friday and Saturday in succession.

ARTICLE III. RETAIL SALES OF MALT BEVERAGES AND WINE FOR CONSUMPTION ON THE PREMISES

SECTION 6-91 TYPE OF RETAIL ESTABLISHMENTS

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

- (1) In eating establishments having a full service kitchen (a full service kitchen will consist of a three-compartment sink, a stove or grill permanently installed, a refrigerator, all of which must be approved by the health and fire departments), prepared to serve food every hour they are open.
- (2) In indoor commercial recreation establishments.
- (3) In an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen (a full service kitchen will consist of three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and fire departments) prepared to serve food every hour it is open and deriving at least seventy percent (70%) of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities.
- (4) At a publicly owned golf course.
- (5) Or an indoor entertainment hall.
- (6) Public stadium, coliseum or auditorium. (Ord. of 3-17-09)

These eating establishments must be located in zoning districts which permit restaurants and drive-in restaurants as conforming uses or where these eating establishments are incidental to a hotel or motel. (Ord. of 9-16-86; Ord. of 12-2-86; Ord. of 7-7-87; Ord. of 7-19-89; Ord. of 6-4-91, ss 3)

SECTION 6-92 LICENSE FEE AND AMOUNT TO DEFRAY INVESTIGATIVE AND ADMINISTRATIVE COSTS TO ACCOMPANY APPLICATION

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of five hundred dollars (\$500.00) to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but the five hundred dollars (\$500.00) cost paid for investigation shall be retained. Any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs. (Ord. of 9-16-86; Ord. of 7-19-89)

SECTION 6-93 HOURS AND DAYS OF SALE

- (a) Beer and/or wine shall not be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.
- (b) No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- (c) The sale of beer and/or wine on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in: (i) any licensed establishment which derives at least fifty percent (50%) of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served; (ii) any licensed establishment which derives at least fifty percent (50%) of its total annual gross income from the rental of rooms for overnight lodging, and (iii) in any publicly owned civic and cultural center capable of serving prepared food with a full service kitchen (a full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and a refrigerator, all of which must be approved by the Health and fire departments), prepared to serve food every hour it is open and deriving at least seventy percent (70%) of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities. (iv) a public stadium, coliseum or auditorium which derives at least 50 percent (50%) of its total annual gross food and beverage sales from the sale of prepared meals or food. (Ord. of 3-17-09)
- (d) Beer and/or wine may be sold for consumption on the premises from 12:00 midnight to 1:55 a.m. on any Monday which is New Year's Day, January 1 of any year. (Ord. of 9-16-86; Ord. of 11-18-86; Ord. of 7-7-87 Ord. of 10-17-89)
- (e) It shall be unlawful for businesses holding a beer and/or wine consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises one (1) hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business. A public stadium, coliseum or auditorium shall remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages within twenty four (24) hours following any event. (Ord. of 3-17-09)

A violation of paragraphs (a), (b) or (e) of this section by a licensee, majority stockholder, general manager or managing partner of the licensee or licensed establishment shall result in license suspension for a period of two (2) days, which shall be scheduled to include a Friday and Saturday in succession.

ARTICLE IV. RETAIL PACKAGE SALES OF MALT BEVERAGES AND WINE

SECTION 6-116 TYPE OF RETAIL ESTABLISHMENT

No beer and/or wine shall be sold at retail except in establishments maintaining fifty (50) percent of the floor space and storage area in a manner which is devoted principally to the retail sale of grocery products and located in zoning districts in which these establishments are permitted as a conforming use or in districts where an existing establishment exists as a nonconforming use. (Ord. of 9-16-86)

SECTION 6-117 HOURS AND DAYS OF SALE

- (a) Retail package licensees shall not engage in the sale of beer and/or wine except between the hours of 7:00 a.m. and 12:00 midnight Monday through Saturday and 12:30 p.m. and 11:30 p.m. on Sunday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale thereof.
- (b) Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

SECTION 6-118 USE OF TAGS OR LABELS TO INDICATE PRICES

Retailers shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed the prices of all beer and wine exposed or offered for sale. (Ord. of 9-16-86)

SECTION 6-119 QUANTITY SALE REQUIREMENTS

Single cans or bottles or other containers of alcoholic beverages may be sold. (Ord. of 9-16-86)

SECTION 6-120 LICENSE FEE AND AMOUNT TO DEFRAY INVESTIGATIVE COSTS TO ACCOMPANY APPLICATION

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of five hundred dollars (\$500.00) to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but the five hundred dollars (\$500.00) cost paid for investigation and administration shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this code. As to any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article, there shall be no investigative and administrative fee. (Ord. of 9-16-86; Ord. of 11-3-86; Ord. of 7-19-89)

ARTICLE V. WHOLESALERS

SECTION 6-141 SPECIAL PROVISIONS APPLICABLE TO WHOLESALE PURCHASES

- (a) Any person desiring to sell at wholesale any alcoholic beverages in the unincorporated areas of the county shall make application to the Licensing and Revenue Manager of the county for a license to do so, which

application shall be in writing on the prescribed forms, and pay any license as set by the board of commissioners.

- (b) No person who has any direct financial interest in any license for the retail sale of any alcoholic beverages in Gwinnett County shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by Gwinnett County.
- (c) No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this ordinance. Provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- (d) No alcoholic beverage shall be delivered to any retail sales outlet in the county except by a duly licensed wholesaler. The name of the wholesaler distributor shall be clearly marked on the delivery vehicle. (Ord. of 9-16-86)

SECTION 6-142 HOURS AND DAYS OF SALE

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m. Monday through Saturday. There shall be no sales of alcoholic beverages on Sunday. (Ord. of 9-16-86)

SECTION 6-143 AUDIT AND PENALTIES

- (a) In the event the Licensing and Revenue Manager deems it necessary to conduct an audit of the records and books of the licensee, he shall notify the licensee of the date, time and place of the audit.
- (b) Any licensee who violates any provisions of this article may upon conviction be punished by a fine of not less than three hundred dollars (\$300.00) for each offense and/or thirty (30) days in the common jail of the county and the license may be suspended or revoked. (Ord. of 9-16-86)

ARTICLE VI. PRIVATE CLUBS

SECTION 6-166 DEFINITIONS

As used in this article:

- (a) "Private club" means any nonprofit association organized under the laws of this state which:
 - 1. Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;
 - 2. Has at least seventy-five (75) regular dues paying members;
 - 3. Owns, hires or leases a building or space within a building for the reasonable use of its members with:
 - (a) Suitable kitchen and dining room space and equipment; and
 - (b) A sufficient number of employees for cooking, preparing and serving meals for its members and guest; and

- (c) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.
- (b) "Sports Club" means an association or corporation organized and existing under the laws of the State of Georgia, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the county at least two (2) years prior to an application for license hereunder. Provided, however the two-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.
- (c) "Fixed salary" means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages. (Ord. of 9-16-86)

SECTION 6-167 REGULATION OF SALE OF ALCOHOLIC BEVERAGES

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the county. (Ord. of 9-16-86)

SECTION 6-168 CERTAIN ORGANIZATIONS EXEMPT FROM FOOD ESTABLISHMENT REQUIREMENTS

Veterans organizations, fraternal organizations, and other nonprofit organizations currently having tax exempt status under either the United States Internal Revenue Code or the Georgia Income Tax Law shall not be required to operate a food establishment serving prepared food. However, any such organization selling or dispensing alcoholic beverages shall be subject to all ordinance regulations dealing with general licensing and consumption on the premises establishments. (Ord. of 9-16-86)

SECTION 6-169 INVESTIGATIVE AND ADMINISTRATIVE COSTS

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of five hundred dollars (\$500.00) for distilled spirits and/or beer and/or wine to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the five hundred dollars (\$500.00) cost paid for investigation and administration shall be retained. However, any person applying for more than one (1) license shall pay only one (1) fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs. (Ord. of 9-16-86; Ord. of 7-19-89)

SECTION 6-170 HOURS AND DAYS OF SALE

- (a) No alcoholic beverages shall be sold for consumption on the premises except between the hours of 9:00 a.m. and 1:55 a.m. Monday through Saturday.
- (b) Alcoholic beverages shall not be sold for consumption at anytime in violation of any local ordinance or

regulation or of any special order of the governing authority.

- (c) The sale of alcoholic beverages for consumption on the premises is permitted on Sundays from 12:30 p.m. until 12:00 midnight in any licensed establishment which derives at least fifty (50) percent of its total annual gross sales from the sale of prepared meals or food in all of the combined retail outlets of the individual establishment where food is served and in any licensed establishment which derives at least fifty (50) percent of the total annual gross income from the rental of rooms for overnight lodging.
- (d) Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 2:00 a.m. on any Monday which is New Year's Day, January 1, of any year. (Ord. of 9-16-86; Ord. of 11-18-86; Ord. No. 7-7-87; Ord. of 10-17-89)

**SECTION 6-171 ELIGIBILITY FOR ISSUANCE OF A TEMPORARY SPECIAL
EVENT LICENSE**

- (a) A temporary license may be issued to any person, firm or corporation, for a period not to exceed ten (10) days in any one year, for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.
- (b) The special event must meet the following criterion prior to the issuance of a license to sell alcoholic beverages:
 - (1) The special event must be associated with and benefit the cause of a charitable or civic organization.
 - (2) The special event must receive approval from the Gwinnett County Police Department on crowd control and security measures.
 - (3) The special event must receive approval from the Gwinnett County Department of Transportation, Traffic Operations Section, on traffic control measures.
 - (4) The location at which the special event is to take place must be properly zoned and approved by the Gwinnett County Planning & Development Department.
 - (5) The premises at which the special event is to take place must be approved by the Licensing and Revenue Manager.
- (c) Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.
- (d) The Chief of Police or his designee may immediately revoke any temporary license for a special event if it is determined continued alcohol sales may endanger the health, welfare or safety of the public.
- (e) As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold Gwinnett County harmless from claims, demand or cause of action which may arise from activities associated with the special event.

ARTICLE VII. HOTEL-MOTEL IN-ROOM SERVICE

SECTION 6-191 HOTEL-MOTEL IN-ROOM SERVICE LICENSE

- (a) Definition. "In-room service" is the provision of a cabinet or other facility located in a hotel-motel guest room which contains beer and/or wine only and which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- (b) Any hotel-motel that acquires this "in-room service" shall also be required to obtain a consumption on the premises license and meet all of the requirements of this ordinance.
- (c) No hotel-motel shall be authorized to provide "in-room service" until it has been issued a special license to do so. A license fee of one hundred dollars (\$100.00) shall be imposed to provide only beer and/or wine by "in-room service."
- (d) The sale of beer and/or wine by "in-room service" shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.
- (e) Keys for "in-room service" shall only be sold to guests between the hours of 7:00 a.m. until 12:00 midnight Monday through Saturday and between the hours of 12:30 p.m. until midnight on Sunday.

ARTICLE VIII. HAPPY HOUR

SECTION 6-211 PROMOTION AND SALES

- (a) No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
 - (1) Offer or deliver any free alcoholic beverage to any person or group of persons;
 - (2) Deliver more than two alcoholic beverages to one person at a time, however, nothing herein shall prohibit a brewpub from offering a sampler of malt beverages in containers not exceeding 4 ounces. Each sampler shall not exceed 4 different types of malt beverages.
 - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not open to the public;
 - (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public;
 - (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not open to the public;

- (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than thirty-two (32) fluid ounces (.947 liters), except to two (2) or more persons at any one time;
 - (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week;
 - (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize;
- (b) Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public and said schedule shall be effective for not less than one calendar week.
 - (c) No licensee shall advertise or promote in anyway, whether within or without the licensed premises, any of the practices prohibited under subsection (a).
 - (d) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
 - (e) It is the intent of this section to prohibit activities typically associated with promotions referred to as "Happy Hour" or similarly designated promotions.
 - (f) The Gwinnett County Police Department shall have responsibility for the enforcement of this article.
 - (g) No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverage(s) are included as part of a package of other goods and/or services, the alcoholic beverage(s) must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverage(s) at a price from which the full price of the alcoholic beverage(s) has been deducted.
 - (h) Any person deemed guilty of violating this section may be punished by a fine not to exceed two hundred dollars (\$200.00) and/or by imprisonment not to exceed sixty (60) days in the common jail of the county. Licensees may further be subject to revocation proceedings.
 - (i) All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of such conflicts. (Ord. of 9-16-86; Ord of 7-19-89)

ARTICLE IX. EXCISE TAXES

SECTION 6-234 PER DRINK EXCISE TAX

- (a) Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three (3) percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee hereunder and such licensee shall remit the same to Gwinnett County on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the Licensing and

Revenue Manager to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under Part V of the "Georgia Retailer's and Consumer's Sales and Use Tax Act," Georgia Code Section 48-8-50, as now written or hereafter amended; provided that said tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied hereunder, to keep and preserve suitable records of the sales taxable hereunder, and such other books or accounts as may be necessary to determine the amount of tax due; and it shall be the duty of every licensee to keep and preserve such records for a period of three (3) years.

(b) Excise taxes received in the business license department after the twentieth day of the month shall be charged a ten (10) percent penalty.

(c) In the event the Licensing and Revenue Manager deems it necessary to conduct an audit of the records and books of the licensee, he/she will notify the licensee of the date, time and place of the audit.

(d) Any licensee who violates any provision of this article may upon conviction be punished by a fine of not less than three hundred dollars (\$300.00) for each offense and/or thirty (30) days in the common jail of the county and the license of such location may be suspended or revoked. (Ord. of 9-16-86; Ord. of 7-7-87)

SECTION 6-235 EXCISE TAX AND BOND REQUIREMED ON WHOLESALERS

(a) There is hereby levied an excise tax computed at the rate of twenty-two cents (\$0.22) per liter or sixty-five cents (\$0.65) per ounce which shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in Gwinnett County. Such tax shall be paid to the Licensing and Revenue Manager by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of distilled spirits and wine in Gwinnett County as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees hereunder, shall collect the excise tax at the time of delivery and shall remit the same together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the business license department after the twentieth day of the month shall be charged a ten (10) percent penalty. The twenty-two cents (\$0.22) per liter or sixty-five cents (\$0.65) per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of twenty-two cents (\$0.22) cents per liter or sixty-five cents (\$0.65) per ounce. It shall be unlawful and a violation of this ordinance for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting said tax. It shall be unlawful and a violation of this ordinance for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three (3) percent of the amount of taxes collected as reimbursement for collection of the said tax.

(b) There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in Gwinnett County at the rate of five cents (\$0.05) per twelve-ounce container and six dollars (\$6.00) for each container of tap or draft beer or malt beverage of fifteen and one-half (15 1/2) gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

SIZE OF CONTAINER	TAX PER CONTAINER
7 ounces	\$ 0.0291
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0666
32 ounces	0.1333
1/2 barrel (15 1/2 gallons)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three (3) percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

- (c) Each wholesale dealer prior to commencement of any business operation within the county shall post a performance bond with the Licensing and Revenue Manager of the county equal to one and one-half (1 1/2) times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesaler dealer from the retailers to secure the payments for the tax imposed herein. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the Licensing and Revenue Manager.
- (d) A wholesaler may be excused from posting the performance bond as provided herein after demonstrating full and satisfactory compliance with the provisions herein for a period of twelve (12) months subsequent to the commencement of business operations within the county. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this article and the payments of all sums as required by the provisions herein.

ARTICLE X. BREWPUBS

SECTION 6-236 BREWPUB DEFINITION, REGULATION, EXCISE TAX AND ADMINISTRATION

- (a) Brewpub - means any eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises. The term "eating establishment" as used herein means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.
- (b) No person, firm or corporation shall be issued a brewpub license without first obtaining a retail consumption license.
- (c) A brewpub license authorizes the holder of such license to manufacture on the licensed premises not more than 1500 barrels of beer in a calendar year solely for retail sale on the premises and solely in draft form.
- (d) Distribution of any malt beverages produced by a brewpub licensed under this ordinance to any wholesaler is prohibited.
- (e) There is hereby levied an excise tax on all beer and malt beverage produced by a brewpub at the rate of \$6.00 per 1/2 barrel (15 1/2 gallons) and \$12.00 per barrel (31 gallons). Such tax shall be paid to the Licensing and Revenue Office no later than the 20th day of each month for the preceding month's production. A late payment penalty not to exceed ten (10) percent of the tax otherwise due shall be added to the amount due for any payment not received by the due date.
- (f) Administration:
 - (1) The Director of Planning and Development, or his designee, is authorized to establish procedures for administering all provisions of this article to include, but not limited to, reporting forms and requirements, or establishing procedures and schedules for conducting financial audits or inspections of the books or records of any establishment licensed under this section.
 - (2) Every brewpub located within unincorporated Gwinnett County shall file a monthly report with the Licensing and Revenue Manager, no later than the 20th day of each month, on such forms as the Licensing and Revenue Manager may prescribe, setting forth all malt beverages produced during such preceding calendar month, to include beginning and ending inventories. Such report shall also

indicate the total production of malt beverages during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty not to exceed \$25.00 for each deficient reporting period.

SECTION 6-237 SEVERABILITY

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

